



NYS Hemp Licensing Program
Frequently Asked Questions

Table of Contents

General	3
• What is hemp?.....	3
• What is the difference between hemp and marijuana?	3
• Is growing hemp legal?	3
• What are the uses of hemp?	3
Licenses	3
• Do I need a license to grow hemp?.....	3
• Do I need a license to process hemp?.....	3
• Do I need a license to sell hemp?.....	4
• How do I get a license to grow hemp?.....	4
• Can I grow marijuana with a hemp license?	4
• How do I get a marijuana license?	4
• What other licenses might I need?.....	4
• How long are licenses valid?	5
• I am no longer growing hemp. How do I surrender my license?	5
Applications	5
• What is the application process?	5
• How much are the fees, and when are they due?	5
• What types of locations are prohibited?	6
• What are the zoning requirements to grow hemp?	6
• Do I need a background check to apply?	6
• What does ‘key participants’ mean?.....	6
• Are there limits on how many acres or square feet I can register?.....	6
Sampling and Testing	7
• How do I find a Sampling Agent to sample my crop?.....	7
• How do I find a testing laboratory to test my crop?.....	7
• My preferred testing lab isn’t on the list. What should I do?	7
• What do I do if my crop tests above the 0.3% total THC limit?	7
• What is the difference between a formal sample and an informal sample?	7
Reporting	8
• What reports are growers required to complete? When are they due?	8
• Do I need to fill out a report if I am not growing hemp this year?	8
• What is an FSA lot number? Where do I find it?.....	8

- **My hemp crop failed. What should I do?** 8
- **What do I do if my crop was stolen?**..... 9
- Sampling Agents**..... 9
 - **How do I become a certified Sampling Agent?**..... 9
 - **Is there a fee to apply or be certified?** 9
 - **Is there a minimum age requirement for Sampling Agents?**..... 9
 - **Do I need to take an exam to be certified?** 9
 - **Can I have a hemp license and be a Sampling Agent?** 9
 - **As a certified sampler, am I a state employee?** 9
 - **How is a Sampling Agent paid? How much?** 9
 - **What reports are samplers required to complete? When are they due?** 10
- Processing** 10
 - **Where can I get my hemp processed?** 10
 - **Can I process hemp myself?** 10
 - **Can I make my own CBD products?** 10
- Contact Us**..... 10

General

- **What is hemp?**

Hemp is defined as “the plant *Cannabis sativa* L. and any viable part of that plant with a total delta-9 tetrahydrocannabinol (THC) concentration of **not** more than 0.3% on a dry weight basis.”

- **What is the difference between hemp and marijuana?**

Hemp and marijuana are different varieties of the same plant species, *Cannabis sativa* L. They cannot be distinguished visually. THC testing is required to determine if a cannabis plant is classified as hemp or marijuana.

Hemp is defined as “the plant *Cannabis sativa* L. and any viable part of that plant with a total delta-9 tetrahydrocannabinol (THC) concentration of **not more than** 0.3% on a dry weight basis.” However, marijuana is defined as “the plant *Cannabis sativa* L. and any viable part of that plant with a total delta-9 tetrahydrocannabinol (THC) concentration of **more than** 0.3% on a dry weight basis.”

Therefore, any cannabis with a total THC concentration of 0.3% or less is classified as hemp while any cannabis with a total THC concentration over 0.3% is classified as marijuana.

- **Is growing hemp legal?**

Yes, growing hemp is legal with a license to grow. The Agriculture Improvement Act of 2018 (2018 Farm Bill) legalized the production of hemp as an agricultural commodity. It differentiated hemp from marijuana and removed hemp from the list of federally controlled substances.

- **What are the uses of hemp?**

Hemp can be used for a variety of products. It is typically grown for its fiber, grain, or cannabinoid content (CBD). Hemp grown for fiber can be turned into products such as rope, clothing, insulation, and animal bedding. Hemp grain can be eaten raw, ground into hemp meal, or pressed into hemp seed oil. CBD can be extracted from hemp flowers and processed into CBD oil, capsules, or edibles.

Licenses

- **Do I need a license to grow hemp?**

Yes, anyone wishing to grow hemp in New York State must have a Hemp Grower License issued by the Department of Agriculture and Markets. Growing hemp without a license is illegal.

- **Do I need a license to process hemp?**

Processing hemp for **CBD** in New York State requires a Cannabinoid Hemp Processor License issued by the [Office of Cannabis Management](#). Processing hemp for CBD without a license is illegal.

Processing hemp for **fiber or grain** does not require a license in New York State.

- **Do I need a license to sell hemp?**

Selling cannabinoid hemp products for their CBD content in New York State requires a Cannabinoid Hemp Retail License issued by the [Office of Cannabis Management](#). Selling CBD hemp without a retail license is illegal.

Selling hemp fiber or grain does not require a license in New York State.

- **How do I get a license to grow hemp?**

Individuals or businesses interested in a Hemp Grower License must fill out an [application](#) and submit it to the Department by mail at the address below.

NYS Department of Agriculture and Markets
Division of Plant Industry
10B Airline Drive
Albany, New York 12235

All applications must include the application fee, maps of the proposed sites, and FBI background checks for all key participants* of the business that are dated within 60 days of submitting the application. Incomplete applications will be denied.

Upon approval, the Department will notify the applicant and mail a copy of their official hemp license to the mailing address given.

**A key participant is defined as a sole proprietor, a partner in a partnership, or a person with executive managerial control in a business or educational entity. A person with executive managerial control includes someone such as a chief executive officer (CEO), chief operating officer (COO), and/or chief financial officer (CFO). This definition does not include non-executive managers such as farm, field, or shift managers.*

- **Can I grow marijuana with a hemp license?**

No, you cannot grow marijuana under the hemp program. By federal law, any cannabis grown in the hemp program that is over 0.3% total THC must be destroyed or successfully remediated.

To grow marijuana in New York State, you must possess a marijuana license from the [Office of Cannabis Management](#) (OCM). If you have a marijuana license and a hemp license, you may grow both hemp and marijuana. However, they must be grown in separate locations.

- **How do I get a marijuana license?**

All marijuana licenses are issued by the Office of Cannabis Management (OCM). For more information, click [here](#).

- **What other licenses might I need?**

If your business will grow seedlings/transplants to sell to other growers, you will need a [Nursery Grower License](#).

If your business will sell viable hemp seeds to other growers, you will need a [Seed Retail License](#).

- **How long are licenses valid?**

All hemp licenses are valid for three years, except the Nursery Grower License which is valid for only two years.

- [Hemp Grower License](#) _____ 3 years
 - Authorizes the growth, cultivation, and handling of hemp for commercial sale
- [Hemp Seed Retail License](#) _____ 3 years
 - Authorizes the sale of hemp seeds
- [Nursery Grower License](#) _____ 2 years
 - Authorizes the sale of rooted hemp plants or seedlings
- [Hemp Research License](#) _____ 3 years
 - Authorizes the growth, cultivation, and handling of hemp for research purposes only, not for commercial sale

- **I am no longer growing hemp. How do I surrender my license?**

Send an email to IndustrialHempNYS@agriculture.ny.gov and request a License Surrender Form. Fill out and notarize a copy of the form for each key participant of the hemp operation. Submit all copies in one package to the Department by mail.

Once received, your business will be immediately removed from the list of current hemp license holders in our database. The public list on the Department's website will be corrected at the next scheduled update.

Applications

- **What is the application process?**

Those seeking to grow and cultivate hemp or sell hemp seeds must apply for a hemp license from the Department. The steps to apply are as follows.

1. Submit a completed application along with the required nonrefundable application fee(s), the FBI Identity History Summary Check for all key participants, and the maps/aerial photos identifying growing and storage locations.
The application document is a fillable pdf, but it and all accompanying documents must be printed and mailed to the Department in hardcopy with a hardcopy signature.
2. The Department will review the complete application to ensure it complies with all program requirements.
3. Once the Department review is complete, the applicant will be notified of the outcome.
4. If the application is approved, a New York State Hemp License will be mailed to the applicant.

An applicant is not authorized to grow or cultivate hemp or sell hemp seeds until it has received the applicable New York State Hemp License from the Department.

- **How much are the fees, and when are they due?**

Application fees vary depending on the license sought. Please see below. All application fees must be submitted with the application. Applications without fees included will be deemed incomplete and will be denied.

- [Hemp Grower License](#) \$500
 - Authorizes the growth, cultivation, and handling of hemp for commercial sale
- [Nursery Grower License](#) \$100
 - Authorizes the sale of rooted hemp plants or seedlings
- [Hemp Seed Retail License](#) \$100
 - Authorizes the sale of hemp seeds
- [Hemp Research License](#) \$500
 - Authorizes the growth, cultivation, and handling of hemp for research purposes only, not for commercial sale

The Department does not charge any licensing or inspection fees.

Should the Department be required to provide sampling or testing services, the grower shall pay a sampling fee equal to the actual cost of procuring the sample, mailing/delivering the sample to the lab, and performing the laboratory analysis for each lot sampled by the Department.

- **What types of locations are prohibited?**

Any location in or attached to a residential dwelling is prohibited. Locations that are zoned residential are also prohibited.

- **What are the zoning requirements to grow hemp?**

Zoning requirements are determined at the local level. The Department does not handle any zoning issues. Please check with your local government to ensure that your proposed growing locations are compliant with local zoning laws.

- **Do I need a background check to apply?**

Yes, an [FBI Identity History Summary](#) (background check) is required for all key participants of your hemp operation. All background checks must be dated within 60 days of your application. They must be submitted with your application, not before or after. Applications without background checks included will be deemed incomplete and will be denied.

- **What does 'key participants' mean?**

A key participant is defined as a sole proprietor, a partner in a partnership, or a person with executive managerial control in a business or educational entity. A person with executive managerial control includes someone such as a chief executive officer (CEO), chief operating officer (COO), and/or chief financial officer (CFO).

This definition does not include non-executive managers such as farm, field, or shift managers.

- **Are there limits on how many acres or square feet I can register?**

The Department does not have any limits on the number of acres or square feet you can register.

Sampling and Testing

- **How do I find a Sampling Agent to sample my crop?**

Only Department Horticultural Inspectors or NYS-certified Sampling Agents are permitted to collect regulatory hemp samples for compliance testing. The Department maintains a public list of certified Sampling Agents on our website. The list organizes agents by county. Sampling Agents may cover multiple counties and therefore may be listed more than once.

To view the list of Sampling Agents, click [here](#).

- **How do I find a testing laboratory to test my crop?**

All regulatory samples required by the Department must be tested for total THC content by an appropriate laboratory identified by the Department. The Department maintains a public list of identified hemp testing laboratories on our website. The list organizes labs by state and in alphabetical order.

To view the list of testing laboratories, click [here](#).

- **My preferred testing lab isn't on the list. What should I do?**

All regulatory samples required by the Department must be tested by a lab on the Department's list of identified labs. If your preferred lab is not on the list, you must choose one that is.

If you would like your lab to be added to the list, you can reach out to them and request that they complete and submit the Department's [Hemp Analytical Testing Laboratory Application](#). There are no fees for this application nor for laboratory participation in the program.

- **What do I do if my crop tests above the 0.3% total THC limit?**

If the sample tested was an **informal sample**, you should fill out a [Non-Compliant Hemp Report](#) to notify the Department. Department personnel will review the report and contact you to discuss the situation. The Department may require a formal sample be taken by a Sampling Agent or Department Inspector to verify the results.

If the sample tested was a **formal sample**, a Department Inspector will contact you to discuss your options. You may choose to contest the results, dispose of the non-compliant hemp, or perform a remediation option. The Department Inspector will assist you with your decision.

- **What is the difference between a formal sample and an informal sample?**

An **informal sample** is one that is requested by the grower and taken throughout the growing season in order to monitor THC concentration during cultivation. Informal samples can be sampled by anyone and may be tested by any lab. Informal samples are not used by the Department to determine or monitor compliance.

A **formal sample**, or regulatory sample, is one that is required and requested by the Department prior to harvest to monitor grower compliance in the program. Formal samples can only be collected by a Department Inspector or a certified Sampling Agent and may only be tested by a lab on the Department's list of identified labs or the New York State Food Laboratory. Formal samples are accompanied by the Department's Chain of Custody form that must be signed by the grower, agent, and lab technician.

Reporting

- **What reports are growers required to complete? When are they due?**

All license holders are required to submit the following reports to the Department by their required due dates. The Department may require additional reports to facilitate regulatory oversight of this program. The Department will notify license holders of any new reporting requirements.

- Planting Report – due within 20 days after each planting
- Greens/Microgreens Report – due by the 1st of each month
- Pre-Harvest Report – due 30 days before each harvest
- Post-Harvest Report – due within 15 days after each harvest
- Disposal Report – due within 15 days after disposal
- Remediation Report – due within 5 days after each remediation
- Theft Report – due within 15 days after filing police report
- Non-Compliant Hemp Report – due within 5 days of receiving high THC results
- Monthly Sales Report – due by the 7th of each month (*for seed retail and nursery growers only*)

Please review the instructions on page one of the [Hemp Reporting Package](#) for more information about each report.

- **Do I need to fill out a report if I am not growing hemp this year?**

Yes, a [Planting Report](#) is required for each license holder every year. If you are not growing hemp this year, fill in your producer information and check the 'not growing' box at the bottom of the form.

If you have retained any stored hemp from a previous year and decide to dispose of it, complete a [Disposal Report](#). If any stored hemp is stolen, file a police report and complete a [Theft Report](#) to notify the Department.

- **What is an FSA lot number? Where do I find it?**

FSA lot numbers are the Farm#-Tract#-Field# for each lot of hemp as they appear on the FSA-578 Report of Acreage that you submitted to your local FSA office. See the [FSA Reporting Guidance](#) for more information.

- **My hemp crop failed. What should I do?**

If your crop has failed due to weather, pests, poor growth, or any other factors, you must dispose of the remaining hemp material and submit a [Disposal Report](#) to the Department with proof of disposal.

Methods of disposal include:

- Off-site disposal by DEA-registered reverse distributor or law enforcement
 - On-site disposal at the farm or hemp production facility by one of the following methods: plow under, mow, compost, till, disk, burn, or bury (*Check with local and state law before burning hemp.*)
- **What do I do if my crop was stolen?**

Report any stolen or missing hemp to your local law enforcement immediately. Once you have filed a police report, fill out and submit a [Theft Report](#) to notify the Department.

Sampling Agents

- **How do I become a certified Sampling Agent?**

To become a Sampling Agent, individuals must fill out an [application](#) and include with it an FBI background check that is dated within 60 days of submitting the application. If approved, the applicant will be scheduled for training by the Department and will be required to pass an exam before they are officially certified.

- **Is there a fee to apply or be certified?**

There is no application fee for applying to become a Sampling Agent. In addition, the Department does not charge any fees to train or certify an individual as a Sampling Agent.

- **Is there a minimum age requirement for Sampling Agents?**

Applicants to become a Sampling Agent must be at least 21 years old and hold a valid driver's license.

- **Do I need to take an exam to be certified?**

All sampling agents must complete training required by the Department and successfully pass the open-book hemp sampling agent exam to become a certified Sampling Agent. Recertification of Sampling Agents is required on a yearly basis.

Training and exams will be scheduled by the Department upon application approval.

- **Can I have a hemp license and be a Sampling Agent?**

Sampling Agents cannot have a license to grow, process, broker, distribute, or sell hemp or hemp products in any state or be a nuclear or extended family member of a hemp license holder. Agents also may not have any financial stake in a growing operation in any state. Furthermore, agents cannot solicit or be an employee of an entity that is soliciting, producing, processing, or distributing hemp.

- **As a certified sampler, am I a state employee?**

Certified Sampling Agents are not employed by the state. They are independent contractors who have received the proper training and certification required to collect regulatory hemp samples for compliance testing.

- **How is a Sampling Agent paid? How much?**

Sampling Agents are paid by the grower for services rendered. The amount and method of payment should be determined by an agreement between the sampler and the grower.

- **What reports are samplers required to complete? When are they due?**

Sampling Agents are required to complete two types of forms: Chain of Custody Forms and Monthly Sampling Reports.

Chain of Custody Forms are given to the agent by the Department for regulatory samples. A portion of the form will be pre-populated with information about the sample required. The Sampling Agent must complete the remainder of the form after collecting the sample. A copy of the completed Chain of Custody Form must be returned to the Department **within 24 hours** of shipping the sample.

Monthly Sampling Reports must be completed each month even if the agent has not taken any samples that month. If this is the case, the agent would fill in the agent's information and check the 'did not sample' box at the bottom of the form. The Monthly Sampling Report is due the **1st of every month**.

Processing

- **Where can I get my hemp processed?**

Hemp grown for CBD must be processed by a licensed CBD processor. You can find a list of CBD processors in New York State [here](#).

Hemp fiber or grain processors are not required to be licensed or registered by the state. Therefore, we do not have a list available.

- **Can I process hemp myself?**

Hemp grown for CBD must be processed by a licensed CBD processor. If you would like to become a CBD processor, please apply [here](#).

Hemp fiber or grain processors are not required to be licensed or registered by the state. Therefore, you can process hemp for fiber or grain yourself.

- **Can I make my own CBD products?**

Processing and/or manufacturing hemp into CBD products for human consumption requires a [Cannabinoid Hemp Processor License](#) from the Office of Cannabis Management.

Contact Us

If your question is not addressed here, please call the Hemp Hotline at (877) 249-6841 or send an email to IndustrialHempNYS@agriculture.ny.gov.