Department of Agriculture and Markets

New York State Hemp Licensing Program
Guidance Document

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Overview

The New York State Department of Agriculture and Markets (Department) is administering a Hemp Licensing Program authorized by Article 29 of the New York State Agriculture and Markets Law and the 2018 Agriculture Improvement Act (Federal Farm Bill of 2018).

The New York State Hemp Licensing Program licenses hemp growers, hemp seed sellers, and nursery growers who will be selling hemp plants, and regulates the growth, cultivation, and production of hemp, defined as the plant species *Cannabis sativa* L. and any part of that plant, whether growing or not, with a total THC concentration equal to or less than 0.3% on a dry weight basis.

Individuals and businesses that would like to participate in this program must submit for consideration a completed application form with all required maps, fees, and an FBI Identity History Summary for all key participants dated within 60 days of the date of application. Incomplete applications will be denied.

The Department **does not** license or regulate any growers, processors, distributors, or retailers of **marijuana,** defined as the plant species *Cannabis sativa* L. and any part of that plant with a total THC concentration exceeding 0.3% on a dry weight basis. The regulation of marijuana in the state of New York is administered by the New York State Office of Cannabis Management (OCM).

The OCM also regulates cannabidiol (CBD) processors, retailers, and distributors who manufacture, sell, or distribute products such as tinctures, oils, topicals, pills, capsules, food, beverages, and raw hemp flower that are intended for human consumption or application for their cannabinoid content. The OCM can be contacted at the information below.

Phone: 1-888-626-5151
Email: info@ocm.ny.gov
Website: www.cannabis.ny.gov

Licenses

No person shall grow, cultivate, or handle hemp in New York State without a valid commercial or research license issued by the Department. The Department requires a non-refundable application fee for each type of license sought.

A commercial hemp license authorizes the growth or cultivation of hemp in the state to offer for commercial sale. Licenses available include:

Hemp Grower License - $500
Authorizes the growth, cultivation, and handling of hemp plant material for market
License term: 3 years

Nursery Grower License - $100
Authorizes the sale of rooted hemp plants or seedlings to licensed hemp growers
License term: 2 years

Hemp Seed Retail License - $100
Authorizes the sale of hemp seeds
License term: 3 years

A research hemp license authorizes the growth or cultivation of hemp for scientific, academic, or commercial research purposes but does not authorize that hemp to move in commerce.

Hemp Research License - $500
Authorizes the growth, cultivation, and handling of hemp plant material for research
License term: 3 years

Applications

Individuals and businesses that would like to participate in the hemp program must submit for consideration a completed application form with all required maps, fees, and FBI Identity History Summaries included. Incomplete applications will be denied. Please review the Application Guidance Document for more information on how to apply.

An original hardcopy of the application with all necessary attachments and fees must be submitted to the Department by mail at the address below.

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

Eligibility

An authorization to grow or sell hemp is not a right. The decision to grant such an authorization is at the sole discretion of the Department. Disqualifying factors may include, but are not limited to:

- applicant is under the age of 18,
- an incorrect or incomplete application,
- drug-related felony convictions of any key participants within the last 10 years, and/or
- proposing to use a growing or processing location already registered to an existing authorization.

The Department reserves the right to make determinations regarding the appropriateness of proposed growing, handling, and/or storage locations of hemp. Sites located in areas that are zoned for solely residential use will not be approved. Zoning classifications are locally established, and it is the applicant's responsibility to ensure that a proposed growing location is not in an area zoned solely for residential use.

Growing of hemp in or attached to a dwelling, in a residential setting, or as an ornamental plant is not permitted.

Applicants must have control over the proposed locations through ownership or lease agreements.

Requirements

Each application and renewal application must include:

- The business name and contact information of the applicant,
- The focus of the business,
- A description and map of each proposed location where hemp will be cultivated, processed, or stored by physical address, GPS coordinates, and area measurements (Outdoor area measurements should be in acres and indoor area measurements should be in square feet.),
- The name and location of the intended seed source(s) and the variety or varieties that will be purchased,
- FBI Identity History Summaries (background checks) for all key participants of the business, and
- A nonrefundable application fee.

Amendments

License holders must submit requests to amend their original application by submitting an Amendment Application to the Department for review. Common amendment changes include:

- adding or removing grow locations,

- changing seed sources or varieties, and/or
- updating contact information.

Major Amendment applications must include a $100.00 non-refundable amendment application fee for significant changes, including the addition or replacement of a key participant or a growing or storage site. Minor Amendment applications for non-significant changes, such as adding a new seed source or variety or updating contact information, do not require a fee.

Amendments must be approved by the Department before enacting any changes to the growing operation.

Renewals

The Department will provide an application for renewal to the licensee 90 days prior to the expiration of the current license. The licensee must submit the renewal application, along with new FBI background checks for all key participants, to the Department at least 30 days before the expiration of the current license.

Sampling Agents

All private sampling agents must be registered, trained, and certified by the Department to conduct regulatory sampling for this program. The Department does not require a fee to apply to be a sampling agent. Sampling agent registrations are valid for a period of three years, and certifications are valid for one year.

Applications

Individuals interested in becoming a state-certified sampler must submit for consideration a completed application form with an FBI Identity History Summary included. Incomplete applications will be denied. Please review the Application Guidance Document for more information about how to apply.

An original hardcopy of the application with all necessary attachments must be submitted to the Department by mail at the address below.

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

Eligibility:

A certification to sample hemp is not a right. The decision to grant such a certification is at the sole discretion of the Department. Disqualifying factors may include but are not limited to:

- applicant is under the age of 21,
- an incorrect or incomplete application,
- a drug-related felony conviction within the last 10 years,
- holding an active hemp grower license in any state, and/or
- being a current employee of or having a financial stake in a hemp growing operation.

Requirements:

Each application and renewal application must include the following:

- the business name and contact information of the applicant,
- public information preferences,
- sampling coverage area by county, and
- an FBI Identity History Summary (background check).

Amendments:

Sampling agents must submit requests to amend their original application by submitting an Amendment Application to the Department for review. Common amendment changes include:

- adding or removing counties to cover,
- changing public information preferences, and/or
- updating contact information.

Amendments must be approved by the Department before enacting any changes to the operation.

Renewals:

The Department will provide an application for renewal to the agent 90 days prior to the expiration of the current registration. The agent must submit the renewal application to the Department at least 30 days before the expiration of the current registration.

Training

Sampling agents must complete state-mandated training and pass a sampling exam to receive a one-year certification to sample hemp. Training will be scheduled by the Department upon application approval. Training must be completed within the timeframe established by the Department.

Sampling agents must recertify each year. The Department will provide recertification training prior to the expiration of the current registration.

Reports and Forms

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

- Chain of Custody Form – due within 24 hours of shipping samples.
- Monthly Sampling Report – due the first of each month.

Please review the instructions on page one of the Sampling Agent Reporting Package for more information about each report.

Testing Facilities

THC testing facilities must be recognized by the Department as qualified to conduct THC testing and listed on the Department's list of Identified Hemp Testing Laboratories in order to conduct regulatory THC testing for growers in this program. After December 31, 2026 or another date as determined by the USDA, all THC testing facilities must be registered with the Drug Enforcement Administration (DEA) as required by the USDA.

Testing facilities interested in being included on the Department's list must submit for consideration a completed application form. The Department does not require any fees to list a testing facility.

Eligibility

THC testing facilities must hold a valid ISO 17025 certification issued by a third party to the standards developed by the International Organization for Standardization.

Testing methods must ensure that analytical tests are consistent, accurate, and sufficiently sensitive to report THC concentrations in low-THC hemp varieties. (See AOAC SMPR for Quantitation of Cannabinoids in Plant Materials of Hemp)

Testing facilities must use post-decarboxylation or other similarly reliable methods approved by the USDA that considers the potential conversion of THCA into THC. The formula to calculate this conversion is (delta-9 THC + (THCA x 0.877)). All regulatory test results must reflect the

total THC amount. Testing facilities must also estimate and report a measurement of uncertainty (MU) for each test result.

Testing facilities must have an effective disposal procedure for non-compliant samples.

Testing facilities must simultaneously report THC results for regulatory samples to the grower, the Department, and the USDA.

Requirements

Each application and renewal application must include the following:

- the business name and contact information of the applicant,
- public information preferences,
- an example of the lab's Certificate of Analysis which must show the LOQs for delta-9 THC and THCA in percent dry weight, and
- a copy of the lab's ISO certification.

Seeds and Plants

Purchasing

Seed or plant procurement is the responsibility of the license holder. License holders who plan to obtain seed through an international import should check with the seed supplier to determine what documentation is required. All interstate shipments of hemp seeds or plants must be from a plant grower or retailer licensed in the state of origin or be accompanied by a phytosanitary certificate.

Hemp seeds and plants may only be procured by license holders. Hemp seeds purchased in New York State must be from a licensed party who holds a Hemp Seed Retail License. Hemp plants purchased in New York State must be from a New York-licensed hemp grower who also holds a Hemp Nursery Grower License.

Selling

Individuals or businesses, with a physical presence in New York State, who wish to sell hemp seeds or hemp transplants must have a valid license issued by the Department. Selling hemp seeds requires a Hemp Seed Retail License and selling hemp plants requires a Hemp Nursery Grower License. All sales shall be to authorized hemp license holders only.

Inspections

The registered locations of a grower are subject to inspection by the Department as often as and to the extent necessary to ensure compliance with state and federal regulations and to determine whether required reports, records, and documentation are accurate and complete.

Growers shall provide the Department with complete and unrestricted access to the premises where hemp is cultivated and stored, to the sites where the hemp cultivation business operates, and to the books and records relating to the cultivation of hemp.

Sampling

Growers must submit a Pre-Harvest Report at least 30 days before the anticipated harvest date of each hemp lot.

Growers are responsible for selecting certified Sampling Agents and identified THC testing facilities from the published lists on the Department's website. Growers are responsible for communicating any special laboratory procedures or shipping requirements to the Sampling Agents.

Once the report is received by the Department, it will be reviewed by the Department. All lots may be subject to state-mandated sampling. Sampling will be decided, at the discretion of the Department, by a performance-based sampling method which will consider the compliance history of both the grower and variety in question.

The Department will notify growers if they have been chosen for sampling. The Department will notify the selected Sampling Agents of the samples required. The Sampling Agents will collect the regulatory samples and send them to the growers' preferred testing facilities. If a Sampling Agent does not collect the sample within the required timeframe, the grower should contact the Department immediately.

Growers are responsible for all costs of sampling, shipping, and testing of hemp samples.

Growers must have written approval from the Department to harvest. Hemp must be harvested within 30 days of the regulatory sampling date.

THC Testing

THC testing facilities must be recognized by the Department. A list of recognized laboratories will be maintained on the Department's website. After December 31, 2026 or another date as determined by the USDA, all THC testing facilities must be registered with the Drug Enforcement Administration (DEA) to conduct regulatory THC testing for this program.

Regulatory samples required by the Department will be measured for total THC. The total THC is determined after decarboxylation or calculated by using the formula: delta-9 THC + (THCA x 0.877). The total THC amount will be added to the measurement of uncertainty to create a distribution range. The distribution range must include 0.3% or less on a dry weight basis.

A grower may request one re-test of the original sample or one re-sample of the lot if the grower has a good faith belief that the original test result was in error. The test results of the re-test or re-sample are final and will be used by the Department to determine the lot's compliance.

Reporting Requirements

FSA Reporting

The United States Department of Agriculture (USDA) requires that all producers report hemp production of any size to the Farm Service Agency (FSA). Growers must file an FSA-578 Report of Acreage to the FSA within 10 days of planting hemp. Please review the FSA Reporting Guidance for more information.

Department Reporting

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

- Planting Report – due within 20 days after each planting or by December 1st if not planting
- Hemp Greens/Microgreens Report – due the first 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 five days after receiving high THC results
- Monthly Sales Report – due the seventh of each month (even if there are no sales)

Please review the specific instructions found on each report in the Hemp Reporting Package for more information about what is required.

Disposal and Remediation

Commercial lots shall be subject to disposal or remediation when a sample tests over the acceptable hemp THC level based on regulatory sampling.

Disposal

A grower shall dispose of and document the disposal of non-compliant hemp within 15 days of receiving non-compliant test results. The method of disposal must be approved by the Department and verified by either a Department Horticultural Inspector, photos, videos, or other proof of disposal approved by the Department.

Methods of disposal include:

- off-site disposal by DEA-registered reverse distributor or law enforcement or
- on-site disposal at the farm or hemp production facility by one of the following methods: plow under, mow, compost, till, disc, burn, or bury

Remediation

A grower may remediate non-compliant hemp by one of the following methods:

- disposing of all flower material and salvaging the remainder of the plant or
- blending, chopping, or shredding the entire plant into a uniform homogeneous biomass

All remediated hemp must be separated from any other hemp, clearly labeled as “hemp for remediation purposes”, and stored and labeled apart from any other remediated hemp. Remediated hemp must not leave the Department-approved location until a compliant test result is received or until the hemp will be destroyed.

All remediated plant material will be sampled and tested for the material’s THC level at the grower’s expense. All remediation test results are final. Only successfully remediated plant material may enter the stream of commerce. Any hemp which remains non-compliant must be destroyed.

Record Keeping

All license holders must keep and maintain accurate records on the cultivation, sampling, shipping, testing, harvest, disposal, and remediation of hemp for at least three years. These records may be reviewed by a Horticultural Inspector during an audit or inspection to ensure program compliance.

Violations

Growers failing to adhere to the program’s compliance requirements are subject to penalties and other enforcement action, up to and including suspension or termination of their license, depending on the number and extent of the infractions or violations that have occurred. Failure to comply with program requirements is divided into three categories: infractions, negligent violations, and culpable violations. Information about each category follows:

Infractions

Infractions occur when a grower fails to follow any of the requirements that are not more specifically addressed as negligent or culpable violations. The Department will establish a date by which the infraction must be corrected.

Negligent Violations

Negligent violations occur when a grower fails to exercise the level of care that a reasonably prudent person would exercise in complying with the Department’s requirements. The following actions are negligent violations:

- growing and/or handling hemp without a valid license,
- growing and/or handling hemp at an unauthorized location,
- producing cannabis with a total THC level exceeding 1.0% on a dry weight basis,
- failing to timely dispose of plants determined to have more than the accepted hemp THC level,
- harvesting hemp prior to the collection of a regulatory pre-harvest sample by a Department inspector or Department-certified Sampling Agent or prior to receiving written approval to harvest from the Department,
- harvesting hemp more than 30 days after the regulatory sampling date,
- commingling lots of harvested plant material prior to state-mandated sampling and/or prior to receiving compliant test results of a regulatory sample, and/or
- failing to segregate and store the plant material and/or removing the plant material from the location authorized by the Department prior to receiving compliant test results.

Culpable Violations

Culpable violations occur when a grower fails to comply with the Department's requirements with a culpable mental state greater than negligence. The following actions may be considered culpable violations:

- Growing or cultivating hemp with a total THC level exceeding 1.0% on a dry weight basis.
- Handling non-compliant hemp for a purpose other than ensuring its destruction or remediation.
- Introducing non-compliant hemp into the stream of commerce.

Corrective Action Plans

The Department may require a grower to submit a corrective action plan for approval. The plan must, at a minimum, include:

- a reasonable date by which the infraction or violation will be corrected and
- the actions to be taken to correct the violation and to ensure future compliance with the requirements that were not met.

Those under a corrective action plan must submit quarterly reports for a period of two years pursuant to a schedule established by the Department. The reports will advise the Department of the grower's compliance with the corrective action plan. Those under a corrective action plan will be inspected annually to ensure compliance.

If a subsequent violation occurs while a corrective action plan is in place, a new corrective action plan must be submitted with a heightened level of quality control, staff training, and quantifiable action measures. Failure to comply with a corrective action plan may result in penalties and/or license revocation.

Suspension and Revocation

The Department may decline to renew or may revoke, suspend, and/or impose conditions on a license or certification issued by the Department. The following may result in the suspension or revocation of a license:

- seeking a license to grow hemp on land currently authorized to another license,
- committing an act injurious to the public health or welfare related to the license,
- growing cannabis exceeding the acceptable THC level with a culpable mental state,
- receiving three negligent violations within a five-year period,
- failing to have adequate facilities, equipment, or security to cultivate or handle hemp,
- failing to keep accurate records for at least three years,
- failing to submit all reports by the required due dates,
- providing inaccurate or misleading information to the Department,

- failing to notify the Department that a participant was convicted of a drug-related felony,
- failing to comply with any program requirements, and/or
- seeking a license for a person who has been suspended, revoked, or is ineligible.

Change of Ownership

The New York State hemp regulations (1 NYCRR §159.3(d)) prohibits the assignment, transfer, or sale of a hemp license.

Glossary

“Acceptable hemp THC level” means when the application of the measurement uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less.

“Cannabis” means a genus of flowering plants in the family Cannabaceae of which Cannabis sativa L. is a species, and Cannabis indica and Cannabis ruderalis are subspecies.

“Commissioner” means the Commissioner of Agriculture and Markets of the State of New York.

“Conviction” means any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged. For purposes of the hemp regulations 1 NYCRR Part 159, a conviction is expunged when the conviction is removed from the individual's criminal history record and there are no legal disabilities or restrictions associated with the expunged conviction, other than the fact that the conviction may be used for sentencing purposes for subsequent convictions. In addition, where an individual is allowed to withdraw an original plea of guilty or nolo contendere and enter a plea of not guilty and the case is subsequently dismissed, the individual is no longer considered to have a conviction for purposes of this Part.

“Corrective action plan” means a plan established or approved by the Department under the hemp regulations 1 NYCRR Part 159 for a licensed hemp grower to correct a negligent violation or non-compliance with this Part.

“Criminal history report” means the Federal Bureau of Investigation Identity History Summary.

“Culpable mental state greater than negligence” means to act intentionally, knowingly, willfully, or recklessly.

“Decarboxylated” means the completion of the chemical reaction that converts THC-acid (THCA) into delta-9 tetrahydrocannabinol, the intoxicating component of cannabis. The decarboxylated value is also calculated using a molecular mass conversion ratio that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THCA ([delta-9THC] + [0.877 * THCA]).

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

“Delta-9 tetrahydrocannabinol” “Delta-9 THC” or “THC” means the primary psychoactive cannabinoid of cannabis.

“Department” means the New York State Department of Agriculture and Markets.

“Dispose” and any variant thereof, means any activity that transitions the non-compliant product into a non-retrievable or non-ingestible form. Such activities include plowing, tilling, or discing plant material into soil; mulching, composting, chipping, or brush mowing plant material into green manure; burning plant material into the earth and covering it with soil; or as otherwise authorized in the hemp regulations 1 NYCRR Part 159 or in writing by the Department.

“Drug Enforcement Administration” or “DEA” means the United States Federal Law Enforcement Agency under the United States Department of Justice.

“Drug Enforcement Administration Registered Reverse Distributor” means a person who is registered with the DEA in accordance with Title 21 Code of Federal Regulations Subpart 1317.15 to dispose of marijuana under the Controlled Substances Act.

“Dry weight basis” means the method of determining the percentage of a chemical in a substance after removing the moisture from the substance.

“Dwelling” means any residential building or portion thereof intended for human habitation.

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

“Gas Chromatography” or “GC” means a type of chromatography in analytical chemistry used to separate, identify, and quantify each component in a mixture. GC relies on heat for separating and analyzing compounds that can be vaporized without decomposition.

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

“Grower” means a person who is licensed by the Department to grow or cultivate hemp.

“Grow Location” means a contiguous land area or the greenhouses, hoop houses, or buildings for indoor cultivation, registered with the Department, on or in which a licensee or applicant will conduct licensed hemp cultivation activities. Each non-contiguous grow location must be registered separately.

“Handle” means to harvest, dry, field ret, or store hemp plants or hemp plant parts prior to their introduction into commerce. Handling includes the processing of hemp only in connection with its growing and cultivation, field retting after a compliant test result is received, the disposal of cannabis plants that fall outside the definition of hemp, and the remediation of hemp as permitted pursuant to the hemp regulations 1 NYCRR Part 159.

“Hemp” means the plant species *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 total delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

“Hemp Greens” means hemp leaves from immature plants germinated from seed and the plants are no more than ten (10) inches tall and are not flowering.

“Hemp Microgreens” means immature hemp seedlings for human consumption that are cut-off above the soil or substrate line and harvested prior to flowering and not more than 14 days after germination. Hemp microgreens are typically between two and three inches in height but not taller than five inches.

“Hemp Mother Plants” mean immature hemp plants with a total THC concentration of 0.3% or less that are used for cloning purposes.

“Hemp Transplants” mean hemp seedlings, rooted cuttings, immature plants produced from tissue culture, or other means of reproduction which are not harvested but transplanted into a large container or field to mature for harvest.

“Key participants” means a sole proprietor, a partner in partnership, or a person with executive managerial control in a business or educational entity. A person with executive managerial control includes, without limitation, persons such as a chief executive officer, chief operating

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

“Law enforcement agency” means any Federal, State, or local law enforcement agency.

“Liquid chromatography” or “LC” means a type of chromatography technique in analytical chemistry used to separate, identify, and quantify each component in a mixture. LC 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.

“Lot” means a contiguous area in a field, sub-field, tract, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.

“Marijuana” means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. The term marijuana does not include hemp, as defined in the hemp regulations 1 NYCRR Part 159, and does not include the mature stalks of Cannabis sativa L., fiber produced from its stalks, oil or cake made from its seeds and any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), its fiber, oil, cake, or sterilized seed incapable of germination. Except as otherwise provided by this Part, marijuana means all cannabis that tests as having a total THC concentration level of higher than 0.3 percent on a dry weight basis.

“Measurement Uncertainty (MU)” means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the quantity subject to measurement.

“Negligence” means the failure to exercise the level of care that a reasonably prudent person would exercise in complying with the provisions of the hemp regulations 1 NYCRR Part 159.

“Percentage of THC on a dry weight basis” means the percentage of THC, by weight, in a hemp plant, the segregated parts of a hemp plant or the comingled parts of harvested hemp plants, after excluding moisture from the plant matter.

“Performance-based sampling” means a sampling approach that sets a performance objective of collecting enough samples to ensure, at a confidence level of 95 percent, that no more than one percent of the plants in the lot exceed the acceptable hemp THC level. Performance-based sampling provides flexibility in the sampling approach to the extent that the approach provides an effective method of ensuring the overall acceptable hemp THC level. Performance-based sampling may be based on, among other things, the end-use categories of the plant varieties, such as fiber or grain, historical THC concentrations of varietals over time, or the characteristics and growing histories of certain farms or producers, certified seed, or clonal varieties, some or all of which may ensure effective criteria to ensure overall acceptable hemp THC levels and require less comprehensive sampling of hemp.

“Person” means an individual, partnership, corporation, limited liability company, association, or any business entity or institution of higher education, by whatever name designated and however formed or organized.

“Phytocannabinoid” means the cannabinoid chemical compounds found in hemp.

“Post-decarboxylation” means, in the context of testing methodologies for THC concentration levels in hemp, a value determined after the process of decarboxylation that determines the total potential delta-9 THC content derived from the sum of the THC and THCA content, and reported on a dry weight basis. The post-decarboxylation value of THC may be calculated by using a chromatograph 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 post-decarboxylation value of THC can also be calculated by using a liquid chromatography technique, which keeps the THCA intact, and requires a conversion calculation of that THCA to calculate total potential THC in a given sample.

“Processing of hemp in connection with its growing and cultivation” means the growing, cultivation, harvesting, drying, curing, grinding, and trimming of hemp plants. Processing of hemp includes the remediation of hemp in conformity with the requirements of the hemp regulations 1 NYCRR Part 159.

“Produce” or “Production” means to grow hemp plants for market, or for cultivation for market in the State or the United States.

“Registered premises” means any facility, location, or property leased, licensed, owned, or otherwise used by a person to grow hemp that has been authorized by the Department as a site where hemp may be grown.

“Remediation” means the process of rendering non-compliant hemp being cultivated by a licensed hemp grower to compliant hemp as set forth in the hemp regulations 1 NYCRR Part 159. For example, remediation can be achieved by separating and destroying non-compliant flowers while retaining stalks, leaves and seeds; or by shredding the entire hemp plant to create a homogeneous “biomass”. Remediated hemp must be retested for THC compliance.

“Research License” means the license to grow hemp issued to an institution of higher education, entity, or individual for the purposes of conducting research.

“Sampling” means the process of collecting cuttings from hemp plants for the purposes of compliance testing.

“Sampling Agent” means a person trained and certified by the Department on applicable State and United States Department of Agriculture (USDA) procedures to collect regulatory samples of hemp for THC compliance testing.

“State” means the State of New York.

“Total THC” means the value determined after the process of decarboxylation, or the application of a conversion factor, as set forth in the hemp regulations 1 NYCRR Part 159, if the testing does not include decarboxylation that expresses the potential total delta-9 THC content derived from the sum of the THC and THCA content and reported on a dry weight basis.

“Valid license” means a duly issued license that is unexpired, unsuspended, and unrevoked.