

**DEPARTMENT OF AGRICULTURE  
PLANT INDUSTRIES SECTION**

Statutory Authority: 3 Delaware Code, Section 101(2) and (3) (3 **Del.C.** §101(2) & (3))

**EMERGENCY**

**ORDER**

**805 Rules and Regulations for Delaware Domestic Hemp Production Program**

**WHEREAS**, the Department of Agriculture (the “Department”) has been charged by the Delaware legislature pursuant to 3 **Del.C.** §101(2) & (3) with the power to devise and execute measures necessary for the development of the agricultural interests of the State and to make and adopt rules for the government of the Department of Agriculture; and

**WHEREAS**, the Department is developing proposed regulations (the “Proposed Regulations”) for publication in the *Register of Regulations* to establish appropriate procedures, permitting process, and governing measures for the industrial hemp agricultural program within the State of Delaware; and

**WHEREAS**, the Secretary finds that adoption of an emergency regulation to govern the industrial hemp program must occur on an emergency basis in order to properly protect the agricultural interests of the State until such time as the Proposed Regulations become effective; and

**WHEREAS**, the Secretary will accept, consider and respond to petitions by any interested person for the reconsideration or revision of this regulation by addressing the same to the attention of Plant Industries Section, Department of Agriculture, 2320 South DuPont Highway, Dover, Delaware 19901; and

**WHEREAS**, in accordance with the provisions of 29 **Del.C.** §10119(3), this Order shall be effective for 120 days from the date of execution and may be renewed once for a period not exceeding 60 days; and

**WHEREAS**, a copy of this Order will be submitted to the Registrar for publication in the next issue of the Delaware *Register of Regulations*.

**NOW, THEREFORE, IT IS ORDERED** this 16<sup>th</sup> day of December, 2019 that the following “Rules and Regulations for Hemp Program” shall take effect immediately.

**SO ORDERED** this 16<sup>th</sup> day of December, 2019.

**SECRETARY OF AGRICULTURE**

Michael T. Scuse

**805 Rules and Regulations for Delaware Domestic Hemp Production Program**

**1.0 Authority**

These regulations are promulgated pursuant to the authority of 3 **Del.C.** §101(3).

**2.0 Purpose**

2.1 The passage of the federal Agriculture Improvement Act of 2018 and legalization of *Cannabis sativa* L. offers an economic opportunity for the State of Delaware and its producers, processors, handlers, and consumers. The purpose of these regulations is to establish appropriate standards, definitions, and requirements for the agricultural production of hemp in the State of Delaware.

2.2 To establish a Hemp Production Program in the State of Delaware, the following regulations define how the Department will comply with USDA requirements as indicated in 7 CFR Part 990 Domestic Hemp Program, as the regulatory entity of hemp production in the State of Delaware. This administrative regulation establishes procedures and requirements for licensing persons who wish to grow or cultivate hemp as a participant in the Delaware Hemp Production Program.

**3.0 Definitions**

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:

“**Acceptable Hemp THC Level**” means decarboxylated delta-9 tetrahydrocannabinol concentration equal to or less than 0.3% on a dry weight basis, as reported by a USDA-approved laboratory. The designated laboratory will also report the Measurement of Uncertainty (MU). 0.3% must fall within the reported MU.

“**Applicant**” means an individual, or an individual authorized to sign for a business entity, who applies for a license.

**“Authorized Representative”** means an individual designated by a licensed producer to act as a point of contact on behalf of the licensed producer. This individual must be indicated on the Delaware Domestic Hemp Production Program application.

**“Cannabis”** means any form of the plant in which the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined or that has been determined to be above the acceptable hemp THC level.

**“Composite Sample”** means a collection of cuttings from an individual lot.

**“Corrective Action Plan”** means a plan set forth by the Department for a licensed producer to correct a negligent violation of, or non-compliance with, a hemp production plan. This term is defined in accordance with the Agriculture Improvement Act of 2018, which mandates certain non-compliance actions to be addressed through corrective action plans.

**“Criminal History Report”** means a report detailing an individual’s conviction status related to a controlled substance within the past 10 years at the state or federal level. The report must be dated within sixty days prior to the date of application submission, and is required to be renewed every three years. A Criminal History Report is required for all key participants.

**“Culpable Mental State Greater Than Negligence”** means to act intentionally, knowingly, willfully, or recklessly or with criminal negligence.

**“Cuttings”** means flowering material of cannabis plant material collected for a sample.

**“Decarboxylated”** means the completion of the chemical reaction that converts THC-acid into delta-9-THC. The decarboxylated value may also be calculated using a conversion formula that sums delta-9-THC and THC-acid. The Department will consider the THC concentration level after this process, which is the post decarboxylated level.

**“Delta-9-THC”** means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis).

**“Department”** means the Delaware Department of Agriculture.

**“Destruction Methods”** means the use of farm equipment to mechanically manipulate the soil or the plant to render a cannabis crop non-retrievable within an indoor or outdoor growing site.

**“Disqualifying Felony”** means persons with a state or federal felony related to a controlled substance for the 10 years prior to the date of when a Criminal History Report is completed, are ineligible to participate in the State of Delaware Hemp Production Program for 10 years following the date of conviction.

**“Dry Weight Basis”** means a method of determining the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item.

**“Farm Service Agency”** or **“FSA”** means an agency of the U.S. Department of Agriculture that provides services to farm operations that will assist in information collection on land being used for hemp production.

**“Flower Material”** means the complete inflorescence of the cannabis plant.

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

**“Growing Site”** –

**“Outdoor Growing Site”** means a field location where cannabis seeds or plants are planted in the ground.

**“Indoor Growing Site”** means an enclosed building in which cannabis plants are grown that can be secured and locked.

**“Handler”** means an individual transporting or storing hemp or hemp plant parts prior to the delivery of such plant or plant part for processing.

**“Hemp”** means all parts and varieties of the plant *Cannabis sativa* L. and any part of such plant cultivated or possessed by a licensed producer or handler, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis.

**“Homogenous”** and **“Homogeneity”** means a lot of like plant variety.

**“Key Participants”** means person or persons who have a direct or indirect financial interest in the entity producing hemp, such as an owner or partner in a partnership. A key participant also includes persons in a corporate entity at executive levels including CEO, COO, and CFO. This does **not** include other management positions like farm, field, or shift managers.

**“Laboratory”** means a USDA-approved laboratory used by the Department to conduct regulatory testing for THC concentration levels in cannabis.

**“License Holder”** means an individual or business entity authorized by the Department to grow, transport, or store hemp plants or plant parts.

**“Lot”** means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout. Lot also refers to the batch or contiguous, homogenous whole of a product being sold to a single buyer at a single time. Lot is defined by the producer in terms of farm location, field acreage, and variety and is to be reported as such to the FSA.

**“Measurement of Uncertainty”** or **“MU”**, means the parameter associated with the results of a measurements that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement, if a sample measure of 0.3% THC falls within the MU range then the sample meets acceptable hemp THC levels.

**“Negligence”** means failure to exercise the level of care that a reasonably prudent person would exercise in complying with these regulations. Licensed producers that are found operating negligently will be required to perform a corrective action plan.

**“On-site”** means a registered growing site as indicated on an Annual Growing Site Registration or Growing Site Modification form.

**“Processor”** means an individual or business entity that conducts processes that convert hemp in any way, other than a producer or laboratory used for regulatory testing.

**“Producer”** means an individual or business entity possessing a Producer License issued by the Department under the authority of this chapter to grow, cultivate, harvest, store, transport, or market hemp or hemp products. Including individuals growing transplants, seedlings, or clones. Once licensed the term “licensed producer” shall be used.

**“Production”** means to grow hemp plants for market or for cultivation for market.

**“Program”** means the Delaware Domestic Hemp Production Program.

**“Sample”** means a composite sample collected by the Department.

**“Sampling Agent”** means an individual employed by the Department to collect, label, and submit cannabis samples to designated testing laboratory.

**“USDA”** means the United States Department of Agriculture.

#### **4.0 Application, License and Registration**

4.1 The Department intends to approve or deny application for producers, handlers, and processors within 30 days of submission. The Department will issue a license number or registration number upon approval. Licenses or registrations issued by the Department are intended to validate growing sites, processing facilities, or storage facilities within the State of Delaware. The Department will deem persons who materially falsify any information in their application ineligible to participate in the Delaware Domestic Hemp Production Program. Any records of the Department that could provide the name or location of a growing site or producer are excluded from the public record under 29 **Del.C.** §10002(l)(1), (2), and (17)a.

4.2 Producers:

4.2.1 New applications and renewals, using the *Delaware Domestic Hemp Production Program Application*, must be submitted between November 1<sup>st</sup> and February 1<sup>st</sup> of the given year. Licenses will be valid until December 31<sup>st</sup> of the year that is three years after the license is issued, unless otherwise revoked.

4.2.2 An *Annual Growing Site Registration* must be completed annually and submitted to the Department no later than February 1<sup>st</sup>.

4.2.3 A *Growing Site Modification* form is required to be completed and submitted to the Department if a licensed producer intends to alter the location or size of a growing site as indicated on the *Annual Growing Site Registration*.

4.2.4 The Department requires a licensed producer to oversee individuals conducting, but not limited to, the following actions related to their hemp crop acreage: cleaning seed, in-field consulting, custom planting, weed removal, custom harvesting, and storing.

4.2.5 The Department requires that a licensed producer notifies landowners of the intention to use their land as a hemp growing site, if the licensed producer is not the owner of the land where hemp will be grown.

4.3 Processors:

4.3.1 Processors are required by the Department to complete a *Processor Application* and *Annual Processor Facility Registration*. New applications and renewals must be submitted between August 1<sup>st</sup> and October 31<sup>st</sup>. *Processor Registration Certificates* will be valid until December 31<sup>st</sup> of the year that is three years after the certificate is issued, unless otherwise revoked. *Processor Facility Registrations* must be submitted annually no later than October 31<sup>st</sup>.

4.3.2 The Department will issue processors a *Processor Registration Certificate*. This document certifies that a processor has submitted to the Department:

4.3.2.1 A completed application;

4.3.2.2 A completed State and Federal Criminal History Report;

4.3.2.3 A geospatial identification of the site where hemp will be processed, to include a map; and

4.3.2.4 Other information related to processing procedures and operations as requested by the Department.

4.4 Handlers. The Department requires that individuals intending to transport, or store hemp or hemp plant parts complete a *Handler Application* and Criminal History Report. New applications and renewals must be submitted between August 1<sup>st</sup> and October 31<sup>st</sup>. Licenses will be valid until December 31<sup>st</sup> of the year that is three years after the license is issued, unless otherwise revoked.

4.5 Criminal History Report. All applications and license renewals must be accompanied by completed State and Federal Criminal History Report. If the application is for a business entity, a completed Criminal History Report must be provided for each key participant. Approved applications are subject to revocation pending results of the State and Federal Criminal History Reports.

4.6 Individuals shall submit applications to the Department via a physical collection point identified by the Department, or via email. Any questions related to applications must be submitted via email at [DDA\\_HempProgram@delaware.gov](mailto:DDA_HempProgram@delaware.gov). The Department will mail all licenses and registrations via USPS. The Department will maintain a copy of each license for record.

4.7 The Department will determine the status of licenses based on the following:

4.7.1 Active: A license holder that is in good standing with this Program.

4.7.2 Suspended: A license holder that has engaged in conduct violating this Program.

4.7.2.1 A license holder whose license has been suspended shall not produce or handle hemp during the period of suspension.

4.7.2.2 The Department may require that a license holder whose license has been suspended complete a corrective action plan to fully restore the license.

4.7.3 Revoked: A license holder that negligently violates this Program 3 times within a period of 5 years shall have the license revoked and be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation. The Department may immediately revoke licenses if:

4.7.3.1 A license holder pleads guilty to or is convicted of any felony related to a controlled substance.

4.7.3.2 A license holder makes a materially false statement with regard to this Program to the Department with a culpable mental state greater than negligence.

4.7.3.3 A license holder is found to be growing cannabis exceeding the acceptable hemp THC level with a culpable mental state greater than negligence or has negligently violated this Program 3 times within a period of 5 years.

## **5.0 Fees and Renewal**

5.1 Producer:

5.1.1 Application and Renewal \$300 every three years

5.1.2 Annual Growing Site Registration \$500 per site annually

5.1.3 Growing Site Modification \$500 per site

5.2 Processor:

5.2.1 Application and Renewal \$250 every three years

5.2.2 Processor Facility Registration \$1000 per facility annually

5.2.3 Facility Modification \$1000 per facility

5.3 Pre-harvest Sample Collection, Post-harvest Sample Collection, Resample, and Lab Testing \$350

5.4 Handler Application \$250 every three years

## **6.0 Sampling, Testing Requirements and Inspections**

6.1 Sampling:

6.1.1 Sampling of hemp plants as required by the USDA, will be conducted by a sampling agent designated by the Department. Sampling agents will follow USDA and Department protocol for entering hemp growing sites and collecting the minimum number of plant specimens necessary to represent a homogenous

- composition of the lot that is to be sampled. The sampling agent will conduct one pre-harvest sample for each lot per licensed producer.
- 6.1.2 The Department requires that a licensed producer submit fees associated with sampling and testing, and if applicable re-sampling and re-testing, at a total of \$350 per sample collected. Fees are to be collected by the Department prior to sampling.
- 6.1.3 If a licensed producer fails to complete harvest within 15 days of sample collection, The Department will collect a second pre-harvested sample of the lot to be submitted for testing.
- 6.1.4 A licensed producer or an authorized representative can request that the sampling process be conducted during a time that they are present at the growing site, however, representatives of the sampling agency shall be provided with complete and unrestricted access during business hours to all cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all cannabis plants, and all locations listed in the producer license.
- 6.1.5 Within 30-15 days prior to the anticipated harvest of cannabis plants, a licensed producer or an authorized representative of the licensed producer, as documented on the *Delaware Domestic Hemp Production Program Application*, shall notify the Department of the anticipated date of harvest via phone or email.
- 6.1.6 Within 15 days prior to the date of harvest, as indicated by the licensed producer or authorized representative of the licensed producer, as documented in the *Delaware Domestic Hemp Production Program Application*, a sampling agent shall collect representative samples from cannabis plants to submit for testing of THC concentration levels.
- 6.1.7 The sampling agent will not collect samples on lots where cannabis plants have not matured to flowering stage, as the USDA requires that samples consist of flower material.
- 6.1.8 A licensed producer or any other individual shall not harvest cannabis plants prior to samples being collected by the Department. A licensed producer or any other individual shall not remove plants from lots that have been sampled from a growing site without written authorization from the Department.
- 6.1.9 The growing site must be surveilled by the sampling agent. The sampling agent shall:
- 6.1.9.1 Verify the GPS coordinates of the growing site and lot as compared with the GPS coordinates submitted by the licensee to FSA;
- 6.1.9.2 Estimate the average height, appearance, approximate density, condition of the hemp plants, and degree of maturity of the flowering material, meaning inflorescences; and
- 6.1.9.3 Visually estimate the homogeneity of the lot to be sampled to establish that the lot is of like variety.
- 6.1.10 Cuttings from each individual lot, as identified by a licensed producer, and submitted by the producer to the Farm Service Agency (FSA) as per the requirements of the USDA, shall be organized as composite samples. Lots are to be defined by the producer. Producers must utilize guidelines from the Department for identifying lots, identification must be based on farm location, field acreage, and variety. Producers are responsible for reporting lot identification to the FSA.
- 6.1.10.1 For purposes of determining the number of individual plants to meet sampling protocol as determined by the USDA sampling protocol document, the size of each individual lot shall be considered by the Department and sampling agent. For sampling purposes, samples from separate lots must remain separated and are not to be comingled.
- 6.1.10.2 For lots of less than four acres, including indoor growing sites, the sampling agent will collect a minimum of five cuttings to form one composite sample. For lots greater than four and fewer than ten acres, including indoor growing sites, the sampling agent will collect a minimum of one cutting per acre to form a composite sample.
- 6.1.10.3 For lots larger than 10 acres, including indoor growing sites, the number of plants that will be selected to form a composite sample is based upon the Codex Alimentarius Recommended Methods of Sampling for the Determination of Pesticide Residues for Compliance with MRLS CAC/GL 33-1999, in accordance with USDA.
- 6.1.10.4 A licensed producer may contact the Department to request that a second sample be collected for retesting if it is believed the original THC concentration level test results were in error.
- 6.1.11 When collecting samples from each lot, the sampling agent must:
- 6.1.11.1 Always walk through the lot following a sawtooth pattern, beginning at one point of the lot and walking towards another point located on the opposite side of the lot.
- 6.1.11.2 Walk access roads, drainage ditches, or other accessible paths that allow penetration into the lot (stand), in cases where the lot (stand) is determined too dense and walking through is deemed impossible.
- 6.1.11.3 Cut at least “n” flower material at random distances in the lot, while walking a sawtooth pattern.

- 6.1.11.4 Avoid collecting too many cuttings from the borders of the field or indoor growing site, high spots or low spots in the lot, and male plants.
- 6.1.11.5 Make the cut of a cannabis plant just underneath the flower material. Each composite sample will contain cuttings of flower material from the uppermost areas of the plant consistent with a ratio of two-fifths of  $n$ . The remainder of the composite sample will be collected from the upper one-third of the plant. The sample size must be of adequate volume, as determined by the Department, to accommodate laboratory tests.
- 6.1.11.6 Utilize one paper sample bag, per lot, for collecting cuttings.
- 6.1.11.7 Seal each bag with a laboratory sticker and record the sample identification information and date on the bag.
- 6.1.12 The Department will label samples for submission to the laboratory using the following information:
  - 6.1.12.1 Producer license number;
  - 6.1.12.2 Date of sample (month, day, year);
  - 6.1.12.3 Lot identification as outlined by the Department and reported to FSA.

## 6.2 Testing:

- 6.2.1 The Department will contract with a USDA approved laboratory to perform THC tests and require that the laboratory share test results with the licensed producer, the Delaware Department of Agriculture, and the USDA.
- 6.2.2 Any test conducted for delta-9 tetrahydrocannabinol is required to regulate that hemp plants produced in the state of Delaware by producers licensed by the Department contain acceptable THC levels. Results are intended to measure the THC concentration levels of composite cannabis samples collected from individual lots.
- 6.2.3 The laboratory used for testing regulatory samples of cannabis, collected and submitted by the Department, is a USDA approved laboratory and meets testing protocol and compliance standards as required by USDA. (7 CFR Part 990 Domestic Hemp Production Program).
- 6.2.4 The Department will review the Measurement of Uncertainty to make final determinations regarding acceptable THC levels. (7 CFR Part 990.3a(3) iii (F)).

## 6.3 Inspections:

- 6.3.1 The Department will conduct annual inspections of, at a minimum, a random sample of licensed producers to verify that hemp is not produced in violation of this Program. The Department shall have access, during reasonable business hours, to any premises where hemp plants may be held.
- 6.3.2 The Department requires that the following records be made available to the Department during reasonable business hours:
  - 6.3.2.1 Acquisition of hemp plants.
  - 6.3.2.2 Production and handling of hemp plants.
  - 6.3.2.3 Storage of hemp plants.
  - 6.3.2.4 Disposal of hemp plants.
- 6.3.3 If the Department finds that pesticides are being sprayed, the licensed producer is subject to inspections by pesticide inspectors under the authority of Delaware Pesticide Laws (3 **Del.C.** Ch. 12).
- 6.3.4 If the Department finds that hemp plants or hemp nursery stock are being sold, the licensed producer is subject to inspection by nursery inspectors under the authority of Delaware Nursery Laws (3 **Del.C.** Ch. 13).

## **7.0 Information Sharing and Record Keeping**

### 7.1 Reporting to USDA (as authorized under 7 CFR Part 990 Domestic Hemp Program)

#### 7.1.1 The Department will submit the following reports to the USDA, AMS annually:

- 7.1.1.1 The Department will submit a report annually to the USDA by December 15<sup>th</sup> of each year using the *State and Tribal Hemp Annual Report form*. (State and Tribal Hemp Annual Report AMS-25)

#### 7.1.2 The Department will submit the following reports to the USDA, AMS monthly:

- 7.1.2.1 *State Hemp Producer Report* (State and Tribal Hemp Producer Report, AMS-23)
- 7.1.2.2 *State Hemp Disposal Report* using the disposal form (State and Tribal Hemp Disposal Report AMS-24)
- 7.1.2.3 *State Hemp Test Result Report* (Laboratory Test Results Report (AMS-22))

- 7.1.3 The Department will share information with the USDA on the first day of each month via monthly reports. The Department will gather information related to lots directly from a state of Delaware FSA contact. If the first of the month falls on a weekend or holiday, the Department will submit the report to the USDA on the first business day following the due date.
- 7.1.4 The Department will submit THC concentration level test results to licensed producers once received from the laboratory. The Department will review test results to make a determination if hemp produced by a licensed producer meets the acceptable hemp TCH concentration level.
- 7.2 **Producer Report**
  - 7.2.1 The Department requires that all licensed producers report their hemp crop acreage to the FSA using their state of Delaware license number. Licensed producers shall learn information about how to report using the following link: <https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/2019/crop-acreage-reporting-19.pdf>
  - 7.2.2 The Department will require all licensed producers to submit the following information to the Department via email, no later than December 1<sup>st</sup> of each year:
    - 7.2.2.1 Total acreage planted.
    - 7.2.2.2 Total acreage harvested.
    - 7.2.2.3 Total acreage disposed.
    - 7.2.2.4 Plant storage records.
  - 7.2.3 The Department will maintain records for a minimum of three years as required by the USDA.
  - 7.2.4 The Department will incorporate information submitted by licensed producers in an *Annual Report* to be submitted to the USDA.

## **8.0 Violations**

- 8.1 **Destruction.** The Department requires the on-site destruction of lots located on outdoor or indoor growing sites that have been determined to have higher than acceptable hemp THC levels. The Department will instruct the licensed producer on acceptable destruction protocol and coordinate with the licensed producer to ensure that lots are destroyed in a manner that renders the lot non-retrievable and unfit to enter the stream of commerce. The Department will require that destruction take place within 72 hours after the Department notifies the licensed producer that destruction is required.
  - 8.1.1 It is the responsibility of a licensed producer to destroy lots by using destruction methods that render the lot non-retrievable and unfit to enter the stream of commerce.
  - 8.1.2 If the Department determines a lot as having higher than acceptable hemp THC levels, the lot must not be further handled, processed, or enter the stream of commerce.
  - 8.1.3 The Department requires that a licensed producer notify the Department if the licensed producer destroys a lot by his or her own determination and independent of a requirement set by the Department.
- 8.2 **Disposal.** The Delaware Department of Agriculture will require the disposal of a lot that has been determined to have higher than acceptable levels of THC, where on-site destruction is not feasible. The Department will require that disposal take place within 72 hours of notification.
  - 8.2.1 The Department will coordinate with the licensed producer to ensure that lots are disposed of in a manner that renders the lot non-retrievable and unfit to enter the stream of commerce.
- 8.3 **Harvesting.** The Department prohibits any comingling of harvested lots of cannabis plants with other harvested lots or other material without prior written permission from the Department.
- 8.4 **Negligent or Culpable Violations.**
  - 8.4.1 A hemp producer shall be subject to enforcement for negligently:
    - 8.4.1.1 Failing to provide annually, an accurate legal description of land where hemp is produced using the *Annual Growing Site Registration form*.
    - 8.4.1.2 Producing hemp without a license. A new applicant must submit a *Delaware Domestic Hemp Production Program Application* to the Department no later than February 1<sup>st</sup>. A licensed producer must submit for renewal prior to license expiration. Licenses are not automatically renewed. Applications for renewal shall be subject to the same terms, information collection requirements, and approval criteria, as required in the initial application.
    - 8.4.1.3 Producing cannabis exceeding the acceptable hemp THC level. 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 delta-9 tetrahydrocannabinol concentration of more than 0.5% on a dry weight basis.

- 8.4.1.4 Failing to have locked entrances on an indoor growing facility.
- 8.4.1.5 Failing to adequately display signage to indicate a hemp growing site.
- 8.4.2 Corrective action for negligent violations. For each negligent violation, the Department will issue a *Notice of Violation* and require a corrective action plan for the licensed producer. The Department shall conduct an inspection to determine if the corrective action plan has been implemented. The licensed producer shall comply with the corrective action plan to cure the negligent violation. Corrective action plans will be in place for a minimum of two (2) years from the date of their approval. Corrective action plans will, at a minimum, include:
  - 8.4.2.1 A reasonable date by which the licensed producer shall correct the negligent violation.
  - 8.4.2.2 A requirement that the licensed producer shall periodically report to the Department, as applicable, on its compliance with the corrective action plan for a period of not less than the next 2 years from the date of the negligent violation.
  - 8.4.2.3 A description of quality control measures, staff training, and quantifiable action measures taken by the Producer. Producers should document this using the *Correction Action Plan Template*.
  - 8.4.2.4 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 as defined by the Department.
- 8.4.3 Negligent violations and criminal enforcement. A licensed producer that negligently violates this part shall not, as a result of that violation be subject to any criminal enforcement action by any Federal, State, or local government.
- 8.4.4 Negligent violations and license revocation. A producer that negligently violates the license 3 times in a 5-year period shall have their license revoked and be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.
- 8.4.5 Culpable mental state greater than negligence. If the Department determines that a license holder has violated the terms of the license or of this part with a culpable mental state greater than negligence:
  - 8.4.5.1 The Department shall immediately report the license holder to:
    - 8.4.5.1.1 The U.S. Attorney General; and
    - 8.4.5.1.2 The chief law enforcement officer of the State, as applicable, where the production is located; and subsections 8.4.1 and 8.4.2 of this section shall not apply to culpable violations.
- 8.5 Licensed producers intending to sell hemp plants or hemp nursery stock must comply with the Delaware Nursery Laws (3 **Del.C.** Ch. 13).
- 8.6 Licensed producers intending to apply pesticides must comply with the Delaware Pesticide Laws (3 **Del.C.** Ch. 12).
- 8.7 Licenses may not be sold, assigned, transferred, pledged, or otherwise disposed of, alienated or encumbered.
- 8.8 In accordance with the provisions of 3 **Del.C.** §1108 and 3 **Del.C.** §1110, it shall be unlawful to violate or fail to comply with any provisions of these regulations and the person charged with a violation of these regulations shall be assessed a civil penalty, in accordance with 3 **Del.C.** §1110.
- 8.9 Revocation of a license or registration. Any license or registration issued by the Department may be canceled orally or in writing by the Department whenever the Department determines that the holder of the license or registration has not complied with a provision of these regulations or requirements in Sections 6.0 and 7.0. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances allow.