



# Industrial Hemp Agricultural Research Pilot Program

## Program Guidance

### Statutory Authority

**Federal: Section 7606 of the 2014 federal Farm Bill** indicates that state departments of agriculture and institutions of higher education may undertake hemp research pilot programs to study the growth, cultivation, or marketing of industrial hemp, notwithstanding the fact that hemp is classified by the federal Drug Enforcement Agency (DEA) as a Class 1 Controlled Substance. Moreover, the federal Omnibus Budget bill of 2016, prohibits the DEA from spending appropriated funds on enforcement actions against institutions of higher education or state departments of agriculture involved in growing industrial hemp and prohibits the spending of funds on enforcement against the transportation, processing, sale, or use of industrial hemp grown in accordance with an industrial hemp research program as allowed by the 2014 Farm Bill.

**State: Agriculture and Markets Law §506 provides** – Growth, sale, distribution, transportation and processing of industrial hemp permitted. “Notwithstanding any provision of law to the contrary, industrial hemp and products derived from such hemp are agricultural products which may be grown, produced and possessed in the state, and sold, distributed, transported or processed either in or out of state as part of agricultural pilot programs pursuant to authorization under federal law and the provisions of this article.”

It further provides that the Commissioner, subject to authorization under federal law, “may authorize the growing or cultivating of industrial hemp as part of agricultural pilot programs conducted by the department and/or an institution of higher education to study the growth and cultivation, sale, distribution, transportation and processing of such hemp and products derived from such hemp if the sites and programs used for growing or cultivating industrial hemp are certified by, and registered with, the department.”

### Applicants

Research of industrial hemp may only be undertaken in this State as part of an agriculture research pilot program, either conducted by the Department or institution of higher education with authorization from the Commissioner.

**1) Institutions of Higher Education:** Institutions of higher education may seek authorization to conduct industrial hemp research pilot program as set forth in the Department’s regulations or may apply to the Department to become an industrial hemp research partner (“Research Partner”) in the Department’s Industrial Hemp Research Pilot Program (the “Program”). Educational institutions that seek to become a Research Partner must submit an application and a New York State Hemp Research Partner Agreement provided by the Department (the “Research Partner Agreement”),

signed by an authorized representative of the university acting in their official capacity. Additionally, university applicants must adhere to all established university protocols during the hemp research project. Institutions of higher education may register with the DEA and procure their own DEA import permit.

**2) Individuals or Business Entities:** Those wishing to participate in the Industrial Hemp Agricultural Research Pilot Program under the auspices of the Department (the “Program”) must apply within the established application period. Successful applicants will be required to sign a New York State Hemp Research Partner Agreement.

## Applications

An application to grow, cultivate, possess, sell, distribute, transport, or process industrial hemp (“application”) shall be made upon a form prescribed by the commissioner and shall include an application fee of \$500.

Each application and renewal application shall provide the information deemed necessary by the commissioner, including but not limited to:

- (1) a description of each premises where industrial hemp will be grown or cultivated, harvested, stored, studied, processed or disposed of, by physical address and by GPS coordinates;
- (2) a diagram for each premises where industrial hemp is cultivated, possessed, sold to, distributed to, or transported from, that visually depicts the buildings, structures and improvements on the premises and identifies their use, and that sets forth the relevant activities conducted at the premises; and
- (3) a detailed summary of the issues and matters that the applicant intends to study in conjunction with growing, cultivating, or processing industrial hemp which may include:
  - (i) the soils, growing conditions, and harvest methods suitable for the growth or cultivation of various types of industrial hemp in the State;
  - (ii) the cultivars suitable for the growth or cultivation of various types of industrial hemp, including the cost of each cultivar; the yield of industrial hemp attributable to each such cultivar; and the inputs required to assure that each such cultivar, when planted, results in a satisfactory yield of industrial hemp;
  - (iii) the markets that the applicant has identified, in consultation with appropriate commercial interests, that exist or that could feasibly be developed for various types of industrial hemp, including but not limited to markets for apparel, energy, food, paper, and tools;
  - (iv) the means and methods that could feasibly be used to process, market, advertise, expose, or publicize products that contain, in whole or in predominate part, industrial hemp, to facilitate the wholesale and/or retail sale thereof;
- (4) a transportation plan, if industrial hemp will be moved from one location on the registered premises to another, from one registered premises to another registered premises, or from a registered premises to an unregistered premises, that sets forth information relevant to transporting the industrial hemp in a secure fashion.
- (5) a security plan that sets forth the measures that ensure that industrial hemp is not acquired, possessed, grown or cultivated, harvested, stored, transported, sold, processed, distributed or disposed of except under conditions that ensure that it will not be used in violation of State or Federal Law.

## Review by New York State Department of Health

In addition to the application review conducted by the New York State Department of Agriculture and Markets, Plant Industry applications involving the processing of industrial hemp into products for ingestion, inhalation or topical application may also be reviewed by the New York State Department of Health and other units of state government.

## Hemp Research Partner Agreement

Successful applicants will be required to sign a Hemp Research Partner Agreement. The Hemp Research Partner Agreement is a contract, in the form provided by the Commissioner, that sets forth the terms and conditions for the research pilot, including, among other things, the scope of work, permitted activities, and obligations of a research partner in the Department's agricultural pilot program for industrial hemp.

## Sourcing Material

Research Partners may source propagative material in four ways:

- 1) Obtain a federal DEA permit to import seed. Please note, this is a lengthy process and permits are issued at the discretion of the DEA. Information is available at [https://www.deadiversion.usdoj.gov/imp\\_exp/357/357form.pdf](https://www.deadiversion.usdoj.gov/imp_exp/357/357form.pdf)
- 2) The Department of Agriculture and Markets' DEA permit allows the Department to facilitate the import of seed for its Research Partners.
- 3) Obtaining seed from domestic sources: With DEA guidance stating that the interstate shipment of propagative material is prohibited under the Controlled Substances Act, there is uncertainty concerning the legality of transporting domestic industrial hemp seed and propagative materials across state borders from states with Industrial Hemp Research Programs. Therefore, Research Partners who procure domestic industrial hemp seed or other propagative materials do so at their own risk and the Department is not liable for Research Partner's interstate movement of hemp seed or other hemp plant materials.
- 4) Research Partners that import domestic or foreign seed may transfer seed only to other Department authorized hemp research pilots within New York State.

Be aware of [plant variety protection \(PVP\) laws](#) and regulations and be certain that the seed procured is in compliance with PVP and all other applicable New York State seed laws and regulations. More information on New York's seed laws may be found at <http://www.agriculture.ny.gov/PI/commodities/ARTICLE9.pdf>.

## Security Measures

An authorization holder shall take all actions necessary to ensure that industrial hemp is not acquired, possessed, grown or cultivated, harvested, stored, transported, distributed or disposed of except under conditions that ensure that it will not be possessed or used in violation of State or Federal law, including but not limited to:

- 1) restricting access, to the extent practicable, to areas of the registered premises where industrial hemp is grown or cultivated; and
- 2) providing for equipment and/or other fixtures that are reasonably designed to prevent unauthorized persons from entering the registered premises and/or having their presence therein undetected.

Nothing in these security measures is intended to apply to any finished or marketable product which contains industrial hemp but from which the hemp may not practically be extricated in the form of industrial hemp.

An authorization holder shall, no later than 15 days after having been granted authorization, notify, in writing, the applicable unit or units of law enforcement, including the unit or units of law enforcement in the political subdivision in which the registered premises is located, that it has received such authorization and shall provide such unit or units of law enforcement a copy of the security measures that have been put in place to ensure that the industrial hemp will not be acquired, possessed, grown or cultivated, harvested, stored, transported, distributed or disposed of except under conditions that ensure that it will not be possessed or used in violation of State or Federal law. The authorization holder shall, no later than 15 days after having notified such unit or units of law enforcement, provide the Department with a copy of such notification.

## **Inspections**

The authorization holder shall inspect the registered premises as often as necessary to ensure compliance with the requirements of the Industrial Hemp Agricultural Research Pilot Program.

The registered premises of an authorization holder are subject to inspection by the Commissioner and by his or her authorized agents, employees, or officers, pursuant to Agriculture and Markets Law section 20, as often and to the extent necessary to ensure compliance with this Guidance document and State and Federal law relating to the possession, sale, or cultivation of industrial hemp. The Commissioner may authorize agents, employees, or officers of the New York State Department of Health and/or local law enforcement to accompany him or her during an inspection of the registered premises of an authorization holder.

## **Testing and Disposition**

- 1) An authorization holder shall prepare, maintain, and make available to the Commissioner, upon request, a record that sets forth an accurate inventory of industrial hemp plants and seeds and shall reasonably ensure that the industrial hemp seed and/or plants that are possessed or grown or cultivated meet the definition of industrial hemp.
- 2) An authorization holder, in cooperation with and at the direction of the Department, shall ensure that a representative sample of plants grown or cultivated from each variety of seed used for the purpose of growing or cultivating industrial hemp is analyzed at a laboratory approved by the Commissioner, to determine the concentration of delta-9 tetrahydrocannabinol therein. The authorization holder shall furnish a report that sets forth the results of analysis(es) to the Commissioner, upon his or her request, promptly after such analysis(es) is made, in a form approved by the Commissioner. The costs of any regulatory sampling and testing shall be borne by the authorization holder.

3) The authorization holder shall immediately make available to the Department such records relating to sampled specimens having a concentration of more than 0.3 percent of delta-9 tetrahydrocannabinol on a dry basis, in a form and at a location satisfactory to the Commissioner.

## **Sampling**

1) A harvest report form should be submitted to the New York State Department of Agriculture and Markets Plant Industry Division at least 20 days prior to the expected harvest date.

2) Once the form has been submitted and processed, a horticultural inspector will contact the grower to set up a date, time, and location for inspection.

3) After determining an inspection date, an inspector will arrive on-site to take a pre-harvest sample. Ideally this will be within 14 days of harvest.

4) The procedure will need to be completed for each hemp variety present. The inspector will also verify that the locations and descriptions of the hemp fields are consistent with what was reported on the application and any addendum to the original application.

5) An inspector will collect samples in labeled paper bags and will send the composite sample to the testing lab for drying, storage, and testing.

## **Destruction of Noncompliant Material**

An authorization holder shall promptly dispose of all industrial hemp in its possession reasonably believed, based upon the results of regulatory or other sampling, to have a concentration of more than 0.3 percent of delta-9 tetrahydrocannabinol on a dry weight basis.

## **Other Considerations**

Losses sustained due to violation(s) of state or federal law, weather or any other condition during the course of the research are the responsibility of the participant. Applicants who are unable to bear the potential loss of assets and production costs of participating in the Industrial Hemp Agricultural Research Pilot Program should not apply to become Research Partners.

There are no pesticides registered nationally or at the state level for industrial hemp. Research Partners are warned that any pesticide applications made to industrial hemp crops are unregistered uses and may be subject to enforcement action from New York State Department of Environmental Conservation.

## **Annual Reports**

All authorization holders are required to file an annual report summarizing the results of their research pilot project and sharing any data collected in the course of that research. Annual reports are due on the anniversary of the project start date. Failure to file annual reports in a timely manner is grounds for revocation of permit. The Department will make research results and annual reports available to the public.

## **Program Application Requirements:**

- 1) Submit a NYS Industrial Hemp Research Pilot Program application with the following:
  - Affidavit boxes filled in.
  - A detailed research plan.
  - A marketing plan, to include a letter of intent from any prospective buyer or processor.
  - A seed/propagule acquisition plan.
  - Evidence of relevant experience of the individual responsible for the research project.

2) \$500 application fee (either a check payable to the New York State Department of Agriculture and Markets, or by calling the Department to pay by credit card).

3) Compliance with prior years' program reporting requirements, if applicable.

**Program Guidance – Effective Date: 09/20/2017**

**For assistance with questions regarding the NYS Industrial Hemp Research Pilot Program, please call (877)-249-6841**