



# ARKANSAS DEPARTMENT OF AGRICULTURE

## PLANT INDUSTRIES DIVISION

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### Sampling, Testing, Remediation & Disposal

### Guidelines Arkansas Hemp Program– 2023 Season

Publication Date: 1/10/2023

#### I. Introduction & Purpose

Federal and state law charge the Arkansas Department of Agriculture (“Department”) with responsibility for managing Arkansas’s Hemp Program (“Program”). In 2014, Congress enacted legislation permitting state departments of agriculture to conduct research pilot programs with industrial hemp. Congress specifically limited its authorization of state-level industrial hemp research pilot programs as defined in 7 U.S.C. § 5940 (2014 Farm Bill). The 2018 Farm Bill (P.L. § 115-334) removes hemp from the list of controlled substances and delegates the regulatory authority to the state departments of agriculture through a USDA-approved state plan. As required by the Arkansas Hemp Production Act (A.C.A. § 2-15-501 *et seq.*), the Department intends to receive federal approval from the USDA-AMS U.S. Domestic Hemp Production Program to continue regulating hemp production in Arkansas under the 2018 Farm Bill authority.

To that end, the Arkansas Hemp Program conducts a sampling, testing, remediation and disposal program to confirm and ensure compliance with state and federal law, as permitted by A.C.A. § 2-15-509(e). A.C.A. § 2-15-503(5) defines industrial hemp as “the plant *Cannabis sativa* and any part of the plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, that contains a tetrahydrocannabinol concentration of no more than that adopted by federal law under the Agricultural Marketing Act, 7 U.S.C. § 1639o, as it existed on January 1, 2021.”

A.C.A. § 2-15-509(e) directs the Department to establish a sampling, testing, remediation and disposal program that will ensure that THC levels in industrial hemp produced by the Department’s license holders do not exceed the 0.3% delta-9-THC threshold set by Congress. The Department intends to inspect and sample 100% of hemp plots grown under the Arkansas Hemp Program. All varieties will be tested for compliance with the acceptable hemp THC level threshold set by Congress.

#### II. Definitions

- 1) “**Acceptable Hemp THC Level**” means the application of the Measurement of Uncertainty to the reported (decarboxylated) delta-9-THC concentration level on a dry weight basis to the 0.30% limit set forth in federal and state law.
- 2) “**Cannabis**” means the plant that, depending on its THC concentration level, is defined as either “hemp” or “marijuana.” Cannabis is a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. Cannabis includes all parts of the plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts; and does not include a “publicly marketable hemp product,” as defined by Program Rules.
- 3) “**Decarboxylated**” means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.
- 4) “**delta-9-THC**” means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis). For compliance purposes, all delta-9-THC concentrations must be measured post-



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decarboxylation or by another method which shall include both delta-9-THC and delta-9-THCA (also known as Total THC).

- 5) “**Department**” means the Arkansas Department of Agriculture.
- 6) “**Disposal**” or “**destruction**” means an activity that transitions the noncompliant material or product into a non-retrievable or non-ingestible form. Such activities include plowing, tilling, or disking plant material into the soil; mulching, composting, chopping, or bush mowing plant material into green manure; burning plant material; burying plant material into the earth and covering with soil.
- 7) “**Handle**” means to harvest or store hemp plants or hemp plant parts prior to the delivery of such plants or plant parts for further processing. “Handle” also includes the disposal of such plants.
- 8) “**Harvest**” means the process of collecting plants or any part of plants, including but not limited to viable seeds, flowers, cuttings for propagation, etc.
- 9) “**Industrial Hemp**” shall be used interchangeably with “Hemp” and have the same meaning. Hemp means *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salt of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis, as defined in the Agricultural Improvement Act of 2018, 21 U.S.C. & 801 et seq. as it currently exists or as it may be subsequently amended.
- 10) “**Inspector**” means an employee or other representative of the Department sent to collect samples and perform inspections.
- 11) “**Location ID**” means the unique identifier name established by the applicant or licensee for each unique set of GPS coordinates where industrial hemp will be grown, handled, stored, or processed, which may include a field name or building name.
- 12) “**Lot**” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.
- 13) “**Measurement of Uncertainty**” means the parameter, associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to the measurement.
- 14) “**Post-Harvest Sample**” means a sample taken from the harvested industrial hemp material from a particular lot’s harvest in accordance with these procedures developed under the program rules; the entire lot’s harvest must be in the same form (for example: flowers, chopped materials, ground materials, trimmed materials, removed floral and leaf materials, etc.), homogenous, and not mixed with non-hemp materials or hemp from another lot.
- 15) “**Pre-Harvest Sample**” means a composite, representative portion from plants in a hemp lot collected prior to harvest in accordance with these procedures developed under the program rules.
- 16) “**Program**” means the Arkansas Industrial Hemp Research Pilot Program as established by the Arkansas Hemp Production Act, A.C.A. 2-15-501 et seq. and associated program rules.
- 17) “**Prohibited Variety**” means a variety or strain of cannabis excluded from the Department’s Industrial Hemp Research Program.
- 18) “**Remediation**” refers to the process of rendering noncompliant cannabis, compliant. Remediation can occur by removing and destroying flower material, while retaining stalk, stems, leaf material, and seeds. Remediation can also occur by shredding the entire plant into a biomass like material, then re-testing the shredded biomass material for compliance via the Post-Harvest Sampling Procedures detailed within these procedures developed in accordance with program rules.



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- 19) “**Variety of Concern**” means any variety of hemp in the program that tests above 0.3% total delta-9-THC in one (1) or more pre-harvest samples from diverse locations and production conditions. A hemp variety designated as a “Variety of Concern” may be subject to restrictions and additional testing.

### III. Scope

Pre-Harvest Samples and properly remediated Post-Harvest Samples collected by Department inspectors are acceptable for submission to the Department’s Laboratory Services Division for testing for the acceptable hemp THC level. All sampled hemp lots are hand-delivered to the Department’s Laboratory Services Division from an authorized Department inspector or representative. All representative compliance samples for the acceptable hemp THC level testing become property of the Department and are non-returnable. The Department reserves the right to test all hemp and other cannabis crops produced by any License Holder for THC compliance. The Department intends to inspect, sample, and test 100% of all hemp and other cannabis plots to be produced under the Program. **The Department is the only entity authorized to collect official compliance samples and conduct official compliance THC testing for all hemp lots produced under the Department’s Hemp Licensing Program. Third-party laboratories are NOT permitted at this time to conduct official THC testing to determine whether or not a lot is permitted to be marketed or sold. Licensed producers, however, are encouraged to monitor THC levels once their crop begins to mature or flower by utilizing a licensed third-party laboratory.**

**This guidance document is for informational purposes only and does not have the force and effect of law. Nothing in this guidance document should be construed as rulemaking, nor should it be construed as seeking to supersede existing law.**

### IV. Equipment & Supplies for Department Inspector

The Department inspector shall use the following equipment and supplies, provided to the inspector by the Program:

- 1) Garden pruners/shears
- 2) Rubbing alcohol disposable wipes
- 3) Paper sample bags
  - a. The standard paper bags for sample collection are ‘heavy duty’ evidence bags and can withstand up to 12 pounds of plant material.
  - b. If a lot to be sampled cannot fit inside the standard paper bag, a larger paper bag provided by the Department’s Plant Industries Chemistry Lab will be utilized, as determined on a case-by-case basis.
- 4) Heavy-duty stapler with extra staples
- 5) Security tape
- 6) Permanent markers and Ink pens
- 7) Inspection Paperwork
  - a. Licensee and Location Information
  - b. Sampling lot(s) information
  - c. Sample Forms with Chain of Custody



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- d. Location IDs aerial map
  - e. GPS verification form
  - f. Planting Report(s)
  - g. Any other relevant documentation associated with inspection
- 8) Department issued cell phone or handheld GPS unit to verify GPS coordinates/Location IDs
  - 9) Nitrile disposable gloves or sterilized scoop
  - 10) 5-Gallon Bucket(s) with lid for transport
  - 11) Metric rulers with 8 inches/20 centimeters marked for plant cuttings

### V. Harvest Sampling Procedures

#### a) **Grower Responsibilities prior to Harvesting any Lot**

- 1) No hemp plant or hemp plant parts shall be harvested from any lot before a Department inspector completes an inspection and sample-collection visit.
- 2) The Grower shall submit a completed "**Harvest Request Form**" via e-mail communication to [industrialhemp@agriculture.arkansas.gov](mailto:industrialhemp@agriculture.arkansas.gov) at least fifteen (15) days in advance of the expected harvest date. If no harvest will take place from a planted lot, a "**Destruction Request Form**" must be submitted to the Department at least fifteen (15) days in advance of the expected disposal date. Every lot planted by a license holder must have either a **Harvest Request Form** or **Destruction Request Form** submitted to the Department.
- 3) Receipt of a **Harvest Request Form** triggers a site inspection and sample collection by a Department Inspector.
- 4) Department inspectors shall contact the grower to confirm the harvest lot location and to schedule a specific time on a date that is not later than the grower's expected harvest date.
- 5) The licensee or the grower's designated responsible party shall accompany the Department inspector throughout the inspection and sampling process.
- 6) The inspector shall be provided with complete and unrestricted access to all industrial hemp plants, whether harvested or not, all land, buildings or other structures used for the cultivation, handling and storage of industrial hemp plants or plant parts, and all locations listed in the Hemp Grower License.
- 7) The grower shall complete the harvest of the crop from a lot not more than fifteen (15) days following the date of the inspection and sample-collection visit, unless specifically authorized in writing by the Department; provided, however, that such authorization shall not exceed an additional five (5) days and shall not be granted by the Department without its determination that the cause of delay was inclement weather or another circumstance beyond the licensed grower's control.
- 8) If a licensed grower fails to complete the harvest of the crop from a lot within fifteen (15) days following the date of sample collection, then the licensed grower shall submit a new **Harvest Request Form** and may be required to pay additional sampling fees established by Program Rules.
- 9) Harvested materials shall not be comingled with other harvest lots without express permission from the Department.
- 10) Harvested material shall not be removed from the Licensed Grower or Processor/Handler's property, nor comingled, nor extracted, until the Department releases the material based on a satisfactory laboratory report indicating acceptable hemp THC levels from the Department's Laboratory Services



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Division. The Department's Laboratory Services Division is currently the only lab authorized to conduct official program THC compliance testing.

- 11) Once samples are received by the Department's Laboratory Services Division, the Program will issue a "Sample Invoice" **via e-mail communication** to the license holder within 30-days of sample collection. The number of pre-harvest and post-harvest samples requested by the licensed grower and collected by the Department determines the sampling fees due to the Program.
- 12) The licensed grower shall pay the "Sample Invoice" within thirty (30) days of the Program issuing an invoice via e-mail. If a licensed grower fails to pay the Sampling Invoice in full within thirty (30) days of e-mail receipt, the Department may refer the license holder to the Department's debt collection agency after given notice in-writing.
- 13) The Department shall notify the grower of lab test results from the Department's Laboratory Services Division as soon as reasonably practical. Lab results shall be reported to the license holder **via e-mail communication**.
  - a) **NOTE:** The Department shall make every effort to return an analysis within thirty (30) days of sample receipt, however, turnaround times will be affected by Program and laboratory staff workload. Lab results shall be sent to the Grower's business email on-file. It is the Grower's responsibility to make sure this e-mail is monitored, valid and current, as originally agreed upon within the signed *Terms & Conditions* of the Program's Application. **Waiting for the Department's lab analysis report is NOT a valid reason to delay harvest beyond fifteen (15) days following the Department's date of inspection and sample-collection visit.**

### b) Verification of Licensed GPS Coordinates by Department Inspector

- 1) The Department inspector shall verify the GPS Coordinates and Location IDs of the production area(s) as compared with the GPS coordinates and Location ID information provided by the licensee within an approved application or Site Modification Request Form.
- 2) The Department inspector shall verify that proper field plot signage is posted on all Field Location IDs, as prompted by Section 3(F) of the Program Rules.
- 3) The Department inspector shall look for evidence that hemp plants or other cannabis plants were harvested without authorization prior to the inspector's inspection and sample-collection visit.
- 4) During the inspection, the Department inspector shall notify Hemp Program Staff of any discrepancies associated with Location IDs where hemp is produced, handled, and/or stored. The Department inspector will record updated GPS Coordinates for a specific Location ID on the *GPS Verification Form*.

### c) Pre-Harvest Sampling Procedure to be conducted by Department Inspector

- 1) The Program will e-mail the Department inspector the harvest inspection paperwork associated with the **Harvest Request Form** submitted by the licensed grower.
- 2) No earlier than fifteen (15) days prior to the grower's expected harvest date, a Department inspector will collect a representative sample from the lot to be harvested.
- 3) The Department inspector shall assemble all necessary forms, Personal Protective Equipment (PPE), supplies and sampling equipment. Make sure sampling equipment is clean, dry, and in good working condition.



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- 4) The Department inspector shall identify the lot to be harvested and estimate average plant height, appearance, approximate density, condition of the plants, and degree of maturity of the flowering material, and document these observations within the Department's harvest inspection paperwork.
- 5) The inspector shall visually establish the homogeneity of the lot to be harvested in order to establish that the growing area is of like variety. The inspector shall note any oddities or anomalies.
- 6) The material selected for Pre-Harvest Sampling will be determined by the Department inspector, not the grower. Cuttings will be collected to make one representative sample of the harvest lot.
- 7) The Department inspector will identify the lot of hemp to be sampled and label a paper bag with the following information:
  - a) **Licensee Name & License Number**
  - b) **The statement: "Pre-Harvest Sample"**
  - c) **Sample ID number**
    - i. The Sample ID number shall include the licensee's license number, Date (YYYYMMDD), and a two-digit sequential sample number assigned by the Department inspector.  
**Example:** License# H00, Sample Date October 1, 2020, Sample 02  
**Translates to:** Sample ID#: H00-20201001-02
  - d) **Lot Information**
    - i. Location ID name
    - ii. Variety name
    - iii. Representative Lot Size in Acres (outdoors) or Square Feet (indoors)
- 8) First divide the lot into four (4) equal quadrants. Refer to **Figure 2 (Page 15 of these procedures)**.
- 9) Refer to **Tables 3A & 3B (Page 17 of these procedures)** for the total number of clippings required from each lot, dependent on lot acreage size of the growing area. The total number of clippings from each harvest lot must be taken evenly among the four quadrants.
- 10) If the total number of clippings cannot be evenly divided by four, the remainder may be taken from anywhere in the lot.
- 11) The Department inspector may use appropriate discretion in determining whether more or less than the specified number of cuttings determined by **Tables 3A & 3B (Page 17 of these procedures)** should be taken from a lot.
- 12) Each plant clipping must be eight (8) inches (or 20 centimeters) long and must be taken from the plant's primary/apical stem, including floral material. This is usually the tallest, most prominent part of the plant. Do not remove any stalks, stems, flowers, seeds, or leaves from the clipping. Refer to **Figure 1 (Page 15 of these procedures)**.
- 13) Place the plant clippings collected from the lot into the properly labeled paper bag. This is the representative sample.
- 14) Seal the paper bag shut by folding over the top twice and by using the heavy-duty stapler or security tape.
- 15) Use single use/disposable equipment or thoroughly clean sampling equipment and change disposable gloves after taking each representative sample collection from each lot.
- 16) A separate representative sample must be taken from each non-contiguous lot of a given variety.
- 17) A separate representative sample must be taken from each variety.
- 18) Representative sample(s) may be placed within provided 5-gallon bucket with locking lid during transport back to the Department.



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- 19) Representative sample(s) shall be delivered to the Department's Laboratory Services Division the same day as sample collection or within one (1) business day. Keep the sample dry and warm to avoid degradation of the plant material. The Department's Laboratory Services Division will not accept damaged, torn, or unlabeled paper bags. Representative samples that do not have a completed Sample Form with Chain of Custody will not be accepted.

### d) Post-Harvest Sampling Procedure of Remediated Material by Department Inspector

- 1) The Program will e-mail the Department inspector the harvest inspection paperwork associated with the **Harvest Request Form** received from the licensed grower.
- 2) The Department inspector shall assemble all necessary forms, Personal Protective Equipment (PPE), supplies and sampling equipment. Make sure sampling equipment is clean, dry, and in good working condition.
- 3) The lot selected for Post-Harvest resampling shall be designated by the Pre-Harvest Sample lab results. The material selected for Post-Harvest Sampling from this lot will be determined by the Department, not the grower. All Post-Harvest Samples of floral material shall be taken from the designated harvested lot materials in the remediated form in which the material will be sent to the processor.

**Proper remediation includes either: 1) shredding the entire lot into a homogenized "biomass," or 2) separation and removal of all flowers, buds, trichomes, "trim" and "kief" from the stalks, leaves, and seeds of the lot.**

A Department inspector must inventory the entire harvest lot to determine the remediated form in which it exists and follow the protocol as appropriate in parts 6) and 7) below.

If, upon inventory, the Department inspector determines that the entire harvest lot is not in an homogenized, shredded, or otherwise properly remediated form, the Department inspector shall notify the Department's Hemp Program Manager. A license holder who refuses to complete post-harvest remediation preparations waives the right to a post-harvest retest and the pre-harvest test results shall stand, and the lot materials shall be ordered destroyed by the Department.

- 4) Identify lot of hemp to be sampled within the storage or drying area and label paper bag with the following information:
  - a) **Licensee Name & License Number**
  - b) **The statement: "Post-harvest Sample"**
  - c) **Sample ID number**
  - d) **Lot Information**
    - i. Location ID
    - ii. Variety Name
    - iii. Representative Lot Size in Acres (outdoors) or Square Feet (indoors)
- 5) For chopped, ground, shredded or otherwise homogenized biomass post-harvest samples, go to **part 6)** of these procedures. For post-harvested hemp material in other remediated forms (floral material separated and removed from stalks, leaves, and seeds, etc.), go to **part 7)** of these procedures.

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- 6) **Post-Harvest Sampling for Chopped, Ground, Shredded or Homogenized Biomass:**
- a) Ensure the entire harvest is accounted for and in the same homogenized form (i.e., all harvested material, whether whole plant or floral material only, must be shredded with no intact plants or whole flowers remaining from that harvest).
  - b) Divide the harvested lot evenly into four (4) quadrants. A representative sample would consist of a specified number of draws from non-adjacent areas. The total number of draws is determined by **Tables 3A & 3B (Page 17 of these procedures)**, dependent on the total lot size. Each draw should consist of a handful or sterile scoop of biomass (approximately one cup by volume). The draws should be taken evenly from each equal quadrant. Refer to **Figure 2 (Page 15 of these procedures)**.
    - i. **Note:** Draws should not just be from the top of bulk containers, depths should vary. Utilize Tyvek or similar disposable sleeves if reaching deep into container.
    - ii. **Note:** Take care not to spill or drop portions of the sample. If spillage does occur return all spillage to the container being sampled – do not include spillage into the sample itself.
    - iii. **Note:** The Department inspector may use appropriate discretion in determining whether more or less than the specified number of draws should be taken from a lot.
  - c) Place draws into properly labeled paper bag. This is the representative sample.
  - d) Seal the paper bag shut using the heavy-duty stapler or security tape.
  - e) Use single use/disposable equipment or thoroughly clean sampling equipment and change disposable gloves after taking each representative sample collection.
  - f) Representative sample(s) may be placed within provided 5-gallon bucket with locking lid during transport back to the Department.
  - g) Representative sample(s) shall be delivered to the Department's Laboratory Services Division the same day as sample collection or within one business day. Keep the sample dry and warm to avoid degradation of the plant material. The Department's Laboratory Services Division will not accept damaged, torn, or unlabeled paper bags. Representative samples that do not have a completed Sample Form with Chain of Custody will not be accepted.
- 7) **For Post-Harvest Sampling for Remediated Lots that have had floral material separated and removed (e.g., stalks and seeds only, leaves and seeds only, etc.):**
- a) Ensure that the entire remediated lot is accounted for and in the same homogenized form (i.e., all harvested material must be uniform; no intact-plants or whole flowers remaining from that harvest).
  - b) Separated noncompliant floral material must be quarantined and labeled from the rest of the lot. Licensee must file an associated ***Destruction Request Form*** to dispose of the noncompliant flowers from the lot if this Post-Harvest Resampling remediation method is selected by the grower. If remediated seed is retained from the noncompliant lot, the seed is unable to be used for propagative purposes.
  - c) Divide the harvested lot evenly into four (4) quadrants. A representative sample would consist of a specified number of draws from non-adjacent areas. The total number of draws is determined by **Tables 3A & 3B (Page 17 of these procedures)**, dependent on the total lot size. Each draw should consist of a handful or sterile scoop of biomass (approximately one cup by volume). The



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draws should be taken evenly from each quadrant. Refer to **Figure 2 (Page 15 of these procedures)**.

- i. **Note:** Draws should not just be from the top of bulk containers, depths should vary. Utilize Tyvek or similar disposable sleeves if reaching deep into container.
- ii. **Note:** Take care not to spill or drop portions of the sample. If spillage does occur return all spillage to the container being sampled – do not include spillage into the sample itself.
- iii. **Note:** The Department inspector may use appropriate discretion in determining whether more or less than the specified number of draws should be taken from a lot.
- d) Place draws into properly labeled paper bag. This is the representative sample.
- e) Seal the paper bag shut using the heavy-duty stapler or security tape.
- f) Use single use/disposable equipment or thoroughly clean sampling equipment and change disposable gloves after taking each representative sample collection.
- g) Representative sample(s) may be placed within provided 5-gallon bucket with locking lid during transport back to the Department.
- h) Representative sample(s) shall be delivered to the Department’s Laboratory Services Division the same day as sample collection or within one business day. Keep the sample dry and warm to avoid degradation of the plant material. The Department’s Laboratory Services Division will not accept damaged, torn, or unlabeled paper bags. Representative samples that do not have a completed Sample Form with Chain of Custody will not be accepted.

### VI. **THC Testing Procedure**

- 1) Testing for the acceptable Hemp THC level shall be completed by the Department’s Laboratory Services Division. **The Department is currently the only entity authorized to conduct the official THC compliance testing for the acceptable Hemp THC level for all lots produced in the Arkansas Hemp Program.**
- 2) Quantitative determination of Total delta-9-THC levels will be measured using High-Performance Liquid Chromatography with ultraviolet detection (HPLC-UV) as the primary regulatory lab method. The Department reserves the right to conduct Total THC level testing using similar quantitative laboratory instruments and methods, including but not limited to the use of gas chromatography with mass spectrometry detection (GC-MS), gas chromatography with flame ionization detection (GC-FID), or both.
- 3) The Program shall issue the licensee a “Sample Invoice” **via e-mail communications** detailing the applicable program sampling fee(s) associated with the total number of pre-harvest or post-harvest samples collected by the Department at the time of inspection and sample-collection.
- 4) The issued Sampling Invoice shall be paid in full by the licensee and post-mailed to the Department within thirty (30) days of issuance. Total payment **MUST** accompany the Sampling Invoice within the mailing envelope. Post-mail total payment **and** Sampling Invoice to 1 Natural Resources Drive, Little Rock, AR 72205 ATTN: Hemp Program.
- 5) If a licensed grower fails to pay the Sampling Invoice in full within thirty (30) days, the Department may refer the license holder to the Department’s debt collection agency after given notice in-writing.
- 6) Test results shall be reported by the Program to license holders as soon as reasonably practical **via e-mail communications**. Program Staff shall make every effort to report test results within thirty (30) days of sample receipt, however, turnaround times will be affected by Program workload and laboratory sample load. Lab results shall be sent to the Licensed Grower’s business email on-file. It is the Licensed Grower’s



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responsibility to make sure this e-mail is monitored, valid and current, as originally agreed upon with then the Program's *Terms & Conditions*.

- 7) Test results and disposal of noncompliant plant lots may be reported to the USDA or state/federal law enforcement entities.

### VII. Post-Testing Actions

The total delta-9-THC content for hemp produced in Arkansas shall not exceed the acceptable Hemp THC level established within these procedures in accordance with state and federal law. In the interest of furthering research efforts and in recognition of variances due to growing conditions, weather, and varieties, the Department shall report the details of the test results to at least two decimal places where reasonably practical.

**Table 1 (Page 10 of these procedures)** provides a summary of the post-testing actions detailed in the following numbered points in this Section. **Table 1 (Page 10 of these procedures)** accounts for the Department's Laboratory Services Division's calculated "Measurement of Uncertainty" (MU) value.

Once lab results are received from the Department, please refer to **Table 1 (Page 10 of these procedures)** to determine whether the tested lot material is considered compliant or noncompliant by the Department.

**Please note that the calculated MU value is intended only for the Department's Laboratory Services Division and is not the MU value for ALL laboratories in Arkansas conducting THC analysis on cannabis material. Private third-party laboratories will be required to calculate their own individual lab's MU value. Calculated MU values must be represented on certificates of analysis next to the Total THC% value.**

The Department Laboratory Services Division's calculated MU for the 2023 season is a fixed value of:

$$\pm 0.06\% \text{ THC}$$

All issued Certificates of Analysis from the Department will have the fixed MU value reflected next to the reported Total THC percentage. The Program's application of the fixed MU value to the reported Total THC% value is known as the "acceptable hemp THC level."

<b>Pre-Harvest Test Results</b>	<b>Material allowed to market; acceptable Hemp THC level</b>	<b>Material not allowed to move -- triggers remediated Post-Harvest Sampling and testing or verification of leaf and floral destruction</b>	<b>Material Ordered Destroyed</b>
	≤ 0.36% Total THC	≥ 0.37% — 0.99% Total THC	
<b>Post-Harvest Test Results (Remediated)</b>	<b>Material allowed to market; acceptable Hemp THC level</b>		<b>Material Ordered Destroyed</b>
	≤ 0.36% Total THC		

NOTE: Calculated measurement of uncertainty value is derived from the "Guide to Expression of Uncertainty in Measurement (GUM)" (JCGM 100:2008, *Evaluation of Measurement Data*.)

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- 1) **Pre-Harvest Test Results of less than or equal to 0.3% (Total) delta-9-THC:**
  - a. The Program will report results to the licensed grower via e-mail as soon as reasonably practicable.
  - b. The Department designates the material as compliant; the lot is at the acceptable Hemp THC level and material is authorized for use or distribution in a manner consistent with the Program Rules. To that end, the Program Rules and the Arkansas Hemp Production Act do not allow the sale of leaf and/or floral material in any form to unlicensed entities, including the public consumer, wholesale distributors, retail shops, etc.
  - c. Material allowed to market to licensed Hemp Growers or licensed Hemp Processor/Handlers that are licensed with either 1) a state's department of agriculture, 2) USDA-AMS's Hemp Production Program, or 3) a USDA-approved Hemp Production Program.
  
- 2) **Pre-Harvest Test Results of greater than or equal to 0.37%, but less than 0.99% (Total) delta-9-THC:**
  - a. The Program will report results to the licensed grower via e-mail as soon as reasonably practicable.
  - b. The Department designates the material as noncompliant.
  - c. The Department may report noncompliant results to the USDA and applicable state or federal law enforcement agencies.
  - d. The License Holder shall not transfer the harvested lot from the registered growing, storage/drying, or processing site. The noncompliant lot in question must remain labeled and segregated from other harvested hemp lots until released in writing by the Department.
  - e. License Holder is permitted to complete harvest activities, which may include drying, chopping, or grinding, or other remediating processes to homogenize biomass, in preparation for transfer to a processor or storage location.
  - f. Within fifteen (15) days of e-mail receipt notice of a measured THC concentration exceeding the acceptable hemp THC level, a licensed grower shall decide between either: **(1) a post-harvest resample/retest of remediated material OR (2) complete destruction of all leaf and floral material.** License Holder must complete all harvest activities, which may include drying, chopping, grinding, or other remediating processes of the entire harvest before the material is eligible for post-harvest sample collection by the Department.
  - g. If the License Holder wishes to dispose of the entire lot with no Post-Harvest retest, a **"*Destruction Request Form*"** shall be submitted to the Department **via e-mail communication to [industrialhemp@agriculture.arkansas.gov](mailto:industrialhemp@agriculture.arkansas.gov)**. If the License Holder wishes to opt for a Post-Harvest retest of remediated hemp material, an additional **"*Harvest Request Form*"** shall be submitted to the Department **via e-mail communication to [industrialhemp@agriculture.arkansas.gov](mailto:industrialhemp@agriculture.arkansas.gov)**, indicating "Post-Harvest Resample" in question 1. The street address in Question 2 of the ***Harvest Request Form*** shall match the actual street address location where the noncompliant lot is presently stored, pending resampling and retesting by the Department.
  - h. If harvesting only grain, seed or fiber from the lot, the Department shall verify the complete destruction of all leaf and floral material from the lot in accordance with remediation procedures detailed in this document. The grain or seed must be processed and cannot remain as a viable seed for planting. Bare stalk for fiber that is free of leaf, seed, or floral material is eligible for processing.



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- i. The hemp variety in question may become designated as a Variety of Concern and the Department may run additional tests on the samples collected from other lots of this variety.
- j. If more than 50% of Pre-Harvest Samples' test results for a given Variety of Concern are above 0.30%, then the variety may be designated as a Prohibited Variety and excluded from the program.
- k. If a variety is designated as a Prohibited Variety in the program, all material, including viable seed, live plants, stock plants, and all germplasm, shall be destroyed in the presence of a Department representative, law enforcement, or both.

### 3) **Pre-Harvest Test Results equal to or greater than 1.00% (Total) delta-9-THC:**

- a. The Program will report results to the licensed grower via e-mail as soon as reasonably practicable.
- b. The Department designates the material as noncompliant and ordered mandatorily destroyed.
- c. The Department may report noncompliant results to the USDA and applicable state or federal law enforcement agencies.
- d. The License Holder shall not transfer the harvested lot from the registered growing, storage/drying, or processing site. The noncompliant lot in question must remain segregated and labeled from other harvested hemp lots.
- e. The License Holder shall mandatorily dispose of the entire harvested lot without compensation and any unharvested crop of this variety from the lot. Within fifteen (15) days of receiving notice of a measured THC concentration exceeding the acceptable hemp THC level, a License Holder shall file a "***Destruction Request Form***" to be submitted to the Department **via e-mail communication to [industrialhemp@agriculture.arkansas.gov](mailto:industrialhemp@agriculture.arkansas.gov)** to request the disposal of the noncompliant material.
- f. Materials testing equal to or greater than 1.00% total delta-9-THC from a Pre-Harvest test result shall be destroyed in the presence of a Department representative, law enforcement, or both.
- g. The Department may collect samples of and test harvest material, but a Post-Harvest retest is not required.
- h. The variety may be labeled a Prohibited Variety and excluded from the Program.
- i. The Department shall issue a negligent violation for exceeding 1.0% Total THC.
- j. The Department may initiate proceedings to suspend or revoke the License and exclude the License Holder from future participation with the Department's Program.

### 4) **Remediated Post-Harvest Test Results of less than or equal to 0.3% (Total) delta-9-THC:**

- a. The Program will report results to the licensed grower via e-mail as soon as reasonably practicable.
- b. The Department designates the material as compliant; the lot is at the acceptable Hemp THC level and material is authorized for use or distribution in a manner consistent with the Program Rules. To that end, The Program Rules and the Arkansas Hemp Production Act do not allow the sale of leaf and/or floral material in any form to unlicensed entities, including the public consumer, wholesale distributors, retail shops, etc.
- c. Material allowed to market to licensed Hemp Growers or Hemp Processors that are licensed with either 1) a state's department of agriculture, 2) USDA's Hemp Production Program, or 3) a USDA-approved Hemp Program.



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### 5) Remediated Post-Harvest Test Results of greater than 0.3%, but less than or equal to 0.36% (Total) delta-9-THC:

- a. The Program will report results to the licensed grower via e-mail as soon as reasonably practicable.
- b. Accounting for the applied MU value of +/- 0.06%, the Department designates the material as compliant; the lot is at the acceptable Hemp THC level and material is authorized for use or distribution in a manner consistent with the Program Rules. To that end, The Program Rules and the Arkansas Hemp Production Act do not allow the sale of leaf and/or floral material in any form to unlicensed entities, including the public consumer, wholesale distributors, retail shops, etc.
- c. Any marketing of materials testing between 0.3% and 0.36% is at the License Holder's risk.
- d. Material allowed to market to licensed Hemp Growers or Hemp Processors that are licensed with either 1) a state's department of agriculture, 2) USDA's Hemp Production Program, or 3) a USDA-approved Hemp Program.

### 6) Remediated Post-Harvest Test Results greater than or equal to 0.37% (Total) delta-9-THC:

- a. The Program will report results to the licensed grower via e-mail as soon as reasonably practicable.
- b. The Department designates the material as noncompliant and ordered mandatorily destroyed.
- c. The Department may report noncompliant results to the USDA an applicable state or federal law enforcement agencies.
- d. The License Holder shall not transfer the harvested lot from the registered growing, storage/drying, or processing site. The noncompliant lot in question must remain segregated and labeled from other harvested hemp lots.
- e. The License Holder shall mandatorily dispose of the entire harvested lot without compensation and any unharvested crop of this variety from the lot. Within fifteen (15) days of receiving notice of a measured THC concentration exceeding the acceptable hemp THC level, a License Holder shall file a "***Destruction Request Form***" to be submitted to the Department **via e-mail communication to [industrialhemp@agriculture.arkansas.gov](mailto:industrialhemp@agriculture.arkansas.gov)** to request the disposal of the noncompliant material.
- f. Materials testing greater than or equal to 0.37% total delta-9-THC from a Post-Harvest test result shall be destroyed in the presence of a Department representative, law enforcement, or both.
- g. The Department reserves the right to run additional tests on post-harvest samples of that variety from the lot in the interest of furthering research efforts.
- h. Variety may be labeled a Prohibited Variety and excluded from the Program.
- i. The Department may issue a negligent violation to the licensed grower for producing a crop above 1.0% Total THC.
- j. The Department may initiate proceedings to suspend or revoke the License and exclude the License Holder from future participation with the Department's Program.

**(Continued on Next Page)**



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### 7) **Varieties determined to be a Prohibited Variety:**

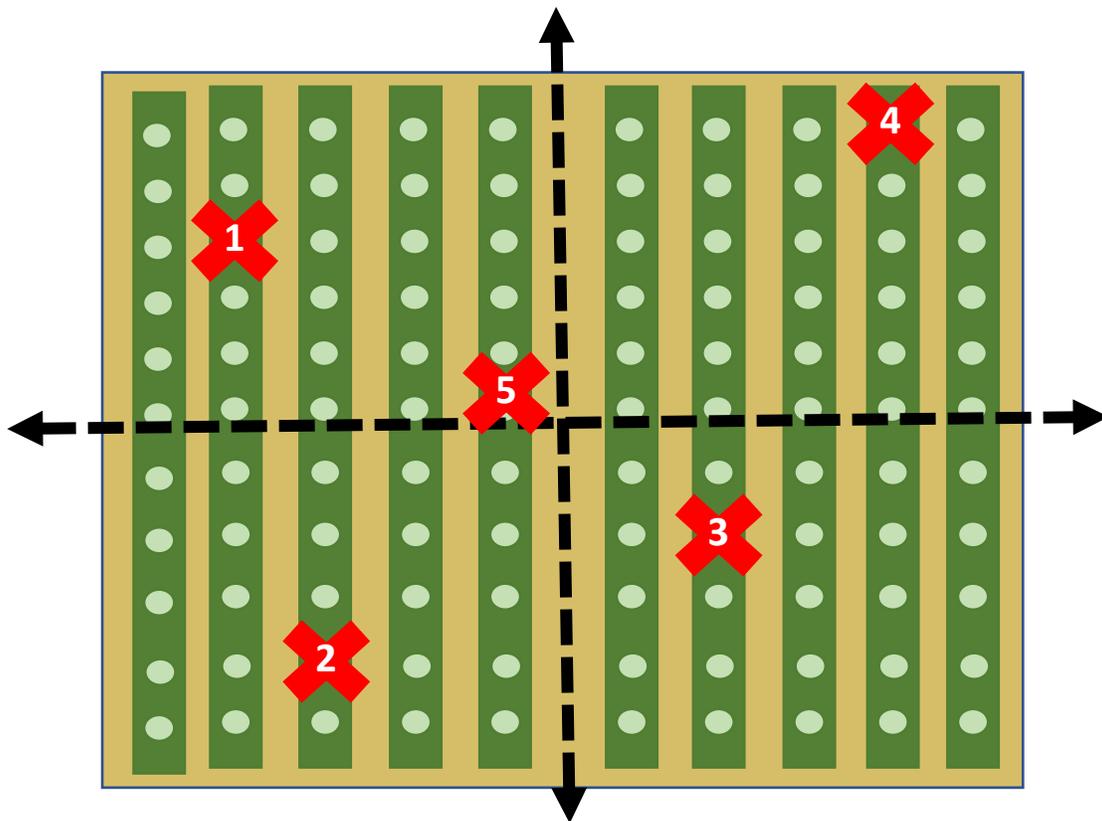
- a. Determined from lab data from previous growing seasons, the Department may develop a list of hemp varieties prohibited to plant, grow, harvest or market under the Program. This list is known as a “*Summary of Varieties List*,” located on the Department’s Hemp Program website.
- b. The Department may report the existence of a Prohibited Variety to relevant state and federal law enforcement agencies.
- c. If a variety is designated as a Prohibited Variety in the program, all material, including viable seed, live plants, stock plants, and all germplasm, shall be destroyed in the presence of a Department representative, law enforcement, or both.

### VIII. **Disposal of Noncompliant Harvested Material with Department Witness Present**

- 1) If a lot is designated for mandatory disposal, a license holder shall submit to the Department within fifteen (15) days of receiving a mandatory destruction order a “***Destruction Request Form***” via e-mail communication to [industrialhemp@agriculture.arkansas.gov](mailto:industrialhemp@agriculture.arkansas.gov).
- 2) The Department or law enforcement shall ensure that all leaf material and floral material from the noncompliant lot is disposed of using one of the approved destruction methods listed in **Table 2 (Page 16 of these procedures)**. The costs of disposal, if any are incurred by the Department, shall be charged to the license holder.
- 3) Disposals shall occur on-site at the licensed storage or growing location where the noncompliant harvest lot is presently stored. A Department inspector or representative shall personally observe the harvested material’s destruction without removing the harvested material from the license holder’s premises and document the destruction occurring with pictures before, during, and after destruction implementation. Destruction shall occur using one of the approved disposal methods listed in **Table 2 (Page 16 of these procedures.)**
- 4) If special circumstances arise and do not allow for a disposal on-site at the licensed storage or growing location by the license holder, the Department may approve a license holder’s request to dispose of the material by vehicle transport to a Department-approved location for destruction.
- 5) If the Department approves a license holder’s request to dispose of the material by vehicle transport to a Department-approved location:
  - a. Prior to transport, a Department inspector shall load, or observe the loading, of the harvested material until the material is completely secured on or in the vehicle.
  - b. During transport, a Department inspector shall accompany the harvested material as it moves in a vehicle directly to a Department-approved location. The vehicle shall constantly move towards its final destination without unnecessary stops, stops for reasons unrelated to transport task, or stops of an extended duration.
  - c. After transport and upon arrival at the Department-approved location, a Department inspector shall unload, or observe the unloading, of the harvested material until the material is completely removed from the vehicle.
  - d. After the material’s removal from the vehicle, a Department inspector shall personally observe the harvested material’s destruction using one of the approved disposal methods listed in **Table 2 (Page 16 of these procedures)**.



**FIGURE 1. Illustration of apical stem cutting for representative samples.** Illustration showing where cut should be made below flowering material from the cannabis plant’s main apical stem. Cuttings should be eight (8) inches or 20 centimeters, including the mature plant’s inflorescence.



**FIGURE 2. Illustration of four (4) quadrant representative lot sampling.** Example illustration representing a Field Plot with planted rows and individual plants. Dotted lines indicate the four-quadrant grid used for Pre-Harvest and Post-Harvest lot sampling. In this example, red X’s represent where five (5) cuttings were collected for the Pre-Harvest compliance sample from five (5) plants. The fifth cutting may be collected from anywhere in the lot.



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Table 2: Approved Methods of Disposal/Destruction Activities from USDA-AMS, rendering materials non-retrievable or non-ingestible			
Photo Example	Ag Production Activity	Compliant Outcome	Photo Example
	<b>Plowing Under:</b> Curved plow blades rotate subsoil to surface and bury crop below	<b>Plowing Under:</b> - "Green Manure" - Amends soil directly from crop	
	<b>Mulching / Composting:</b> Fields crops cut and blended with manure or other biomass material	<b>Mulching / Composting:</b> - "Green Manure" - Mulch mixed with manure or other biomass	
	<b>Disking:</b> Leveling of field using tow-behind disk implement	<b>Disking:</b> - "Green Manure" - Amends soil directly from crop while leveling field	
	<b>Bush Mower / Chopper:</b> Commercial lawn mower used to shred and mix thick vegetation	<b>Bush Mower / Chopper:</b> - "Green Manure" - Shredded biomass decomposes into soil	
	<b>Deep Burial:</b> Fields are trenched, surface soil is buried at depth of at least 12"	<b>Deep Burial:</b> - Field biomass buried in trenches and covered with soil	
	<b>Burning:</b> Setting fire to specific production fields or biomatter piled on the field	<b>Burning:</b> - Fields are cleared of all plant material	



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**Table 3A:**

Number of acres	Sample Size
Less than 1	1
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10

**Table 3A & 3B: Minimum number of cuttings for sampling hemp lots, dependent on lot size in acres of growing area.**

Tables 3A & 3B represented on this page describe the minimum number of cuttings that must be collected by the Department in order to meet the 95% confidence level requirements from the USDA-AMS's Final Rule. Tables are derived from the USDA-AMS's "Sampling Guidelines for Hemp" published on January 15, 2021.

**Table 3B:**

Number of acres	Sample Size						
11	11	40	36	75-76	61	119-120	86
12	12	41-42	37	77	62	121-122	87
13	13	43	38	78-79	63	123-124	88
14	14	44	39	80-81	64	125-126	89
15	15	45-46	40	82	65	127-128	90
16	16	47	41	83-84	66	129-130	91
17	17	48	42	85-86	67	131-132	92
18-19	18	49-50	43	87	68	133-134	93
20	19	51	44	88-89	69	135-136	94
21	20	52	45	90-91	70	137-138	95
22	21	53-54	46	92	71	139-140	96
23	22	55	47	93-94	72	141-143	97
24	23	56	48	95-96	73	144-145	98
25-26	24	57-58	49	97-98	74	146-147	99
27	25	59	50	99	75	148-149	100
28	26	60-61	51	100-101	76	150-152	101
29	27	62	52	102-103	77	153-154	102
30	28	63-64	53	104-105	78	155-156	103
31-32	29	65	54	106-107	79	157-157	104
33	30	66-67	55	108	80	159-161	105
34	31	68	56	109-110	81	162-163	106
35	32	69-70	57	111-112	82	164-166	107
36	33	71	58	113-114	83	167-168	108
37-38	34	72-73	59	115-116	84	169-170	109
39	35	74	60	117-118	85	171-173	110