

01-001 DEPARTMENT OF AGRICULTURE, FOOD AND RURAL
RESOURCES

DIVISION OF ANIMAL AND PLANT HEALTH

Chapter 274: Rules for Growing Industrial Hemp

SUMMARY: These rules establish the requirements for becoming licensed to grow industrial hemp including fees, application and licensing processes, and procedures for monitoring the growth of industrial hemp. The activities described in these rules may be considered a violation of federal law. Persons growing industrial hemp may be subject to federal sanctions for what may otherwise be considered authorized conduct in the State of Maine and compliance with these rules does not exempt licensees from possible federal prosecution. The Department is not responsible or liable for the actions of industrial hemp growers under these rules.

I. Definitions

A. Certified Seed Source – A source of industrial hemp seeds that:

1. Is certified according to Association of Official Seed Certifying Agencies (AOSCA) standards or other certification standards approved by the Department;
2. The plants from which the seed was produced were tested during the active growing season and found to produce industrial hemp having a THC concentration that does not exceed 0.3% on a dry weight basis.

B. Department - The Maine Department of Agriculture, Conservation and Forestry.

C. Growing Area – The land on which a licensee cultivates or plans to cultivate industrial hemp.

D. Industrial Hemp – Any variety of *Cannabis sativa* L. with a delta-9-tetrahydrocannabinol (THC) concentration that does not exceed 0.3% on a dry weight basis.

E. Industrial Hemp Law – An Act to Promote Industrial Hemp, Title 7 MRS Chapter 406-A § 2231.

F. Law Enforcement Agency – A federal, state or local agency responsible for maintaining public order and enforcing the law, particularly activities involving prevention, detection and investigation of crime and the apprehension of violators.

G. License – The document that is issued to an individual after a successful application and review process and following departmental receipt of a signed licensing agreement and submission of all licensing fees. The license allows the individual to possess, cultivate, grow and harvest industrial hemp under Maine law.

H. Licensee – An individual possessing an industrial hemp license.

I. Licensing Agreement – A document signed by the licensee agreeing to abide by these rules and any other terms and conditions the Department deems necessary for enforcing the Industrial Hemp Law.

J. Licensing Period – The time in which an industrial hemp license is valid. Licenses are issued for the calendar year in which the industrial hemp is to be grown, with an issue date of January 1 and expiration date of December 31, regardless of the actual date on which the license is issued.

K. Non-Contiguous Growing Area – A growing area on which a licensee grows or plans to grow industrial hemp that is separated from other growing areas by more than 50 miles.

L. Sample – Plant parts taken as representative of an individual plant or the combined total plants in the growing area.

M. THC – Delta-9-tetrahydrocannabinol, the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, *Cannabis sativa* L., or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

II. Application Process

A. Each applicant for an industrial hemp license must submit a signed, complete, accurate and legible application to the Department. Applications will not be accepted after April 1 of the year in which the applicant wishes to grow industrial hemp. For 2016 only applications will be accepted until July 1.

B. Applicants applying to renew a license must submit the same information and fees as applicants applying for a new license. In addition applicants for renewal must include, on the application, the licensing numbers of any previous licenses held and year of issuance of those licenses.

C. Only applications for industrial hemp grown outdoors will be considered. Indoor production of industrial hemp is not covered by these rules.

D. The applicant must provide:

1. Name, address and other contact information;
2. A detailed description of the land area to be used for the production of industrial hemp including, but not limited to: a map, aerial photograph or global positioning coordinates sufficient for locating production fields and showing the boundaries, dimensions and size of the growing area;
3. A signed statement that the applicant is the owner of the growing area to be used for cultivation of industrial hemp or a statement, signed by the owner of the growing area, consenting to that use;
4. A copy of the certification showing the industrial hemp seed to be planted is from a certified seed source; and
5. Any other information the Department determines is necessary for enforcing the Industrial Hemp Law and these rules.

E. Each applicant for licensure shall submit a non-refundable application fee of \$100 with the application. Fees will not be refunded if a license is not granted.

F. Incomplete applications will not be processed.

G. False, inaccurate or misleading information provided on an application is grounds for license denial. Licenses may be denied to applicants who have previously had an industrial hemp license revoked.

III. Issuance of Licensing Agreement and License

A. Upon approval of an application the applicant for a license must pay the license fee. License fees are \$500 plus \$50/acre of industrial hemp to be planted, as reported on the application. Partial acreage should be rounded up to the next whole acre. License fees must be paid prior to license issuance.

B. Licenses are only for the site or sites listed on the license. Non-contiguous growing areas require a separate license.

C. Each applicant must sign a licensing agreement. The failure of the licensee to comply with any term or condition of the licensing agreement shall be grounds for license revocation. By signing the licensing agreement the licensee agrees to the following terms and conditions:

1. The licensee will allow the inspection and sampling of the industrial hemp crop at any and all times that the Department deems necessary;

2. All records relating to production, planting, cultivation and harvest of the industrial hemp crop must be kept for a period of 3 years. The records must be made available to the Department upon request;
3. The Department may require reporting of any information or data associated with the planting, cultivation and harvest of the industrial hemp crop. The licensee must submit all required reports by the due dates specified by the Department;
4. All information provided to the Department and data collected by the Department through the industrial hemp licensing process may be publicly disclosed and may be provided to law enforcement agencies without notifying the licensee;
5. Licensees must comply with any other terms and conditions the Department determines necessary for enforcing the Industrial Hemp Law and these rules.

D. All licenses shall be valid for 1 year. The licensing period shall be January 1 to December 31. Licensees must re-apply to participate in the program each year. All industrial hemp plant material must be planted and harvested within the licensing period.

E. No industrial hemp plants shall be included in other licensed marijuana production programs. No growing area may contain *Cannabis* plants which the licensee knows or has reason to know are of a variety that will produce a plant that when tested will contain more than 0.3% THC on a dry weight basis.

G. Amendments to an existing license are limited to reduction in the number of acres planted within the original growing area and changes to contact information.

1. Any licensee who wishes to reduce the growing area on which the licensee will conduct industrial hemp cultivation must submit to the Department, within 10 days of planting, an updated detailed description of the growing area including global positioning system location and map.
2. Additions to the original growing area will not be accepted.
3. Annual license fees are calculated based on the acreage reported in the application. No reimbursements of license fees shall result from a reduction in the actual number of acres of industrial hemp planted during any licensing year.
4. Any changes of the information required under II. Application Process section D.1 must be reported to the Department within 10 days of the change.
5. Licenses are non-transferrable.

IV. Sampling and Inspection

A. All licensed industrial hemp growing areas are subject to sampling to verify that the THC concentration of the industrial hemp planted does not exceed 0.3% on a dry weight basis.

B. The licensee will be notified prior to inspection and sampling. During inspection and sampling, the licensee or an authorized representative must allow complete and unrestricted access to all industrial hemp plants within the licensed growing area.

C. If an industrial hemp crop has not been inspected and sampled 15 days prior to harvest, the licensee must notify the Department of intent to harvest the industrial hemp crop.

D. All industrial hemp plants within a growing area may be sampled to ensure compliance with the industrial hemp program.

1. Each sample will be divided into two parts. One part will be used for testing and the other retained for retesting.
2. Quantitative laboratory determination of the THC concentration on a dry weight basis will be performed.
3. A sample test result greater than 0.3% THC shall be prima facie evidence that at least one cannabis plant or part of a plant in the licensed growing area contains THC above the allowable limit and the licensee is therefore not in compliance. Such a result shall be grounds to suspend or revoke the industrial hemp license, subject to an opportunity for the licensee to request a hearing. Any request for a hearing must be made to the Department, in writing, within 10 days of the receipt of the sample test result. Sample test results may be provided to the appropriate law enforcement agencies.
4. The licensee may request a retest of the retained portion of the sample. Any request for retesting must be made to the Department, in writing, within 10 days of the receipt of test results. The licensee must pay all analysis costs and shipping fees associated with the retest. If a retest is conducted, the results of the retest shall be final.
5. Crops testing above the allowable THC limit will be destroyed.
6. Upon completion of testing any remaining samples will be destroyed 10 days after receipt of test results.

V. Violations

A. Any violation of 7 M.R.S. 406-A § 2231, or of these rules, may be enforced as a civil violation and shall be grounds for license suspension or revocation. Such violations include, but are not limited to:

1. Failure to comply with any term or condition of the license agreement;
2. Failure to provide any information required or requested by the Department for purposes of enforcing the Industrial Hemp Law or these rules;
3. Providing false, misleading or incorrect information pertaining to the licensee's cultivation of industrial hemp to the Department by any means, including but not limited to information provided in any application, report, record or inspection required or maintained for purposes of the Industrial Hemp Law or these Rules;
4. Failure to submit a required report;
5. Failure to pay required fees;
6. Failure to destroy any crop following license revocation in accordance with Section V.B., below;
7. Growing cannabis that when tested is shown to have a THC concentration greater than 0.3% on a dry weight basis; or
8. Refusal or failure by a licensee or authorized representative to fully cooperate and assist with the inspection process.

B. Licenses that are revoked for any reason will result in crop destruction.

1. The licensee must destroy the crop in a manner approved by the Department within 10 days of notification of license revocation.
2. The licensee is responsible for paying all costs associated with crop destruction.

STATUTORY AUTHORITY: 7 M.R.S. Chapter 406-A §2231

EFFECTIVE DATE: **APR - 4 2016**