



# 2019 INDUSTRIAL HEMP PARAMETERS (POST FARM BILL)

With the passage of the 2018 Farm Bill, the Pennsylvania Department of Agriculture (PDA) revised the requirements for growing industrial hemp. Although industrial hemp remains a regulated crop, its cultivation as a commercial crop is now permitted.

This document outlines updated requirements for growing industrial hemp within the commonwealth for 2019. On January 22, 2019, PDA submitted a plan to USDA for approval to allow industrial hemp to be grown in the commonwealth. PDA may revise program parameters to reflect regulatory and statutory changes as USDA adopts regulations or sets requirements for states to follow.

The following information is a guide for growers to request a permit/license from PDA to plant industrial hemp as required by the 2018 Farm Bill.

## A) PERMIT APPLICATION

1. Persons\* wishing to grow industrial hemp are required to obtain a permit/ license from the Department of Agriculture. The application contains the required information for PDA to issue the permit/license to individuals who apply and to track growing locations. A person\* may apply directly to PDA for a permit to grow industrial hemp on ground they own or lease. There is no limit on acreage that can be planted, however an additional fee will be required for multiple growing locations (addresses).
2. *Who may apply for a permit/license to grow industrial hemp in the commonwealth?*  
Any person who has not had a drug-related felony conviction within the past ten years. PDA's final approval of the application and issuance of a permit is contingent upon a successful background check of the individual to be listed as the permit/license holder.
  - **FBI Background Checks:** At the time of the application, the applicant must submit an FBI criminal background check. Applicants must use the Identogo Fingerprint Service (managed by IDEMIA). Appointments can be scheduled at <https://uenroll.identogo.com> or by phone at 844-321-2101. A listing of Identogo

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\*Person — Throughout this document, a natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, or other form of legal business entity, as well as a state or local government entity.

service locations by zip code can be found at <https://uenroll.identogo.com/workflows/1KG8NN/locator/location>. Because of unpredictable wait times, it is highly recommended to schedule an appointment rather than walking in to service centers.

- Registration will require the following service information unique for the Industrial Hemp Program (not to be used for other purposes):

Service Code: **1KG8NN**

Service Name: **Hemp Grower**

- The permit/license holder is responsible for all individuals involved with planting, maintenance, and harvesting of the industrial hemp grown. Prior to an individual working with the cultivation of hemp, the permit/license holder must submit a statement listing the proper names and addresses of the persons to be involved with the cultivation of hemp. The permit/license holder must also provide a notarized attestation that all individuals working to cultivate hemp under the permit/license do not have any felony drug convictions pursuant to the 2018 Farm Bill. Any person not listed on the permit that is involved with the cultivation of hemp will constitute a violation of the permit and subject the permit holder to enforcement action.

3. **Planting Locations:** On the application, participants must list street addresses with a single GPS coordinate for each farm/facility location where hemp will be grown.
  - a. Within ten (10) days after planting, participants must submit to PDA exact planting sites (field locations) within each growing location address, with acreage amounts and the field/facility locations marked by a single GPS point at the normal point of entry for the field.
  - b. The permittee must maintain a detailed map of the farm/facility showing the field/facility locations with the boundaries of the hemp planting sites outlined. This map must be retained as part of the permittee's records and available to PDA upon request for a minimum of three years.
  - c. PDA will then submit location information to USDA as required by the Farm Bill and to the Pennsylvania State Police. Any cannabis plants found growing outside of the boundaries of the plots will not be covered by the permit/license and would constitute a violation.
  - d. Because industrial hemp pollen could potentially contaminate both medical marijuana crops and other industrial hemp plantings, PDA will not approve planting hemp crops within three miles of an approved medical marijuana growing facility and does not recommend planting within three miles of a planting for CBD or certified seed. Growers should be aware that doing such could lead to legal challenges from existing growers.
4. **Reporting Requirements:** The permit/license holder shall submit planting site information to the PDA within ten days of planting, including varieties planted and size of the planting area. This information will be used by PDA to meet USDA reporting requirements and for scheduling of required THC testing.

5. **Seed Acquisition:**

- a. Whether seed is internationally or domestically sourced, it is the responsibility of the permit/license holder to purchase and meet any phytosanitary requirements for movement of seed.
- b. All seed must meet seed labeling requirements (AAOSCO seed label for each variety including: amount, variety, certification and/or lot number, germination rate and test date, origin, and company address) and it is also recommended you obtain a producer statement that the variety has a THC content of less than 0.3%. [Summary of PA Seed Act Requirements available on PDA's Industrial Hemp Program webpage: [https://www.agriculture.pa.gov/Plants\\_Land\\_Water/industrial\\_hemp/Pages/default.aspx](https://www.agriculture.pa.gov/Plants_Land_Water/industrial_hemp/Pages/default.aspx)]
- c. Seed produced by growers may only be saved or used for future planting when: 1) the original seed source holding rights to the seed provides written approval and documentation of their authority to grant that permission; and 2) growers have registered with PDA's certified seed program or meet the requirements of the PA Seed Act.

6. **Clones:** Clones/cuttings/propagules for planting are permitted.

- a. The permit/license holder must notify PDA within ten days of any clone planting. Plants being shipped into the commonwealth for planting must be accompanied by a Federal Phytosanitary certificate, a state of origin-issued health certificate or certification that the plants were grown at a state licensed and inspected nursery. It is also recommended you obtain a producer statement that the variety has a THC content of less than 0.3%. Notice must include variety of clones and quantity planted.

7. Production and sale of industrial hemp clones for propagation will only be allowed if the growers have written proof from the certified seed/plant source allowing replication of that variety, hold a Pennsylvania Nursery License and meet the requirements of that license.

Clones may only be sold to individuals/businesses that meet the requirements of the industrial hemp program rules in their state. The seller is responsible for verifying that a customer purchasing clones meets those requirements, whether by requesting visible proof of state permit or referencing a state listing of permit/license holders.

**B) RESTRICTIONS**

- 1. **THC:** All industrial hemp plant material, or products produced from those plants, must contain total THC levels of less than 0.3%. If THC levels are found to be greater than 0.3%, the material shall not move off site and cannot be used or employed in any way.
  - a. If THC is between 0.3% and 1.0%, confirmatory testing or alternative destruction methods may be authorized, at PDA's discretion.
  - b. For any planting with THC levels higher than 1.0%, PDA will issue an order for the permittee to immediately destroy the plants, and law enforcement will be notified. Law enforcement has the authority to pursue prosecution under any applicable laws.
- 2. **Transportation:** The 2018 Farm Bill enables interstate movement of industrial hemp plants and products. To avoid possible confusion with other cannabis products, you may attach a copy of

your permit/license to other shipping documents when transporting industrial hemp within or outside the commonwealth but this is not a requirement.

3. **Legal Responsibility:** Growers and processors of finished products will be held responsible to meet all laws, regulations, and requirements of all authorities that regulate any products produced, marketed, labeled, distributed, or sold as part of the permitted industrial hemp program. This may include, but is not limited to, the U.S. Food and Drug Administration, U.S. Department of Agriculture, U.S. Internal Revenue Service, PA Department of Agriculture Bureau of Food Safety and Laboratory Services, PA Department of Health, and any other governmental authority.
4. **Branding:** The name, symbols, and logos of the Commonwealth of Pennsylvania or any of its agencies, including the PA Department of Agriculture, may not in any way be used in the labeling, promotion or marketing of any hemp products associated with the permit/license without explicit written permission from PDA.

### C) APPLICATION CONTENTS

1. **Application:** Major sections of the application include the name, address, and contact information of the applicant.
  - a. The location or site to be used to grow or cultivate industrial hemp (including addresses and GPS point coordinates for each farm/facility).
  - b. FBI background clearance for the applicant and notarized attestation that all others involved in hemp production do not have felony drug convictions must be completed prior to submitting the application.
2. **Process:**
  - a. Applications for the 2019 PDA Industrial Hemp Program are available on the PDA Industrial Hemp Program Page ([www.agriculture.pa.gov/Plants\\_Land\\_Water/industrial\\_hemp/](http://www.agriculture.pa.gov/Plants_Land_Water/industrial_hemp/)).
    - Applications for 2019 must be complete and accurate, submitted on the official application form and accompanied by a check or money order for the application fee payable to the Commonwealth of Pennsylvania based on the table found in Section G. Incomplete applications will be returned. Delivery: Application submissions will be accepted at PDA via hand delivery, U.S. Postal Service, overnight courier service, or express mail. Please deliver to:

ATTN: Cathy Thomas  
PA Department of Agriculture, Bureau of Plant Industry  
2301 N. Cameron Street  
Harrisburg, PA 17110

Email application questions to: [caththomas@pa.gov](mailto:caththomas@pa.gov)

- b. **Review of the Application:** Failure to submit the required FBI background check and notarized attestation, having a drug-related felony conviction within the past 10 years, failing to list growing locations, or past violations are grounds for rejection.

#### D) INSPECTION, SAMPLING, TESTING AND RECORD KEEPING

1. During the growing season, permit/license holders will be subject to random farm/establishment inspections to verify compliance with all requirements of the permit/license issued. Inspection may include sampling by PDA inspectors for the determination of plant THC levels, pesticide testing, identification of plant pests, or any other statutorily-defined purpose.
  - a. **Inspections:** PDA inspectors must be granted unrestricted access during normal business hours to all growing locations and adjacent areas. Inspection visits may be made with little or no notice during regular business hours. Permit/license holders or their representatives will be notified and requested to be present.
    - i. **Sampling:** Sampling of plants or plant parts for THC testing will be done by PDA inspectors utilizing a statistical method developed to provide an accurate representation of the growing location. If requested, the inspector will provide a duplicate sample to the permit/license holder. PDA sampling for THC will target female flowers at bloom or near the time of harvest (approximately 70 days after planting).
    - ii. Individual samples may be collected for each variety and/or lot of seed planted. Larger plots may require more than one sample.
2. **Record Keeping:** Records of exact planting locations including size of planting area, planting date, the varieties planted, and farm/facility map showing boundaries of planting areas must be available upon request, and maintained for at least three years from the decommissioning of the planting site.

#### E) VIOLATIONS: As prescribed by the 2018 Farm Bill

##### VIOLATIONS.—

“(1) IN GENERAL.—A violation of a State plan approved under subsection (b) shall be subject to enforcement solely in accordance with this subsection.

“(2) NEGLIGENT VIOLATION.—

“(A) IN GENERAL.—A hemp producer in a State for which a State plan is approved under subsection (b) shall be subject to subparagraph (B) of this paragraph if the State department of agriculture, determines that the hemp producer has negligently violated the State plan, including by negligently—

“(i) failing to provide a legal description of land on which the producer produces hemp;

“(ii) failing to obtain a license or other required authorization from the State department of agriculture or Tribal government, as applicable; or

“(iii) producing *Cannabis sativa* L. with a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis.

“(B) CORRECTIVE ACTION PLAN.—A hemp producer described in subparagraph (A) shall comply with a plan established by the State department of agriculture to correct the negligent violation, including—

“(i) a reasonable date by which the hemp producer shall correct the negligent violation; and

“(ii) a requirement that the hemp producer shall periodically report to the State department of agriculture on the compliance of the hemp producer with the State for a period of not less than the next 2 calendar years.

“(C) RESULT OF NEGLIGENT VIOLATION.—A hemp producer that negligently violates a State plan under subparagraph (A) shall not as a result of that violation be subject to any criminal enforcement action by the Federal Government or any State government, or local government.

“(D) REPEAT VIOLATIONS.—A hemp producer that negligently violates a State plan under subparagraph (A) 3 times in a 5-year period shall be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.

“(3) OTHER VIOLATIONS.—

“(A) IN GENERAL.—If the State department of agriculture in a State for which a State plan is approved under subsection (b), as applicable, determines that a hemp producer in the State has violated the State plan with a culpable mental state greater than negligence—

“(i) the State department of agriculture shall immediately report the hemp producer to—

“(I) the Attorney General; and

“(II) the chief law enforcement officer of the State; and

“(ii) paragraph (1) of this subsection shall not apply to the violation.

#### **F) TERMINATION/ DECOMMISSIONING OF PROJECT RESPONSIBILITIES**

1. All industrial hemp plants must be destroyed at growing locations no longer in use. PDA will continue to monitor these site for three years to ensure there is no regrowth or sprouting. PDA must be given access to the site during normal business hours to conduct follow-up inspections to verify there is no regrowth at the location. Any industrial hemp plants found must be destroyed at permit/license holder’s expense.
2. For fields/plantings located on ground/facilities not owned by the applicant, the permittee must provide PDA with signed documentation from the property owner granting PDA access to the planting location for a minimum of three years following the last planting date. This documentation is required prior to approval of a planting location.

#### **G) PROGRAM COSTS**

1. There are no financial awards associated with the Industrial Hemp Program. All costs incurred with the program must be paid by the participating individual applicants. PDA will charge an administrative minimum fee of \$600 per permit/license, due when application is received. The application permit fee is based on the following table for calendar year 2019:

Application/Permit Fee, to cover 1-5 locations	\$600
For additional locations, from 6-10 (per location)	Add \$100 per location
For additional locations, from 11-20 (per location)	Add \$150 per location
For additional locations, >20 (per location)	Add \$200 per location

2. The following is a list of anticipated costs associated with a permit/license, all of which would be the responsibility of the person applying:
  - a. Application Fee: Payable to PDA at time of application submission. (Fee covers cost for random THC testing.)
  - b. Cost of FBI background check.
  - c. All costs associated with growing industrial hemp.
  - d. Repeat inspections, which would only be required because of failure of permit holder to comply with permit requirements or order of the Department.
  - e. Department Service Fees: (Optional)

PDA Seed Laboratory Hemp Seed Testing

Germination: \$15

Purity: \$17

Combined: \$32

Seed Certification Registration: \$40

Inspection Visits for Seed Certification: \$40/hour for inspector time

Permittee-requested Plant Material Testing for THC: \$200/sample plus Inspector time charge.