


<p>ARIZONA DEPARTMENT OF AGRICULTURE</p> <p><u>SUBSTANTIVE POLICY STATEMENT</u></p> <p>ENVIRONMENTAL AND PLANT SERVICES DIVISION</p> <p>Industrial Hemp Performance Based Sampling</p>	<p><u>DIVISION/</u></p> <p><u>PROGRAM</u> EPSD</p>
	<p><u>SP 21-02</u></p>
	<p> SIGNATURE</p>
	<p>10-06-21 DATE</p>

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under section 41-1033, Arizona Revised Statutes, for a review of the statement.

1. BACKGROUND

The Environmental and Plant Services Division ("EPSD") provides regulatory oversight for the production of industrial hemp ("hemp") in the state. During inspections of hemp crops or plants, an inspector may collect and test a representative sample to determine compliance for total Delta-9 Tetrahydrocannabinol (THC) concentration pursuant to A.R.S. § 3-316, A.A.C. R3-4-1008, and as described under Substantive Policy 19-01 (SP19-01) ("Compliance Testing").

This substantive policy statement outlines when EPSD will not enforce the Compliance Testing requirements on hemp transplants and hemp mother plants, in conformance with the rules and guidelines for "Performance-Based Sampling" published by the US Department of Agriculture - Agricultural Marketing Service ("USDA-AMS") under 7 CFR §990.3 (a) (2) (iii)(A) and (B).

Performance-based sampling does not prevent the state from conducting random records inspections or sampling and testing of any hemp crops from licensed producers of the hemp program pursuant to A.A.C. R3-4-1011. The Department reserves the right to conduct a records inspection, sample, and test any hemp lot at any time to ensure compliance with the acceptable hemp THC level. Based on testing data for a period of two years, the Department will reassess all performance based sampling.

2. POLICY

To comply with the requirements under A.R.S. § 3-316 and A.A.C. R3-4-1008, the Department shall ensure the following applies for each of the crops described:

A. Hemp Microgreens:

1. Hemp microgreens are described as immature hemp seedlings for human consumption that are cut-off above the soil or substrate line and harvested prior to flowering and not more than 14 days after germination. Hemp microgreens are typically between two (2)

and three (3) inches in height, but not taller than five (5) inches.

2. When the Department receives a planting notice from a grower that is intending to plant a crop of hemp microgreens, the Department will request a notice of intent to harvest so the Department does not proceed with standard sampling and testing protocols under A.A.C. R3-4-1008 and SP19-01.
3. The Department will verify that the producer:
 - a. Obtained and planted only authorized hemp seed pursuant to A.A.C. R3-4-1006;
 - b. Harvested the crop no more than fourteen days after planting;
 - c. Only grew hemp plants that were no more than five inches in height; and
 - d. Did not grow hemp plants to a flowering state.
4. A licensed grower that produces a crop that does not meet the criteria for an exception to R3-4-1008 and SP19-10 shall either:
 - a. Follow the compliance, sampling and testing requirement pursuant to A.A.C. R3-4-1008 and SP19-01; or
 - b. Dispose of the crop in a manner as described in A.A.C. R3-4-1013(F).

B. Hemp Greens:

1. Hemp greens are described as hemp leaves from immature plants germinated from seed and the plants are no more than ten (10) inches tall and are not flowering.
2. Producers of hemp greens must provide the Department with a planting notice and intent to harvest at the time of planting. The notice must indicate that the crop is planted to produce a hemp greens crop so the Department does not proceed with standard sampling and testing protocols under A.A.C. R3-4-1008 and SP19-01.
3. The Department will verify that the producer:
 - a. Obtained and planted only authorized hemp seed pursuant to A.A.C. R3-4-1006;
 - b. Harvested the crop prior to the plants being ten inches in height;
 - c. Did not produce a flowering crop.
4. A grower that produces a crop that does not meet the criteria for an exception to A.A.C. R3-4-1008 and SP19-10 shall either:
 - a. Follow the compliance, sampling and testing requirement pursuant to A.A.C. R3-4-1008 and SP19-01; or
 - b. Dispose of the crop in a manner as described in A.A.C. R3-4-1013(F).

C. Hemp Transplants:

1. Hemp transplants are described as hemp seedlings, rooted cuttings, immature plants produced from tissue culture, or other means of reproduction, which are not harvested but transplanted into a large container or field to mature for harvest.
2. The movement of transplants from their original location to the crop production location is not considered a harvest.
3. A licensed hemp nursery or grower must submit a planting report when producing hemp transplant material pursuant to A.A.C. R3-4-1011.
4. When the Department receives a planting notice from a licensed hemp nursery that is intending to plant a crop of hemp transplants, the Department will not proceed with standard sampling and testing protocols under A.A.C. R3-4-1008 and SP19-01.

5. The Department will verify that the hemp nursery producer:
 - a. Obtained and planted only authorized hemp seed pursuant to A.A.C. R3-4-1006;
 - b. Transported the transplants by the date indicated on the planting notice pursuant to A.A.C. R3-4-1011; and
 - d. Did not grow hemp plants to a flowering state.
6. A licensed hemp nursery that produces a crop that does not meet the criteria for an exception to A.A.C. R3-4-1008 and SP19-10 shall either:
 - a. Follow the compliance, sampling and testing requirement pursuant to A.A.C. R3-4-1008 and SP19-01; or
 - b. Dispose of the crop in a manner as described in A.A.C. R3-4-1013(F).

D. Hemp Mother Plants:

1. Hemp mother plants are described as immature cannabis plants with a THC concentration of 0.3% or less that are used for cloning purposes.
2. Hemp mother plants may be sampled any time, but may be exempt from future sampling if those results are 0.3% THC or less.
3. Plantings of hemp mother plants must be reported to the Department pursuant to A.A.C. R3-4-1011.
4. Hemp mother plants that are found compliant through sampling and testing are not required to be harvested within 30 days after sampling notwithstanding A.A.C. R3-4-1008(D).
5. Hemp mother plants that are found non-compliant through sampling and testing are not eligible to be used as a mother plant; and the producer will be responsible for meeting the provisions for non-compliant crops pursuant to A.A.C. R3-4-1008(D)(2).
6. Mother plants that are intended to be harvested or leave the registered growing area must be sampled and tested in accordance with A.A.C. R3-4-1008 and SP 19-01 to ensure compliance with THC concentration.
7. A licensee that produces a hemp mother plant that does not meet the criteria for an exception to R3-4-1008 and SP19-10 shall either:
 - a. Follow the compliance, sampling and testing requirement under R3-4-1008 and SP19-01; or
 - b. Dispose of the crop in a manner as described in A.A.C. R3-4-1013(F).