

Start with new definitions and carve-outs for PBS in existing code.

4890. Definitions

(a) (29) "Performance-Based Sampling" is an alternative method to sampling and testing of hemp that does not require every grower lot to be sampled. Instead of sampling and testing every lot, CDFA may instead design metrics for sampling hemp that ensure only legal hemp is being grown under the program while minimizing the resource burdens of sampling every lot. The alternative method will ensure, at a confidence level of 95 percent, that the hemp plants tested with the alternative method will not test above the acceptable hemp THC level.

(a) (30) "Hemp Greens" are the hemp leaves from immature plants intended for human consumption.

(a) (31) "Hemp Microgreens" are immature plants. They are hemp seedlings intended for human consumption that are cut-off above the soil or substrate line. They are harvested prior to flowering and harvested not more than 14 days after germination.

(a) (32) "Hemp Mother Plants" are immature plants that are used for cloning purposes.

(a) (33) "Hemp Transplants" are immature plants. They are hemp seedlings or rooted cuttings produced from tissue culture, or other means of reproduction, that are harvested but transplanted into a larger container or field to mature for harvest.

(a) (34) "Immature Plant" means a hemp plant with an acceptable THC level that is not flowering.

4935. Planting Report for IH

Add subsection (d): If the planting is to be harvested under an approved PBS protocol, the plan shall be referenced on the planting report form.

4940. Sample Analysis Request

Add subsection (c): If the planting is to be harvested under an approved PBS protocol, the planting shall be exempted from the Sample Analysis Request Form.

4941. Sampling Procedures for Testing Industrial Hemp for THC Concentration

Add subsection (d): Alternative Sampling Methods may be approved under a PBS protocol.

4942. Approved Testing Method for Testing Industrial Hemp for THC Concentration

Add subsection (d): Alternative Testing Methods may be approved under a PBS protocol.

4943, 4944, and 4945 don't seem to need a carve-out

4946. Final Disposition for Registered Industrial Hemp Crops

Amend subsection (a):

"(a) Registrants shall harvest the sampled crop only upon receipt of an electronic copy of a passing laboratory test report" or as provided by an approved PBS protocol.

4947 is an entirely new code for PBS

4947. Performance-Based Sampling Protocols

(a) All plantings not covered by a performance-based sampling protocol shall be subject to the preharvest sampling requirements appropriate for their registration class.

(b) Multiple end uses of a lot that include cannabinoid extraction or mature flower in any form including but not limited to that intended for inhalation are not eligible for performance-based sampling.

(c) A Registrant who is registered with an Established Agricultural Research Institution registration, or who has produced hemp at or below the acceptable hemp THC level for the previous three years, or who produces hemp microgreens, or hemp greens, or hemp transplants, or immature plants, or who produces hemp for grain or fiber may petition the commissioner of their county for use of performance-based sampling protocols on a form provided by CDFA, including as follows:

(1) Established Agricultural Research Registrants:

- (a) When hemp does not enter the stream of commerce, a Registrant may self-report all total THC concentration test results so long as the Registrant permits the Department to inspect or audit the research plan set forth in 4901(a)(4)(E).
- (b) Research institutions are exempt from pre-harvest sampling of hemp crops when they comply with 4947(2)(a) listed above.

(2) Registrant in Good Standing

- (a) A Registrant who has produced indoor or outdoor hemp to maturity from the same variety or strain and at the same location for the previous three consecutive years that, when tested by the Department or an authorized sampling agent, produced results at or below the acceptable hemp THC level may be exempt from testing of each lot but will be randomly sampled.

(3) Immature Plants

- (a) A Registrant who is producing hemp microgreens, hemp greens, hemp transplants, and immature plants is exempt by placing an averment on the application that:
 - (i) Hemp transplants and immature plants will be transferred only to the location at which these plants will grow to maturity and from which these plants will be harvested; and
 - (ii) Mother plants may be exempt from sampling after testing within the allowable hemp THC level. Otherwise, different strains of mother plants that are harvested or leave the Registered Land Area must be sampled.
 - (iii) Hemp microgreens and hemp greens will go directly to market in the harvested form. Age, immature plant status, or THC compliance of plants will be documented by photos, invoice/shipping documents, or THC testing results.

(4) Grain or Fiber

- (a) Production for grain or fiber may be exempt from testing of each lot but will be randomly sampled. Proof of end use will be documented by photos, invoice/shipping documents, or THC testing results.