

consumption, cloth, cordage, fiber, fuel, paint, paper, particleboard, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol. Hemp products shall not be considered controlled substances due to the presence of hemp or hemp-derived cannabinoids. All synthetically derived tetrahydrocannabinols remain Schedule I Controlled Substances pursuant to U.S. Drug Enforcement Agency rules and are not allowable for production.

... “Post-decarboxylation,” in the context of testing methodologies for THC concentration levels in hemp, means a value determined after the process of decarboxylation that determines the total potential delta-9 tetrahydrocannabinol content derived from the sum of the THC and THC-A content and reported on a dry weight basis. The post-decarboxylation value of THC can be calculated by using a chromatograph technique using heat and gas chromatography, through which THC-A is converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The post-decarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THC-A intact, and requires a conversion calculation of the THC-A to calculate total THC in a given sample.

... “THC” means tetrahydrocannabinol, which is a psychoactive component in cannabis plants.

“Total potential delta-9 THC” means the total potential delta-9 THC concentration levels in hemp, determined after the process of decarboxylation. It is derived from the sum of the (delta-9 THC) + (THCA * 0.877) and reported on a dry weight basis.

2:25-1.3 Records designated as confidential

In addition to records designated as confidential pursuant to the provisions of the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., and any other law, rule, or Executive Order; the license application, supporting documentation, filed hemp producer reports, or any testing results shall not be considered government records subject to public access pursuant to OPRA. The only information that shall be considered public shall be the hemp producer’s name, email address, and mailing address.

SUBCHAPTER 2. ANNUAL APPLICATION FOR LICENSE

2:25-2.2 Terms and conditions of licensure

- (a)-(k) (No change.)
- (l) Licenses shall not be assigned or transferred to any other individual, business, or company under any circumstances.
- (m) No hemp plant shall be moved to, or grown, in an area other than the licensed growing area, without prior Departmental approval, and subject to a site modification fee pursuant to (r) below. All varieties must be separated and clearly marked.
- (n)-(w) (No change.)

SUBCHAPTER 5. INSPECTION, SAMPLING, AND TESTING

2:25-5.2 Inspection, sampling, and testing procedures

- (a) (No change.)
- (b) Test procedures shall be as follows:
 - 1.-2. (No change.)
 - 3. Test results must confirm that the final product batch contains no more than 0.3 percent total potential delta-9 THC on a dry weight basis using a measurement of uncertainty; and all such testing results must be retained by the participant and made available to the Department upon demand for a minimum of three years. Any material having more than the Federally defined THC level for hemp is prohibited. Possession or distribution of such products may be subject to Federal, State, and local law enforcement action;
 - 4.-5. (No change.)
 - 6. A sample test result with a total potential delta-9 THC concentration on a dry weight basis greater than the Federally defined THC level for hemp shall be conclusive evidence that the lot represented by the sample contains a total potential delta-9THC concentration on a dry weight basis of more than 0.3 percent and that the hemp producer is therefore not in

compliance with this chapter. Upon receipt of a failing test result, the Department may request resampling and retesting of the varieties in question. Upon subsequent retesting failure, the Department shall determine whether the failure constitutes a negligent violation or a violation with a culpable mental state greater than negligence and take appropriate action pursuant to N.J.A.C. 2:25-6;

7.-10. (No change.)

2:25-5.3 Labeling of hemp products by New Jersey processors

- (a)-(b) (No change.)
- (c) New Jersey floral processors shall submit a current Certificate of Analysis (COA) and receive program approval for out-of-State-sourced material prior to importation and acceptance to verify compliance with the Federally acceptable hemp THC level.

2:25-5.4 Third-party laboratory compliance

- (a)-(b) (No change.)
- (c) Third-party laboratories shall:
 - 1.-3. (No change.)
 - 4. Transmit laboratory results directly to their client and to the Department for all licensed New Jersey processors and growers submitting regulatory samples, in order to receive final Departmental approval;
 - 5. Submit to random quality assurance testing by the Department to validate the accuracy of testing results; and
 - 6. Take and pass an annual performance test, if requested by the Department, to ensure the accuracy of their testing methods.
- (d) (No change.)

SUBCHAPTER 6. VIOLATIONS, PENALTIES, AND APPEALS

2:25-6.1 Negligent violations

- (a) (No change.)
- (b) Negligent violations may include, but are not limited to:
 - 1.-2. (No change.)
 - 3. Producing *Cannabis sativa L.* with a delta-9 THC concentration of more than 1.0 percent on a dry weight basis or any revised limit established at 7 CFR Part 990, or failing to make reasonable efforts to grow compliant hemp; and/or
 - 4. (No change.)
- (c)-(g) (No change.)

(a)

DIVISION OF MARKETING AND DEVELOPMENT
Notice of Readoption
Bonding Requirements of Commission Merchants,
Dealers, Brokers, and Agents
Readoption: N.J.A.C. 2:72

Authority: N.J.S.A. 4:1-11.1 and 4:11-15 et seq., specifically 4:11-33.1.

Authorized By: The State Board of Agriculture and Douglas H. Fisher, Secretary, Department of Agriculture.

Effective Date: April 21, 2022.

New Expiration Date: April 21, 2029.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 2:72 were scheduled to expire on June 21, 2022. N.J.A.C. 2:72 protects New Jersey growers of perishable agricultural commodities by insuring that the buyers of perishable farm products doing business with New Jersey farmers have on deposit with the Department of Agriculture (Department) sufficient security bond to cover their purchases.

The rules provide New Jersey farmers with a method of recovering monies owed to them by licensed agricultural commission merchants (any person engaged in the business of soliciting or receiving any perishable agricultural commodity for sale on commission on behalf of the grower thereof), brokers, agents, and commodity dealers, in the event of bankruptcy or default by enabling the farmer to file a verified claim

against the security or deposit held by the Department. The rules establish a formula to be used in determining the amount of the required bond, as well as the claim filing procedures and the requirement that dealers, commission merchants, and brokers issue invoices that record the terms of the transaction. The rules also explain the need to obtain and record vehicle tare weight and gross weight.

The rules continue to protect New Jersey growers from economic disadvantages caused by the failure of buyers to promptly pay for products ordered and received from growers.

The Department of Agriculture has reviewed these rules and has determined that the rules should be readopted without change. These rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(a)

DIVISION OF MARKETING AND DEVELOPMENT**Notice of Readoption****Controlled Atmosphere Storage Apples****Readoption: N.J.A.C. 2:74**

Authority: N.J.S.A. 4:1-11.1, 4:10-26 et seq., specifically 4:10-30.

Authorized By: The State Board of Agriculture and Douglas H.

Fisher, Secretary, Department of Agriculture.

Effective Date: April 21, 2022.

New Expiration Date: April 21, 2029.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 2:74 were scheduled to expire on June 21, 2022. The rules regulate the use of controlled atmosphere storage facilities and the disposition of apples exposed to such storage, thereby promoting the New Jersey apple industry. The controlled atmosphere process, through the use of atmospheric and temperature controls, preserves the quality of apples in storage and extends the marketing season of the product. As such, the rules have an impact on consumers, distributors, and owner/operators of apple storage facilities.

The rules provide the construction, registration, and recordkeeping requirements, as well as the fee charged for each controlled storage room.

The rules also set forth the required atmospheric and temperature controls used in this process, the records to be kept by each owner or operator, the necessity for an invoice covering the sale of controlled atmosphere storage apples and the means used by the Department of Agriculture (Department) in verifying the process. The rules also explain misrepresentation and the requirements for trade and the requirements for storage facilities in and outside the State of New Jersey and the penalties for violating the law and/or the rules.

The rules continue to provide the apple industry with additional marketing strategies during seasons when weather conditions, economic conditions, and/or supply problems are evident and have been effective in prohibiting fraudulent branding of apples that have not been stored under controlled atmosphere conditions.

The Department has reviewed the rules and has determined that these rules should be readopted without change. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), the rules are readopted and shall continue in effect for a seven-year period.

MILITARY AND VETERANS' AFFAIRS

(b)

OFFICE OF THE ADJUTANT GENERAL**Notice of Readoption****Leaves of Absence for Military Duty for and by Members of the Organized Militia****Readoption: N.J.A.C. 5A:2**

Authority: N.J.S.A. 38A:3-6.o and 38A:4-4.

Authorized By: Brigadier General Lisa J. Hou, D.O., The Adjutant General, Commissioner, Department of Military and Veterans' Affairs.

Effective Date: April 19, 2022.

New Expiration Date: April 19, 2029.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules for Leaves of Absence for Military Duty for and by Members of the Organized Militia, N.J.A.C. 5A:2, were scheduled to expire on July 21, 2022. The Department of Military and Veterans' Affairs (Department) has reviewed these rules and has determined that the rules should be readopted because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1c, timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The rules provide clarification of N.J.S.A. 38A:4-4, which provides for paid leaves of absence for members of the State's organized militia, that is the New Jersey Army National Guard, New Jersey Air National Guard, New Jersey Naval Militia, and the New Jersey State Guard. The intent of N.J.A.C. 5A:2 is to clarify the entitlement of New Jersey public employees serving in New Jersey's organized militia to paid leaves of absence for certain types of military duty. The Legislature acknowledged the benefits to society gained from the military service of the State's organized militia members and provides paid leaves of absence for military service as an added incentive for public employees to serve.

ENVIRONMENTAL PROTECTION

(c)

WATERSHED AND LAND MANAGEMENT**DIVISION OF LAND RESOURCE PROTECTION****Notice of Readoption****Freshwater Wetlands Protection Act Rules****Readoption: N.J.A.C. 7:7A**

Authority: N.J.S.A. 13:9B-1 et seq., and 58:10A-1 et seq.

Authorized By: Shawn M. LaTourette, Commissioner, Department of Environmental Protection.

Effective Date: April 12, 2022.

New Expiration Date: April 12, 2029.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A are readopted and shall continue in effect for a seven-year period. The rules were scheduled to expire on August 5, 2022. The Department of Environmental Protection (Department) has reviewed these rules and has determined that the rules should be readopted because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c, timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The Freshwater Wetlands Protection Act Rules implement the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., in order to protect the purity and integrity of the State's inland waterways and freshwater wetlands from random, unnecessary, or undesirable alteration or disturbance and to provide predictability in the protection of freshwater