

Maine State Hemp Program

Annual Report Fiscal Year 2022



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INTRODUCTION

The Maine Department of Agriculture, Conservation and Forestry's Division of Animal and Plant Health in the Bureau of Agriculture, Food and Rural Resources is pleased to submit this annual report on the State's hemp licensing program to the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to 7 MRSA § 2231(11).

2022 was a pivotal year for the hemp program. After operating under the 2014 Farm Bill authority from 2016 – 2021, the State program needed to come into compliance with the federal rules based on the 2018 Farm Bill. Maine's growers favored this change, and LD 1942 was passed during the 130th Legislature, facilitating that transition.

Unfortunately, the hemp market in Maine continues to be depressed. According to the leading hemp market report, the assessed price of CBD Hemp Biomass sank to a new all-time low in November of 2022 for the second consecutive month. Persistently declining biomass prices are likely due in part to many remaining players in the hemp-CBD sector being vertically integrated or having secure arrangements with cannabinoid hemp growers, thus suppressing demand for spot wholesale biomass. As we have reported previously, accounts from the field tell of a dwindling amount of viable CBD biomass available for sale. At the same time, state and federal data show that this year's CBD hemp production acreage is a sliver of what was grown in 2019 and 2020.

Maine growers from previous seasons continued trying to find buyers for their crops. The number of hemp licenses and acres dropped in 2022, consistent with trends across the United States. Hemp licenses issued in 2022 were less than half the number of those issued in 2021. An additional factor resulting in low grower numbers was the uncertainty around the fate of the State Hemp Program as the department and growers awaited the result of the Legislature vote on LD 1942, which proposed to make the Program compliant with federal rules. Should LD 1942 have not passed, we would have needed to turn the administration of the Program over to the USDA.

The median licensed grow site area remained less than an acre in 2022, and for the first time, one hemp grower produced about 1.5 acres of grain. Otherwise, the most successful business strategy we've seen is vertically integrated smaller floral hemp grower businesses making CDB and CBG products for niche markets.

In the absence of investment in infrastructure to support other types of hemp crops like grain and fiber, the Program speculates that the number of licensed hemp growers will remain low. The revised licensing rules adopted by the Department in February of 2023 reduce licensing fees if growers choose to produce grain or fiber. Hopefully, this incentive will spur more interest in growing these commodities.

There must be at least 150 licensed growers to provide enough revenue to fund the Program. If the number of 2023 licenses stays below 50, the Department will need to seriously consider whether to turn the hemp licensing program over to the USDA-AMS. Eight states no longer have hemp grower licensing programs. Vermont was the most recent state to abandon its licensing Program.

ANNUAL REPORTING REQUIREMENT

Under 7 MRSA § 2231(11), the Department is to submit an annual report regarding the Hemp Program that provides:

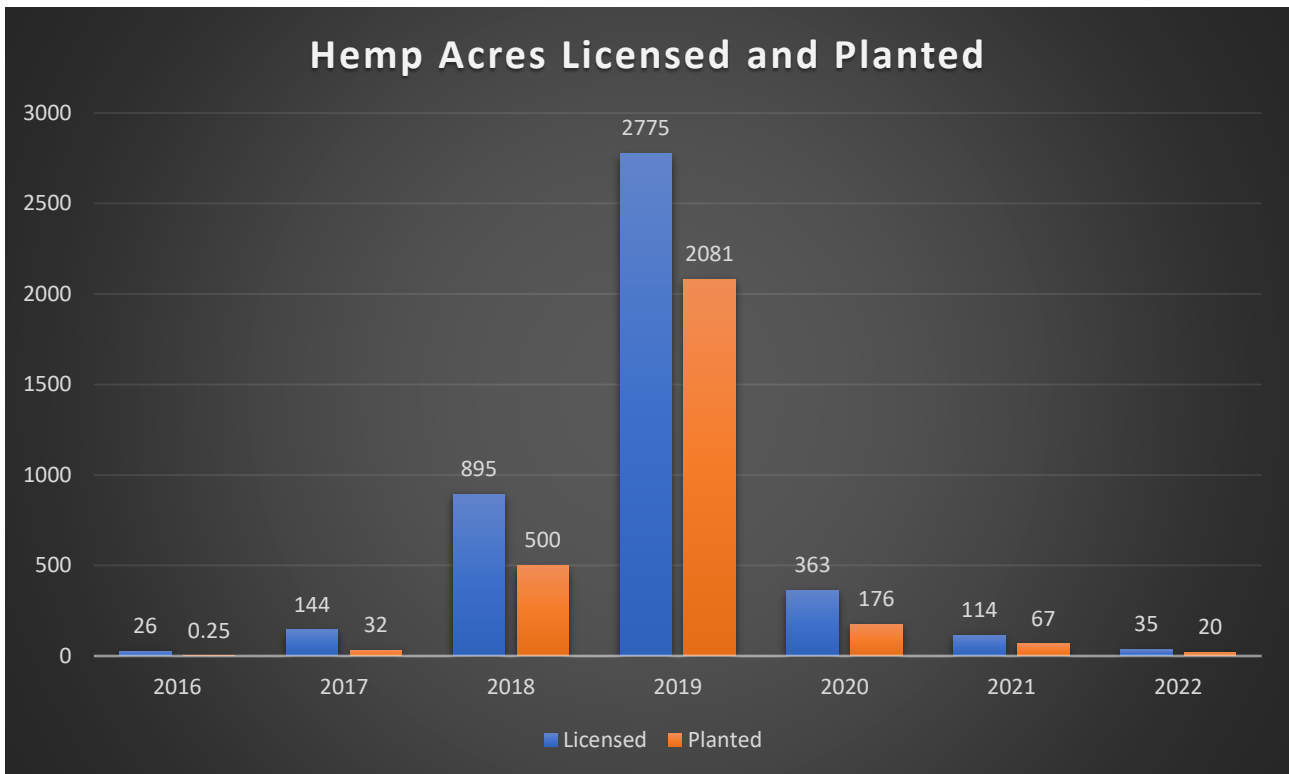
- A. The number of licenses issued;
- B. The number of acres of all land areas licensed for the cultivation of hemp and the square footage of indoor facilities licensed for the cultivation of hemp;
- C. The total amount of harvested hemp, in pounds;
- D. The types of commodities or products derived from hemp manufactured or sold within the State; and
- E. The types of commodities or products derived from hemp exported outside the State.

A. The number of licenses issued in 2022; and,

B. The number of acres of all land areas licensed for hemp cultivation.

2022 was the hemp licensing program’s seventh year of operation. We received 20 applications and issued **18 final hemp license agreements to grow on 35 acres.**¹ By summertime, 18 license holders had planted the crop on approximately 20 acres in total². One indoor license was issued for 600 sq. ft.

Licenses Issued	2016	2017	2018	2019	2020	2021	2022
Outdoor	2	32	82	181	111	49	17
Indoor				10	8	0	1



¹ Not everyone who applied for a license completed the process, and not everyone who was issued a license grew a crop.

² Acreage includes 336 sq. ft. of indoor hemp grown by one licensee.

C. Total amount of harvested hemp in pounds

The Hemp Program now collects grower data through an online harvest report survey. All growers responded to the survey. Twenty acres (including 336 sq. ft. of indoor hemp and 18,059 plants) were reported as harvested. One farmer reported total crop losses due to drought, another had one-half the crop stolen, and a third lost about 60 pounds of floral hemp due to an early frost. Total dry weights for the major categories of hemp products are presented below:

- 10,428 pounds of whole plant/biomass
- 1,560 pounds of flower bud
- 675 pounds for research purposes
- 200 hemp seedlings sold
- 100 pounds of grain

D. The types of commodities or products derived from hemp manufactured or sold within the State; and,

E. The types of commodities or products derived from hemp exported outside the State.

The same harvest survey was used to collect data from growers about the commodities that their hemp would be used to make for in-state and out-of-state markets. Survey takers could select multiple products.

The profile of products sold in-state and out-of-state are very similar. Within Maine, CBD and CBG extracts, tinctures, full-spectrum oil, gummies, smokable bud, topicals, biomass for terpene extraction, pet treats, pet supplements, beverages, and capsules were the top products.

The top products sold to out-of-state markets were tinctures, CBD and CBG extract, full-spectrum oil, topicals, smokable bud, gummies, pet treats, and pet supplements.

The Hemp Program issued three licenses for research in 2022. That hemp was not destined for any market. One researcher continues to explore the possibility of removing PFAS chemicals from contaminated soil at the Loring Air Force base.

DISCUSSION

As mentioned previously, DACF is concerned that the number of licensed hemp growers cannot sustain the licensing Program. The recently adopted rules originally proposed including provisions for licensing hemp processors to determine their location and processes used. Adding processors would have allowed further revenue collection. However, the Department ultimately did not adopt the processor licensing provisions because of ongoing concerns regarding the development of intoxicating hemp products. Substantive comments received during the rulemaking process suggested that adopting processor licensing rules would provide legal cover for producers making these intoxicating hemp products. Such products are discussed further below.

Staff is also eager to turn their attention to other work that can give hemp a much-needed boost while helping Maine's farm economy. These include:

- Continuing to partner with the University of Maine Cooperative Extension on education and technical assistance.
- Promoting other types of hemp crops. Grain and fiber crops are expected to be the future of hemp.¹ Access to federal programs and lending institutions is vital to the kind of investment grain and fiber will likely require.
- Working with our Congressional delegation, fellow hemp regulators, and USDA on improving the Hemp Rule and its implementation.
 - To date, we have worked directly with Representative Pingree's office to forward our concerns about needed improvements, including the removal of the background check requirement and increasing the THC standard to 1%. Improvements to this Program were also included in Governor Mills' letter outlining recommendations for the next Farm Bill.
- Researching the phytoremediation potential of hemp. This plant may be a valuable tool for remediating contaminated soil in Maine, including per- and polyfluoroalkyl substances (PFAS).

EMERGING CONCERNS REGARDING INTOXICATING HEMP PRODUCTS

The term "cannabis" refers broadly to plants in the genus *Cannabis*, family Cannabaceae. Cannabis regulations generally distinguish between low-THC plants or products made from low-THC plants ("hemp") and high-THC plants or products made from high-THC plants ("marijuana").

In 2018, hemp was removed from the United States federal schedule of controlled substances by the Agriculture Improvement Act of 2018, also referred to as the "2018 Farm Bill" (Public Law 115-334). This represented a significant expansion of privileges implemented through the Agricultural Act of 2014, which allowed the establishment of agricultural pilot programs to cultivate industrial hemp (Public Law 113-79). Further, Congress' approval of hemp cultivation and hemp-derived products proven to be at or below 0.3% delta-9 THC was expected to result in products that were not intoxicating and instead suitable for fiber products, vegetable oil, or grain for human and animal food.

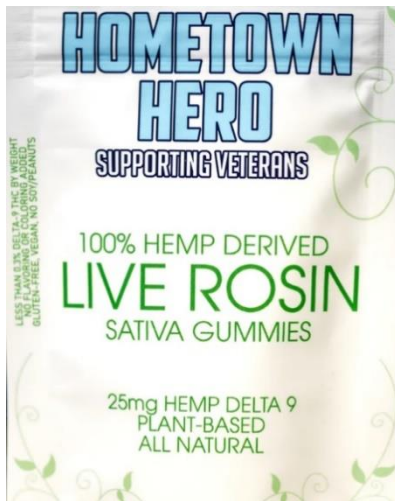
The 2018 Farm Bill defines hemp as including "all derivatives, extracts, cannabinoids, isomers, acids,

¹ According to the National Hemp Association, the US hemp fiber and grain sector is projected to have a \$32 billion economic impact by 2030. See <https://nationalhempassociation.org/wp-content/uploads/NHA-Economic-Impact.pdf>

salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.” The federal law also removed products and commodities made from hemp from the DEA schedule of controlled substances.

Nationally, many hemp product manufacturers have realized the percent-by-weight definition provides a loophole allowing them to make products from hemp CBD or hemp THC that contain intoxicating hemp-derived compounds. These products include psychoactive ingredients such as delta-6 THC, delta-8 THC, delta-9 THC, delta-10 THC, THC-O, and others. Such products technically meet the state and federal definition of hemp because they are less than 0.3 THC by weight, even though they contain enough psychoactive ingredients to be intoxicating. Some of these “hemp” products contain as much as 25 milligrams of delta-9 THC, the psychoactive ingredient in high-THC cannabis, also known as marijuana (see label images and links below). The recommended dose for delta-9 THC is only 5 milligrams. These hemp products contain two to five times the recommended dose yet can be sold over the counter to anyone of any age since there are no restrictions on the sale of hemp products.

Many states are considering legislation to remove this loophole and stop or restrict the sale of intoxicating hemp. DACF shares concerns about this loophole, and staff are available to provide additional information to the Legislature regarding this growing national issue.



<https://urb.shop/products/edible/d9-thc-gummies-300mg-dragonfruit-paradise/>

<https://www.youtube.com/watch?v=5O2ZkZn4MKE&t=4s>

<https://trojanhorsecannabis.com/shop/edibles/gummies/gummies-tropical-blast-51-15-count-15mg-d9-thc/>