

Emergency Rule
LSA Document #23-531

DIGEST

Temporarily adds provisions to update and clarify the requirements for licensing, production, and management of hemp and agricultural hemp seed. Statutory authority: [IC 15-15-13-14](#). Effective June 30, 2023.

SECTION 1. The definitions in this rule [document] apply throughout this document.

SECTION 2. "Acceptable hemp THC level" means the percent distribution or range of delta-9-tetrahydrocannabinol that includes 0.3% THC or less on a dry weight basis with the measurement of uncertainty when a laboratory tests a sample for total THC. The distribution or range reported must be the delta-9-tetrahydrocannabinol content on a dry weight basis with the measurement of uncertainty.

SECTION 3. "Agricultural hemp seed" means Cannabis sativa seed that is derived from parent plants documented through analysis and receipt of a certificate of analysis or an equivalent document to be not greater than acceptable hemp THC level at the time of harvest. The seed must be of a specified variety and documented seed source, for the production of seed for sowing.

SECTION 4. "Cannabis" is a genus of flowering plants in the family Cannabaceae, of which Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis are subspecies thereof. The term refers to any form of the plant in which the total delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.

SECTION 5. "Cooperator laboratory" means a laboratory that receives hemp, for any purpose, including as:

- (1) a diagnostic laboratory that receives hemp; or**
- (2) an analytical laboratory.**

The term includes a laboratory that is determined by the Indiana state police to be a cooperator laboratory for state police purposes. A cooperator laboratory that is not a state police laboratory must be licensed by the state seed commissioner to receive and handle hemp.

SECTION 6. (a) "Crop" means any hemp grown under a single license issued by the state seed commissioner under [IC 15-15-13](#).

(b) The term includes the following:

- (1) A crop comprised of one (1) or more fields or grow sites.**
- (2) A crop comprised of the same variety or differing varieties.**

SECTION 7. "Crop disposal" means the complete annihilation of a hemp crop by plowing under, mulching, composting, disking, chopping or bush mowing, deep burial, burning or other means so that THC is nonretrievable and the residue is noningesitable.

SECTION 8. "Crop termination" means intentionally causing a hemp crop to rapidly cease its growth:

- (1) through cutting down the crop (severing completely the stalks of the plant); or**
- (2) by application of an effective herbicide.**

A terminated crop that is not terminated with a pesticide may be used in certain situations when specifically approved by the state seed commissioner.

SECTION 9. "Distribute" means to sell, exchange, barter, broker, supply, to offer to provide such services, or to advertise to provide such services, for hemp.

SECTION 10. "Field average" means the results of an analysis of a consolidated sampling taken from multiple places within a planted variety from a field or other hemp production site. The field average may be a part of the crop or the whole of the crop depending on how the licensed grower has partitioned the crop fields, and determined to be appropriate to the situation by the state seed commissioner. The sampling and the average apply individually to each variety sown or planted, when sown or planted as segregated varieties and not mixed varietal stands, of hemp as the crop. Varieties of hemp may not be

mixed with other varieties to obtain a field average.

SECTION 11. "Geospatial location" means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.

SECTION 12. "Grow site" means any place or location where a hemp crop is legally grown whether outdoors or indoors.

SECTION 13. (a) "Grower" means a person who conducts any hemp growing activity.

(b) The term includes a person who grows hemp as part of the Indiana hemp research program under authority of the state seed commissioner.

(c) A grower who conducts an activity subject to this document must be licensed by the state seed commissioner.

(d) A grower of clones is subject to this document and is held to the same standards and accountabilities numerated in [IC 15-15-13-9.5](#).

SECTION 14. (a) "Handler" means a person who receives hemp for any purpose and who is not the grower of the hemp but who is providing a service to or transacting with another person. A handler must be licensed under this document.

(b) The term includes a person who conducts an activity or provides a service regulated under this document including a person who receives, transports, brokers, processes, stores, or makes available for distribution hemp, offers for sale, distribution, gifting of hemp, hemp for scientific research, or for processing into commodities or products exempted from regulation by state or federal law, or agricultural hemp seed.

(c) The term includes a cooperator laboratory licensed under this document that is competent to perform analyses of hemp.

SECTION 15. (a) "Hemp" means the plant *Cannabis sativa* L., and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, for any part of the *Cannabis sativa* plant L.

(b) The term includes the following:

(1) Hemp clones, agricultural hemp seed, hemp grains, and hemp propagative materials, such as cell cultures, cuttings, grafts, other asexual methods of propagation, and all derivative and extracts of hemp as defined in law.

(2) Hemp in any stage, and raw harvested hemp (whole, chopped, shredded, cut, retted, etc.) distributed to a handler licensed under this document.

(3) Hemp starts, clones, and microgreens for human consumption or that will not be brought to the flowering stage or physiological maturity.

(c) The term does not mean a hemp product.

SECTION 16. (a) "Hemp product" means a product derived from, or made by, processing hemp plants or plant parts, including derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers.

(b) The term does not include hemp in the growing stages, while in the ground, or the raw harvested hemp, in any form, (e.g., seed, grain, chopped, shredded, cut, retted, etc.). All handlings of harvested hemp, if not by a grower of the crop, must be conducted as a licensed handler under this document up to the final market ready status. A hemp product is market ready, meaning it is finished and labeled or packaged for distribution. No other emendation or process of the "final product" is allowed.

SECTION 17. (a) "Hemp production site" means a site where hemp may be processed, stored, staged, delivered, or received, or other similar activity regulated under this document.

(b) A hemp production site must be reported in a written application for a hemp license issued by the

seed commissioner, including county and geospatial location coordinates in decimal format.

SECTION 18. (a) "Hemp propagative material" means any part of the plant *Cannabis sativa* L. that may be used for propagation of hemp plants; the term primarily refers to propagation by asexual means, including clones, cuttings, rootings, graftings, and cell cultures.

(b) The term includes seeds for sowing that are regulated by [IC 15-15-13](#) and this document as agricultural hemp seed. Agricultural hemp seed may be used for sowing a crop for any purpose for which hemp may be legally grown.

(c) The term does not include a hemp grain or seed that is used for:

- (1) purposes of consumption by humans or animals; or
- (2) crushing or other processing in the production of oils, flour, or meal, or other consumable matrices.

SECTION 19. (a) "Hemp researcher" means an individual who:

- (1) is employed by an Indiana institution of higher education (as defined by [IC 21-7-13-32](#)); and
- (2) is technically qualified to conduct the hemp research that is described; and
- (3) is authorized by the employing institution to do hemp research.

(b) The term includes qualified Purdue University cooperative extension educators, agricultural center managers, certified crop advisor certifications, and persons who are employed by and authorized by Purdue University cooperative extension management to do hemp research.

(c) A hemp researcher is engaged in research in which they are the principal investigator in small scale, noncommercial activities regulated under this document, the primary purpose of which is to gain or contribute knowledge.

(d) A hemp researcher may participate or conduct research in conjunction with a fully licensed commercial enterprise. When research is approved at a commercial enterprise, sampling and testing requirements are the same as for a commercial grower. Hemp grown as commercial research with an acceptable hemp THC level may be sold and distributed. Lead researchers with direct oversight of hemp research projects are subject to the criminal history report requirement.

(e) Hemp produced for research may not enter commerce and must be reported to the Farm Service Agency (FSA) unless the hemp is first officially tested by OISC and found to be compliant.

(f) Subject to subsections (d) and (e), hemp produced for research must be disposed of according to disposal requirements in this document.

(g) Hemp produced for research may be subject to random inspection by the department to ensure compliance.

SECTION 20. "Licensee" means a person who is licensed by the state seed commissioner subject to this document to conduct an activity subject to this document, including:

- (1) a grower (including an agricultural hemp seed producer);
- (2) a handler; or
- (3) a grower and a handler.

SECTION 21. (a) "Licensee of record" means a person who is licensed by the state seed commissioner under this document and who holds a license under which one (1) or more persons licensed under this document are contracted to fulfill the objectives of the license held by the licensee of record.

(b) The licensee of record must assemble any reports or data required as a reporting requirement of this document, based on the reports gathered from those reporting to the licensee of record.

SECTION 22. (a) "Lot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout the area.

(b) The term includes the terms "farm", "tract", "field", and "subfield" as these terms are used by the

SECTION 23. "Measurement of uncertainty" means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

SECTION 24. "Negligent violation" means any of the following:

- (1) Failure to provide a legal description of land on which the producer produces hemp.
- (2) Failure to obtain a license.
- (3) Producing *Cannabis sativa* L. with a delta-9-tetrahydrocannabinol concentration exceeding the acceptable hemp THC level over 1.0% + measurement of uncertainty total THC.

SECTION 25. "OISC" refers to the office of the Indiana state chemist.

SECTION 26. "Official sample" means a sample taken by a representative of the state seed commissioner who has been trained according to office of Indiana state chemist or USDA hemp sampling standards to take the sample and who is authorized to maintain chain of custody for a sample representing a crop upon which a legally required determination will be made by the state seed commissioner, or information that is requested by the state seed commissioner for regulatory purposes.

SECTION 27. "Person", as applicable, means an individual, a partnership, a company, a corporation, a firm, an association, a cooperative, a body politic, a joint stock association, a trustee, a receiver, a fiduciary, an assignee, any representative for any of the entities named, any organized group of persons whether incorporated or not, or similar entities, conducting or advertising to conduct an activity subject to this document or [IC 15-15-13](#).

SECTION 28. (a) "Remediation" means the process of rendering noncompliant cannabis, compliant.

(b) Remediation can occur by:

- (1) removing and destroying flower material, while retaining stalk, stems, leaf material, and seeds; or
- (2) shredding the entire plant into a biomass like material, then retesting the shredded biomass material for compliance.

(c) If the grower elects to perform remediation activities under the state plan, an additional official sample and test of the remediated crop must occur to determine THC concentration levels.

(d) Only crops testing below the acceptable hemp THC level limit are considered to be successfully remediated and thus allowed to enter the stream of commerce.

SECTION 29. (a) "State seed commissioner" refers to the state chemist who is the state seed commissioner ([IC 15-15-1-26](#)).

(b) The term includes the state seed commissioner's representative to whom a responsibility under [IC 15-15-13](#) has been assigned by the state seed commissioner.

SECTION 30. "Testing THC of hemp" means the analysis of hemp for determination of total THC (THC and THCa) using a post decarboxylation or other similarly reliable method and instrumentation that has been determined by the state seed commissioner to accurately and fairly represent the total THC (THC and THCa) in a sample, that allows the state seed commissioner to be confident that the sample is within the acceptable hemp total THC level. Total THC accounts for the conversion of THCa into THC.

SECTION 31. "THC" means delta-9-tetrahydrocannabinol.

SECTION 32. "THCa" means delta-9-tetrahydrocannabinolic acid.

SECTION 33. "USDA" refers to the United States Department of Agriculture.

SECTION 34. "Variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics, by which a plant can be differentiated from other plants of the same kind.

SECTION 35. "Wild Cannabis" means a *Cannabis sativa* L. plant, including the seed thereof, that is

growing, or that has been harvested, not as part of a licensed cultivation. Wild Cannabis is regulated under applicable Indiana marijuana laws, unless it has been collected for purposes of research by a hemp researcher or plant breeder licensed by the seed commissioner subject to this document. Wild Cannabis lots obtained through legal processes by university researchers must be reported to the Farm Service Agency (FSA).

SECTION 36. A person who grows, handles, researches, distributes, conducts laboratory analyses, conducts commerce in hemp, a person who brokers hemp, or otherwise possesses or receives hemp, or otherwise conducts, offers to provide, or advertises to conduct an activity regulated under this document or [IC 15-15-13](#) must be not less than eighteen (18) years of age when first making application to be licensed under this document, and must be licensed by the state seed commissioner and is subject to the rules and statutes set forth in Indiana law.

SECTION 37. (a) The state seed commissioner may issue the following type of hemp licenses:

(1) Hemp growers license to a person that conducts the activities of a grower (farmer, propagator, and the like) including:

(A) Out of doors grow sites, agricultural fields, and similar sites.

(B) Indoor, roofed, or contained operations, including greenhouse operations, shade houses (slatted, netted, or other), cold frames, polyhouses, quonset hut, warehouses, and the like, hemp production facilities (hydroponics and grow-light houses or rooms).

(C) Agricultural hemp seed production. A person in this license category engages in the sale of seed for sowing and use in growing a crop that is fiber, grain, or a crop for cannabinoid extraction. A licensed person is subject to the applicable federal law and regulations and applicable Indiana seed laws, in addition to any applicable requirements subject to seed certification requirements held by Indiana Crop Improvement Association.

(D) Hemp grain is a crop grown for seed as oil, meal, flour, whole grain for consumption, or other consumption by humans or animals, as allowed by law. However, hemp grain is not licensed for sowing or for seed to produce a crop.

(2) Handlers license to a person who receives hemp for any reason, other than to conduct the activity of a grower, including persons who transport hemp in any quantity, process, bale, harvest, inspect hemp, broker, test hemp, provide laboratory support, or who receive hemp for any purpose. A person who advertises or offers to perform these or similar services is a handler. A grower of hemp does not require a license as a handler to conduct activities of a grower.

It is the responsibility of a licensed person to ensure that employees, volunteers, family members, or others servicing a hemp production site, and subject to the management of the licensee, comply with the requirements of this document.

(b) A hemp license application to conduct any activity subject to this document or an activity regulated under [IC 15-15-13](#), must be filed with the state seed commissioner on an official application form provided by the state seed commissioner's office and include the following:

(1) An applicant for a license may be not less than eighteen (18) years old when first making application.

(2) An applicant shall provide the state seed commissioner with the following information on hemp production sites, on an official form provided by the state seed commissioner:

(A) legal description of the land;

(B) geospatial location coordinates in decimal format; and

(C) the county.

These records must be retained by the applicant and by the state seed commissioner for at least three (3) years.

(3) An applicant must provide a valid and accurate state or federal government issued identification, such as a state driver's license, a passport, or a government identification card.

(4) Not more than sixty (60) days before submitting an application for a hemp license, the applicant must apply for a background check through the Federal Bureau of Investigation's Identity History Summary.

(5) All background checks must be paid by the applicant to the issuing agency.

(6) An applicant must successfully pass a background check that is required by the state seed commissioner, including a review of ten (10) years from the date of application that the applicant does not have a conviction for a for *[sic]* a *[sic]* drug related felony or drug related misdemeanor. A person with a state or federal felony relating to a controlled substance is ineligible to participate in the Indiana State Hemp Program plan for ten (10) years from the date of the conviction. However, an exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before

December 20, 2018, and whose conviction occurred before that date.

(7) A licensee lawfully with a license under the Indiana pilot program authorized by section 7606 of the USDA Agricultural Act of 2014 (7 U.S.C. 5940) before October 31, 2019, is exempt from the requirements under subdivision (6).

(8) An applicant must pay a nonrefundable application fee made to OISC at the time the application is made.

(c) An applicant or a licensee may not conduct an activity regulated under this document on property owned by, leased from, or previously submitted in an application by any person who is ineligible or was terminated or denied a license by the state seed commissioner for any of the following reasons:

- (1) Failure to obtain an acceptable criminal background check.
- (2) Failure to comply with an order from the state seed *[sic, commissioner]*.

(d) An applicant and licensee shall:

- (1) use a variety of hemp that has demonstrated a high degree of compliance with federal and state laws not in exceedance of the acceptable hemp THC level; and
- (2) manage both a monitoring and a harvest plan that presages elevation of THC beyond the acceptable hemp THC level, including especially for those varieties that are used for CBD production.

(e) An applicant must declare the intended use of the crop for each variety of hemp named in an application for license and any subsequent added or replaced varieties to an application. Any change of variety or purpose must be reported to the state seed commissioner within ten (10) days of the date of receipt of the seed or clones.

(f) An applicant must attest and provide confirmation if the applicant has a written letter of intent or a buyer or grower contract for the hemp crop that is to be grown. Documentation, including all information required on the application form of the state seed commissioner, e.g., buyer, location, acreage or quantity contracted, purpose of grow (CBD, fiber, grain, oil, etc.), crop monitoring plan to avoid exceeding 0.3% total THC must be made available at the time of application.

(g) After December 31, 2022, an applicant must declare and attest to a United States Drug Enforcement Administration registered laboratory to conduct analytical testing for total THC.

(h) An applicant must present as part of the application a crop testing plan that includes regular monitoring by the grower or receiving handler of the crop during growth and a plan to take the crop down if the crop trends in exceedance of the acceptable hemp THC level.

(i) An applicant must declare each:

- (1) site by field;
- (2) storage site;
- (3) receiving site;
- (4) staging site; and
- (5) similar site;

where hemp activities subject to this document or [IC 15-15-13](#) may take place. Each site must be labeled, including given a unique name and state the intended function of the site (e.g., grow site, processing site, greenhouse, etc.) and the geospatial location in a decimal format.

(j) Each applicant must agree to provide an annual harvest and disposal report to be provided on an official form of the state seed commissioner. Failure to provide a report will result in denial of an applicant's request for a hemp license renewal.

(k) A grower or handler license issued for the Indiana research program must include a research proposal of adequate verbiage to clearly explain the intent of the research and the anticipated outcome. The research proposal must also indicate the name and contact information of a cooperating Indiana hemp researcher who is a licensee.

(l) Growing of hemp varieties that, based on reports, are known to run in exceedance of the acceptable hemp THC level will not be routinely approved, except by review and explicit approval by the state seed commissioner.

(m) The license application must be approved in writing by the state seed commissioner before

conducting any hemp activity or the handling or receipt of hemp, including distribution, transport of hemp, or adverting to receive, distribute, or transport hemp, agricultural hemp seed, or hemp clones.

(n) A license expires on December 31, in the year for which the license is issued, unless revoked for cause.

(o) A license number must be in the following format 18_#### - when issued by the state seed commissioner.

(p) A licensee, at the time of application for a license, must agree to comply with an order issued by the state seed commissioner if the hemp crop is found to exceed the acceptable hemp THC level.

(q) The state seed commissioner shall report and provide to the USDA Secretary of Agriculture relevant real-time information for each producer licensed to produce hemp under Indiana law, including:

- (1) contact information, including the Indiana street address, city, county, for each hemp production or hemp grow site;
- (2) the acreage of each hemp production site or hemp grow site; and
- (3) license number of the grower.

The state seed commissioner shall also report a legal description of the land, or an accurate geospatial location in decimal format, telephone number, and email address (if available), and the status and license number of the licensee. Changes in records or licenses must be updated to the USDA.

(r) Indiana's official labs must report results to the USDA. It is also required that any laboratory used by Indiana growers and approved by the United States Drug Enforcement Administration (after December 31, 2022) and approved by OISC must report results to the USDA.

(s) OISC shall report to the USDA Secretary of Agriculture, on USDA forms, all required documents, test results, contact information, background check approval dates, and other information as required in 7 CFR 990.7 and within thirty (30) days of the information being received.

(t) A person who applies for a license as business must provide as part of the application for a hemp license the person's Employer Identification Number (EIN).

(u) A business making an application for a hemp license must identify the key participants in their organization required to have a background check subject to subsection (b)(6). A key participant refers to a sole proprietor, a partner in partnership, or a person with executive managerial control in the business or corporation. A person with executive managerial control includes a chief executive officer, chief operating officer, and chief financial officer. A key participant does not include nonexecutive managers such as farm, field, or shift managers.

(v) Contract growers, hemp cooperatives, and similar entities are not exempt from the licensing requirements under this SECTION.

(w) A person who is licensed under this document shall report hemp crop acreage to the Farm Services Agency (FSA) and to the Agricultural Marketing Service, including the following:

- (1) Street address, if available, and geospatial location for each production or grow site where hemp will be grown or handled.
- (2) Acreage dedicated to the growing of hemp, or greenhouse, or indoor square footage dedicated to the growing of hemp, must be reported.
- (3) License number of the grower.
- (4) The purpose of the crop as fiber, grain, CBD, or other.

(x) A grower in possession of hemp, hemp clones, or agricultural hemp seed, without reporting to the seed commissioner and the Farm Service Agency (FSA) within thirty (30) days after the Farm Service Agency (FSA) deadlines will be assessed a late fee of seven hundred fifty dollars (\$750). This fee is not a civil penalty but is considered a negligent violation.

(y) The state seed commissioner shall revoke the license of a grower who does not submit the report by September 1 of the growing year.

(z) The assessment of late fee does not prevent the state chemist from taking other actions against a

person under this document.

(aa) A licensee agrees to allow unrestricted access during business hours to all buildings, fields, crops, handling facilities, and records for cultivation and production of hemp to the state seed commissioner, or the state seed commissioner's authorized representative, state police department, an authorized third party sampler, or the USDA.

SECTION 38. (a) A person that conducts the following activities or advertises to conduct the following activities, or similar activities, must possess a valid hemp grower license issued by the state seed commissioner:

- (1) Growing hemp, offering to grow hemp, or contracting to grow hemp.
- (2) Growing agricultural hemp seed, or hemp for seed production for sowing, offering to handle, receive, or handling, agricultural hemp seed including:
 - (A) the sale of seed for sowing or for use in research purposes as seed;
 - (B) seed to be sown for development of new varieties;
 - (C) seed to be sown and harvested and devitalized for a wild bird feed; or
 - (D) seed to be sown and harvested and used as a federal Food and Drug Administration or USDA approved food for humans or animals.

(b) A person who sells agricultural hemp seed for sowing in Indiana must:

- (1) be a licensed seedsman under Indiana seed law ([360 IAC 1](#)); and
- (2) obtain a grower's license as an agricultural hemp seed grower.

A person who sells agricultural hemp seed in Indiana is subject to the federal seed code and all Indiana seed law requirements regulating the sale, labeling, reporting, and distribution of seed.

SECTION 39. (a) A person who receives, possesses, or processes hemp, whether from a facility or not, or offers to process hemp as a middle step in moving from the grow site, or from another processor to manufacturing must be licensed as a handler. Examples of processing include the following kinds of activities:

- (1) Use of any hemp plant part or clone for drying, extraction, distillation, crushing, pressing, desiccation, devitalizing, and the like.
- (2) Any process that subjects hemp to a physical or chemical activity on any hemp including extracting, shredding, cleaning, baling, carding, stripping, drying, freeze drying, decanting, filtering, using in a digester, or other similar processing.

(b) A person, who makes available a facility to receive hemp for any purpose, offers to receive hemp, for purposes of preparing, storing, drying, manufacturing, or producing a hemp-manufacturing step, or a legal hemp product must be licensed as a handler.

(c) A person who:

- (1) distributes hemp clones; and
- (2) is not a grower;

is subject to [IC 15-15-13-9.5](#).

(d) A handler license is required for a person who acts as any of the following:

- (1) A processor.
- (2) A transporter.
- (3) A service provider (including harvest, storage, laboratory testing, and similar activities determined to be acceptable by the state seed commissioner).

In addition to the above, as applicable, a handler who is a processor must maintain a list of all solvents and extracting solutions used in processing, retain records for two (2) years of any laboratory analyses on the runs, especially to track testing for metals, mycotoxins, pesticides, or similar contaminants and adulterants. The processor must maintain and have available for inspection by the Indiana department of health or OISC a food safety plan and practice compliant with 21 CFR Part 111, 21 CFR Part 501, or Indiana department of health standards as applicable to their own operations.

(e) A person who:

- (1) conducts transportation activities or advertises to conduct transportation activities; and
- (2) is not a grower conducting these activities for their own crop management purposes and not those of another;

must be in possession of a hemp handler license issued by the state seed commissioner. However, the

interstate movement of hemp through Indiana is allowed and may not be prohibited by the state seed commissioner.

(f) A person who transports or offers to transport hemp must have in their immediate possession while transporting hemp under a handler license and must provide the following:

- (1) Evidence of a valid hemp handler license from the state seed commissioner.
- (2) The driver must hold a valid driver's license that includes the driver's photo and current legal address.
- (3) An invoice or delivery document showing to whom the hemp is to be delivered, the full address, telephone number, variety of hemp, and quantity of hemp.
- (4) A valid certificate of analysis issued by a competent laboratory showing the total THC for the hemp transported or a copy of the certificate.

(g) A person who is the licensee, a family member of the licensee, or a person who is working for the licensee may transport the person's own hemp if the person meets the same requirements in subsection (f).

SECTION 40. (a) A grower who is aware a hemp crop grown under their *[sic]* exceeds the acceptable hemp THC level, whether notified by the state seed commissioner or not, shall:

- (1) secure the crop;
- (2) harvest the crop within thirty (30) days of sampling; and
 - (A) transport the crop to an approved Indiana reverse distributor; or
 - (B) dispose of the crop in a designated site in a manner that complies with local and state burn laws and verify disposal of the crop with the state seed commissioner.

(b) A request for an official growing season sample must be made in writing to the state seed commissioner not less than thirty (30) days before the expected harvest and be requested that the inspection be conducted in a field that is within fifteen (15) days of harvest at the time of the requested official sample. The request must include the exact location of the crop to be sampled and the date of the harvest. The harvest of the hemp must happen within thirty (30) days of the official sample.

SECTION 41. (a) A person conducting research on hemp or doing plant breeding research as a hemp researcher, and who is:

- (1) employed by an institution of higher education higher *[sic]* education *[sic]* (as defined by [IC 21-7-13-32](#)); or
- (2) employed by a commercial entity that conducts research on hemp;

must be licensed as a grower by the state seed commissioner.

(b) The hemp researcher must meet the following:

- (1) The researcher must be in the employ of an institution of higher education (as defined by [IC 21-7-13-32](#)).
- (2) The researcher must be academically qualified or qualified through the demonstration of relevant experience.
- (3) The researcher must be authorized by the institution of higher education in which the researcher is employed to conduct research on hemp.

(c) The expected research protocol requires an individual to be in possession of, physically handle, walk fields or other hemp production sites, or likely to be physically in contact with hemp, whether in laboratory, storage and warehouse sites, or grow sites, and other sites of contact.

(d) The state seed commissioner may waive some license requirements for:

- (1) Purdue University Cooperative Extension educators;
- (2) Purdue Agricultural Center managers; and
- (3) other institution of higher education faculty;

who are not actively managing their own research as a principal researcher, but who are advising growers in an authorized state research program, for purposes of working with cooperators, or assisting growers in conducting research.

(e) Notwithstanding the requirements of this document and subject to the approval of the seed commissioner, a person conducting hemp research may be:

- (1) exempted from the requirements of minimum acreage as described in this document; and

(2) exempted or charged a reduced cost for license fees.

(f) The cost of a background check, if any, is the responsibility of an applicant.

(g) A cooperating researcher employed by a legally recognized academic institution under [IC 15-15-13](#), and subject to employment conditioned upon compliance with Indiana drug laws, does not need to be licensed for purposes of serving as an advisor to a licensee, but must be registered with the state seed commissioner and complete the standard application form.

(h) A licensee must be qualified as a researcher and must also present and have approved in writing by the state seed commissioner a detailed research proposal and an investigational site that is restricted in size (not commercial sized).

SECTION 42. (a) Upon completion of an application for a:

(1) grower or handler license; or

(2) renewal of a license for grower or handler license;

a nonrefundable payment of not more than one thousand dollars (\$1,000) must be paid to OISC for each application.

(b) A grower or handler in possession of hemp, hemp clones, or agricultural hemp seed, without having an approved license issued by the state seed commissioner, or reporting a grow site location must be assessed a late fee of seven hundred fifty dollars (\$750) in addition to the required nonrefundable application fee to obtain a license. This fee is not a civil penalty. A violation of this subsection is a negligent violation.

(c) A change of record fee of fifty dollars (\$50) must be paid for any request for a change in field, to cancel a grow site, to add a grow site, to replace a grow site, other hemp production site, or handling site after a license has been issued.

(d) A remediation sampling, travel, and laboratory fee of three hundred twenty-five dollars (\$325) will be charged to a licensee as permitted by law.

SECTION 43. A license application for any hemp activity regulated under this document for which a license is required for conducting a regulated activity any given year may be initiated when publicly announced by the state seed commissioner, but no earlier than October 1 of the year preceding the year for which the license is sought.

SECTION 44. An applicant for renewal of a hemp license issued under this document is subject to all requirements of an applicant for a license.

SECTION 45. (a) The state seed commissioner may revoke a license issued under [IC 15-15-13](#) of a person that fails to cooperate with any of the following:

(1) The state seed commissioner.

(2) The state police.

(3) A federal law enforcement agency.

(4) A local law enforcement agency.

(5) A person making an official inspection or taking of a sample of any hemp crop during the crop's growth phase.

(b) The seed commissioner may revoke the license of a person that grows, sells, or distributes hemp for any of the following reasons:

(1) That the licensee has not complied with the requirements under [IC 15-15-13-9.5](#).

(2) The report required in [IC 15-15-13-9.5\(a\)](#) has not been submitted and is more than ten (10) days late.

(3) The report required in [IC 15-15-13-9.5\(a\)](#) contained false information.

(4) The labeling requirements under [IC 15-15-13-9.5](#) have not been met.

SECTION 46. The state seed commissioner may revoke or refuse to issue or renew a hemp license or an agricultural hemp seed production license for any of the following:

(1) A violation of a license requirement.

(2) A violation of license terms of conditions, including falsification or misrepresentation of license.

- (3) A violation of [IC 15-15-13](#) or a rule relating to the growing or handling of hemp.
- (4) The discovery of a drug conviction of a licensee after a license has been issued.
- (5) A person who violates [IC 15-15-13-19](#) in the sale of hemp buds (as defined in [IC 35-48-1-17.2](#)) or hemp flowers (as defined in [IC 35-48-1-17.3](#)).
- (6) A violation of this document.

SECTION 47. (a) It is a violation of this document to do any of the following:

- (1) To present as valid an expired license.
- (2) To change, without notification of the state seed commissioner, the content of any truthful information on a license issued by the state seed commissioner.
- (3) To misrepresent oneself as the person licensed to another person.
- (4) To falsely state information filed with the state seed commissioner in an application for any hemp license, causing the licensed grower to no longer be eligible for a future license and immediately losing the current license.
- (5) To fail to notify the state seed commissioner in writing of an error on a license issued by the commissioner and to seek correction in a timely manner.
- (6) To fail to report a geospatial location in decimal format any changes to previously reported hemp grow or production sites.
- (7) To harvest any cannabis before official samples are taken by an OISC representative or an approved third party sampler.

(b) It is a violation of this document to alter, manufacture, falsely represent, or present a license that has been issued by the state seed commissioner in any form other than as originally presented on state seed commissioner's official form.

SECTION 48. The state seed commissioner shall revoke or refuse to issue or renew a hemp license or an agricultural hemp seed production license to a licensee found to be growing cannabis exceeding the acceptable hemp THC level with a culpable mental state greater than negligence.

SECTION 49. (a) A licensed grower may request on an application form provided by the state seed commissioner that any of the following information be kept confidential for purposes of [IC 5-14-3](#):

- (1) The name of the licensed grower or handler.
- (2) The licensed hemp grow site.

(b) The state seed commissioner shall make available to growers information that identifies sellers of agricultural hemp seed. The seller of agricultural hemp seed shall provide the state seed commissioner with the business name, business address (including number, street, city, state, county, and zip code) and other data, if any, e.g., telephone number with area code, website address. This information must be posted on OISC website.

(c) Hemp growers and handlers may choose to release their contact information to the public and mark it as nonconfidential. The nonconfidential grower's contact information must be posted on the OISC website.

(d) A grower's information is not confidential from law enforcement, the USDA, or the United States Attorney General's office.

SECTION 50. (a) Negligent violations include the following:

- (1) A grower who fails to report a legal description of the land on which hemp is grown.
- (2) A grower who produces cannabis exceeding the acceptable hemp THC level. However, a hemp producer does not commit a negligent violation if the hemp producer makes reasonable efforts to grow hemp and the cannabis does not have a total delta-9 tetrahydrocannabinol concentration of more than 1.0 percent on a dry weight basis.
- (3) A person who fails to obtain a license.

(b) A producer may not commit more than one (1) negligent violation per year.

(c) A person who commits three (3) negligent violations in a five (5) year period is:

- (1) subject to the immediate revocation of the person's hemp license; and
- (2) prohibited from applying for a hemp license or being a participant to a hemp license issued by the state seed commissioner for a period of five (5) years from the date of the third violation.

(d) A person who:

- (1) is negligently without a license; or**
- (2) fails to report a grow or processing site;**

must complete an application form and submit to the state seed commissioner within seven (7) business days and all required fees, including penalties, to gain compliance.

(e) Hemp that is produced in violation of this document, including hemp produced on a property that was not disclosed by the licensed producer or was produced without a license, is subject to the same disposal provisions as cannabis that test above the acceptable hemp THC level. In addition, if it is determined a violation was committed with a culpable mental state greater than negligence, the state seed commissioner shall report the violation to the Indiana state police and the United States Attorney General.

(f) A person who negligently grows a crop that exceeds the acceptable hemp THC level shall comply with an order of the state seed commissioner to secure the crop and to conduct the activities allowed by law, or otherwise required by the law.

(g) Harvesting or cutting of hemp without a license is not a negligent violation and is punishable to the extent allowed by law.

(h) Distribution of hemp without a license is not a negligent violation and is punishable to the extent allowed by law.

(i) After a determination of a negligent violation, the licensee must report the following information, in writing, to the state seed commissioner for a period of two (2) years:

- (1) Report the acreage planted and selection of a variety of hemp or varieties of hemp that are reported to be compliant with achieving and not exceeding the acceptable hemp THC level.**
- (2) Monitor the crop regularly through a sampling plan acceptable to the state seed commissioner and using a competent laboratory for monitoring THC levels in the crop before harvest.**
- (3) During the growing season, reporting on a weekly basis or as timely and consistent with the monitoring plan agreed with the state seed commissioner.**
- (4) The licensee's name, address and, if applicable, the geospatial location coordinates in decimal format, of each monitored site.**
- (5) The license number of the licensee who is reporting.**
- (6) A maintained log of all testing activities and results that can be examined by the state seed commissioner upon request.**

(j) Negligent violations are not subject to federal, state, tribal, or local government criminal enforcement action.

(k) The seed commissioner shall conduct inspections to determine if a corrective action plan has been implemented. The corrective action plan must include a way for the producer to choose compliant varieties and to confirm suppliers are permitted in Indiana. Requirements of the corrective action plan are:

- (1) a reasonable date to correct the violation;**
- (2) reporting requirements for two (2) years from date of the negligent violation;**
- (3) negligent violations are not subject to federal, state, tribal, or local government criminal enforcement action;**
- (4) provides that a negligent violation three (3) times within a five (5) year period is ineligible to produce hemp for a period of five (5) years from the date of the 3rd violation; and**
- (5) state government shall conduct inspections to determine if corrective action plan has been implemented.**

Additional requirements to the corrective action plan may be added by the state seed commissioner.

(l) A crop may not be planted in a commingled or mixed variety planting. Each lot must be of only one (1) variety of hemp.

SECTION 51. (a) Unless otherwise prescribed by law, the following practices may be considered for approval by the state seed commissioner upon receipt of an appeal of an order to destroy a hemp field or identifiable portion the hemp field by a grower:

- (1) Hemp that exceeds the acceptable hemp THC level must be disposed of or remediated in accordance with the USDA's current Remediation and Disposal Guidelines.
- (2) Hemp that is grown in a greenhouse or other nonfield grow site, in violation of this document or [IC 15-15-13](#), and that is without recourse to be used in another legal processor, must be destroyed in a manner approved in the USDA's current Remediation and Disposal Guidelines, or as determined by the licensee's disposal plan required as a part of the application for a license under this document and in a manner agreeable to the state seed commissioner or in a manner ordered by the Indiana state police.
- (3) Hemp that is a standing fiber crop grown outdoors in a field and found to be in violation of the acceptable hemp THC level must be terminated in accordance with USDA's current Remediation and Disposal Guidelines. Standing fiber hemp that exceeds the acceptable hemp THC level that is intended for remediation may not be moved from the site, although the retting process may be managed by on-site rolling of the crop, for a minimum of fifteen (15) days for retting (a request for inundated retting must be requested by the licensed grower and approved by the state seed commissioner). After the standing fiber hemp plants are fully retted the hemp plants must be retested for compliance before entering commerce.
- (4) Hemp that is standing seed grain crop and found to be in violation of the acceptable hemp THC level must be terminated in accordance with USDA's current Remediation and Disposal Guidelines. The seed or grain from a seed grain crop that exceeds the acceptable hemp THC level that is intended for remediation may be harvested and certified for use in a processor. The grain seed may not be used for seed for sowing.
- (5) Flowers and other plant material from a hemp crop for seed grain production that exceed the acceptable hemp THC level must be disposed of in accordance with USDA's Remediation and Disposal Guidelines issued January 15, 2021.

(b) The state seed commissioner shall provide notice of the determination of noncompliance in writing to the licensee or the licensee's designee as designated on the license application, and the order to destroy the identified crop within a time frame determined by the state seed commissioner. The order must also include an order to terminate the crop and to hold and not move from the site any hemp without explicitly written approval and direction by the state seed commissioner.

(c) An appeal to the state seed commissioner must be in writing on an official form of the state seed commissioner by the licensee with full explanation of the basis for a request for redirect of the crop for other purposes. For purposes of a crop, or material that is in processing stages that is equal to or exceeds the acceptable hemp THC level, the state seed commissioner may forward such request to the Indiana state police or to federal Drug Enforcement Administration officials for determination under their jurisdiction.

(d) It is a violation of this document to commingle hemp that is in the field or harvested and in storage if crop was above the acceptable level of hemp and has not successfully been remediated:

- (1) that has not been tested and labeled with a certificate of analysis for that particular lot or field;
- (2) that is from different fields, or lots;
- (3) that is of more than one (1) variety of hemp;
- (4) that is in storage, drying, or dried;
- (5) hemp that is in excess of the acceptable hemp THC level; or
- (6) hemp that is suspected of being in excess of the acceptable hemp THC level, with compliant hemp, unless combined by a reverse distributor, or allowed for processing by a licensed processor.

(e) Hemp plants of different varieties and plants of the same variety from separate fields or sites, must be segregated one (1) from the other, so as to visually and readily differentiate the separate entities. Failure to clearly and unambiguously separate the entities may result in loss of all commingled crop.

(f) Biomass or bioresidue resulting from the growing or processing of hemp must be processed or disposed of in compliance with all applicable federal, state, and local requirements.

(g) It is a violation of this document to dispose of biomass, bioresidues, or crop in a manner that causes harm to humans, animals, soils, air, or water.

SECTION 52. (a) A person who violates an order of the state seed commissioner that is authorized under [IC 15-15-13](#) or this document is subject to the maximum civil penalty allowed under law.

(b) A violation of a hemp law or rule subject to the state seed commissioner does not prohibit the state seed commissioner from communicating fully with another agency for consideration of any enforcement under any other state or federal law by another agency.

SECTION 53. (a) A person who grows hemp must use named varieties of hemp seed or hemp clones purchased from reputable dealers.

(b) Hemp seed or hemp clones in commerce must comply with Indiana seed law and federal seed code concerning testing, labeling, and all other requirements as applicable to the entity under consideration.

(c) Each variety of hemp used must:

(1) be accurately declared on a label written according to federal seed code and Indiana seed laws; and

(2) be from source parentage of plants known to be compliant with federal and state law that does not exceed the acceptable hemp THC level.

(d) For hemp, agricultural hemp seed, and hemp clones, "variety not stated", as provided in [360 IAC 1-3-8\(c\)](#), as not an allowed declaration.

(e) A person may not use wild Cannabis seed, or seed from hemp in excess of 0.3% THC dry weight, as representing hemp, agricultural hemp seed, or be used as a basis for clones or a crop, unless that person is licensed by the state seed commissioner as a hemp breeder developing new hemp lines for eventual introduction into commerce.

(f) A person who:

(1) grows, distributes, or sells hemp; or

(2) offers or advertises the growing, sale, or distribution of hemp;

subject to this document, must be licensed by the seed commissioner under [IC 15-15-13](#). Sales of agricultural hemp seed must comply with the requirements under [360 IAC 1](#).

(g) It is a violation of this document to use seed that is sourced from a crop that is not a reliable source of hemp as defined as 0.3% THC or below.

(h) The performance of hemp varieties and their biological compliance with total THC the acceptable hemp THC level, when grown in Indiana, may be posted by the state seed commissioner. The state seed commissioner may cooperate with the Purdue University Cooperative Extension Service, Indiana Crop Improvement Association, and other resources deemed valuable by the state seed commissioner.

(i) A variety of hemp must be compliant with expected inherited traits, including the acceptable hemp THC level or less to be regulated under this document. Varieties outside this range that exceed this limit may be regulated as marijuana by authorities.

(j) A variety of hemp that is not yet developed for market by a hemp plant breeder may be temporarily labeled for research and production purposes but must meet all federal and state varietal labeling standards if introduced into the marketplace.

(k) In addition to being tested as required under [360 IAC 1](#) or state or federal seed laws, a variety of hemp that makes claim of feminized seed must also be tested by an Association of Official Seed Certifying Agencies (AOSCA) laboratory to confirm the percent of the feminized seed claim on the label.

(l) The requirements under [IC 15-15-13-9.5](#) apply to hemp clones.

SECTION 54. (a) A person who is a hemp researcher, or a researcher hemp breeder of agricultural hemp seed, who is employed to conduct research in an area of investigation applicable to hemp by a university or college as defined in [IC 15-15-13](#) and who is a person licensed by the state seed commissioner in the precommercialization development phases of seed quality, trait, and trait stabilization development, and increase for production, and related hemp commercialization development efforts may have fees waived by the state seed commissioner.

(b) Minimal growing space requirements for growing hemp under this document may be waived in

writing by the state seed commissioner to accommodate low volumes of breeder seed or propagative material.

(c) Research and breeder seed grown or contained in space less than that required of normal production must be reported to law enforcement, and the plants must be labeled individually with the licensed grower's license number and a sequential numbering of individual plants.

(d) Test results from a research and development licensee may, at the state seed commissioner's discretion, be accepted in lieu of sampling by the state seed commissioner's office.

- (e) This waiver under this document ceases when the licensed breeder's agricultural hemp seed is:
- (1) sold to another person;
 - (2) is grown by the licensee in quantity great enough to supply quantities for the minimum acreages required by this document, or minimum acreage for the planting of clones; or
 - (3) after a period of five (5) years from the first application, made for that seed variety.

(f) Any person who harms or destroys a breeder plot managed by a hemp researcher licensed under this document is subject to maximum civil penalty allowed subject to administration by the state seed commissioner.

SECTION 55. (a) Labeling required for agricultural hemp seed, clones, and other propagative materials is subject to all labeling regulations pertaining to plant seed and propagative material in Indiana.

(b) All claims and verifications of the plants as hemp must be retained as an accurate statement of propagative source of the seed, the clone, or other propagative material as from parentage of plants that were tested and demonstrated to meet the definition of hemp.

(c) "Variety not stated", as provided in [360 IAC 1-3-8\(c\)\(4\)](#), is not acceptable for hemp plants, agricultural hemp seed, or hemp clones.

(d) The variety grown must be stated in writing on an application for a hemp license.

SECTION 56. (a) Each hemp production site must be accurately declared in a decimal geospatial location format to the state seed commissioner as part of the application and license process.

(b) Hemp production sites may be monitored by local police authorities, the state seed commissioner, or Indiana state police using aerial monitoring with or without notification by the state police to the crop licensee.

(c) A hemp grow site or hemp production site may not be located in a residence or located in close proximity to a residence.

SECTION 57. (a) Each licensee shall file with the state seed commissioner a harvest and distribution report at the end of the growing season. Failure to file a report will result in a refusal to renew a license presented by an applicant in the consecutive year. The report must be filed with the state seed commissioner not later than thirty (30) days after the harvest or distribution (sale, ship, etc.). Depending on the requirements of a growing season, it is expected that reports will be filed no later than November 1.

(b) A licensee who is a contractor must file their report with the contracting party in a timely manner. It is the responsibility of the person who is the licensee of record to summarize all contractor reports and to meet the requirements of this SECTION in filing a report to the state seed commissioner.

- (c) The report must include the following information:
- (1) License number.
 - (2) County.
 - (3) A statement verifying each crop type (fiber, seed, oil, cannabidiol (CBD), etc.).
 - (4) Each variety of the hemp.
 - (5) Each grow site of each variety and site by contractor.
 - (6) Acres planted.

- (7) Acres harvested.
- (8) Total quantity produced (pounds per acre, plants per square foot, etc.) by variety.
- (9) Disposition of each crop (sold, processed, destroyed, etc.).
- (10) Production costs per unit.
- (11) Wholesale or retail value of each crop per unit.
- (12) Names of buyers (in state or out of state).
- (13) Other data requests may be added by the state seed commissioner.

(d) The state seed commissioner shall consolidate the report and combine summary data so as to not reveal any one (1) source of data. The consolidated data may be discussed with the Indiana state department of agriculture and with an industry economic round table to help in market decisions for industry and to identify supporting regulatory needs.

(e) Any report of a person reporting as an individual or as a licensee of record must be on forms provided by the state seed commissioner and submitted electronically to the state seed commissioner or sent to:

Office of Indiana State Chemist & Seed Commissioner
Attn: Seed Administrator
175 S. University Street
West Lafayette, IN 47907-2063

SECTION 58. (a) Hemp that is grown as a crop must be maintained within the each crop site. Plants escaped and proximal to the crop must be eradicated.

(b) It is a violation of this document to sow, scatter, or dump hemp seed indiscriminately, without a dedicated crop site that is approved for production by the state seed commissioner.

(c) It is a violation to sell viable hemp seeds or clones for wildlife plantings.

(d) Hemp plants outside a licensed crop site and control may be subject to disposal when legally authorized by Indiana state police, local law enforcement agencies, county weed boards, and other jurisdictions established by Indiana law as having control of nuisance weeds, or agencies having control of land under federal control, including federal Conservation Reserve Program lands, filter strips, and similar managed sites.

SECTION 59. (a) Hemp bud (as defined in [IC 35-48-1-17.2](#)) and hemp flower (as defined in [IC 35-48-1-17.3](#)) may be sold only to a processor licensed under this document.

(b) Use of hemp, hemp flowers, or hemp buds as a floral bouquet or as an element of a floral bouquet is prohibited.

(c) Hemp buds, hemp flowers, and all hemp must be sourced from plants that are 0.3% THC or below. It is a violation of this document to sell as hemp any material that is in excess of lawfully established limits.

SECTION 60. (a) A request for an official growing season sample must be made in writing to the state seed commissioner not less than thirty (30) calendar days before the expected harvest, and be requested that the inspection be conducted in a field that is within thirty (30) days of harvest at the time of the requested sampling to be accomplished, and include the exact location of the crop to be sampled and the expected date of the harvest. Once sampled, the crop must be harvested or disposed of within thirty (30) days.

(b) Test samples of hemp and hemp extracts may be transferred to a person who is licensed under this document, or who is licensed under the hemp laws of the receiving state to accomplish the following, only if the material transferred is from a crop with an acceptable hemp THC level. Examples of samples that may be expected include the following:

- (1) To test the quality or purity of the extract or raw hemp for compliance with buyer standards or legal definition of hemp.
- (2) To test the hemp or hemp extract, for compliance:
 - (A) with health, safety, or contaminant standards; or
 - (B) for acceptable contaminant levels or concentration levels.

(3) To monitor or mitigate, purify, dilute, concentrate, mitigate and define other business liabilities relative to processing and production concerning a hemp material before final production and packaging for commercial distribution.

(c) Test samples must be fully consumed by the test procedure. It is a violation of this document to submit samples that are in excess of the sample size required for testing, or sample runs, required to conduct the analysis.

(d) It is a violation, subject to maximum extent of penalty allowed by law, to:

- (1) divert a noncompliant extract to a nonlicensed person; or
- (2) remove an extract of hemp from a licensed handler or processor;

without notification to and the written permission by the state seed commissioner or the Indiana state police, subject to the existing enforcement authorities of each agency.

(e) Documentation of a test sample must include the following:

- (1) The license number of the licensee (submitter).
- (2) The name of the licensee (submitter).
- (3) The county where the operation is sited.
- (4) The extract's known characterization.
- (5) The hemp's intended use.
- (6) A statement of rationale for the requested testing.
- (7) A list of the analytes to be monitored.
- (8) A statement of expected test results.
- (9) The method of extraction for the sample (specific solvents, cold press, mechanical, CO₂, distillation, etc.).
- (10) The quantity of the sample and quantity of material represented by the sample.
- (11) The license number of the testing laboratory or firm, including the name of the laboratory or person.

(f) Test results must be retained for three (3) years by the licensee (submitter) to document the batch or representative sampling tested. Results must be made available, upon request, to the state seed commissioner.

(g) The person receiving a sample for analysis must be licensed in addition to any person who is not an employee of the licensee and is a transporter, a broker, or sample collector.

(h) A certificate of analysis must be made available to the state seed commissioner or law enforcement officer upon request. An exception may be made for plant material that is to be tested for THC levels by a qualified laboratory, for which THC levels are not yet known, in which case full chain of custody reports of the material delivered, including the date and times of delivery, signature and confirmation of the quantity and type of material received, and an assigned test number or lot number given by the service provider. After the test is determined, the test results presented as a certificate of analysis (COA), including total THC, must be provided to the authority making the request (e.g., Indiana state police, Drug Enforcement Administration, Food and Drug Administration, OISC, a local law enforcement agency, Indiana department of health, etc.).

SECTION 61. To provide increased capacity in making determinations of analytical compliance with federal and state hemp laws, the state seed commissioner may license a willfully participating analytical laboratory to conduct analyses of hemp for total THC, or other cannabinoids, or constituent compounds and nutritive evaluations or determinations (nitrogen, etc.), or disease. Upon completion of an application prescribed by this document and signed by the laboratory manager of the laboratory's agreement to the following:

- (1) To own or to possess under their control on their premises analytical instrumentation capable of accurately analyzing the hemp using gas or liquid chromatography with detection. All instruments used in the analyses of hemp, including analytical equipment, must operate under written procedures for calibrating, maintenance, and record retention.
- (2) A laboratory under this SECTION must be certified by a nationally recognized standard, such as the most current ISO17025, or similar standard approved by the state seed commissioner.
- (3) A laboratory must apply for and receive a Schedule 1 Registration from the Drug Enforcement Administration.
- (4) All training records of personnel establishing competencies for hemp analyses must be retained

and made available for review by the state seed commissioner or the commissioner's representative.

(5) The state seed commissioner may post on the OISC website a list of laboratories licensed to conduct analyses for hemp.

(6) A laboratory must comply with all other federal or local laws, including a determination if the laboratory requires a Drug Enforcement Administration Schedule 1 registration to address any samples that may exceed 0.3% THC. The United States Drug Enforcement Administration Schedule 1 document is required as part of the application process for any laboratory accepting out-of-state hemp for analyses before the state seed commissioner approves an Indiana cooperator hemp laboratory license.

(7) A laboratory licensed under this SECTION must demonstrate to the satisfaction of the state seed commissioner strict adherence to chain of custody and record keeping best practices.

(8) A laboratory manager must agree to submit the laboratory to an audit by OISC personnel to confirm their ability to comply with Indiana law and to be evaluated to remain in good standing.

(9) A laboratory manager must notify the state seed commissioner of any noncompliant calibrations, performance qualifications, or any other adverse actions that may affect the data or data quality, provided to the state seed commissioner.

(10) To pay the nonrefundable application fees.

(11) A laboratory operated by the Indiana state police for the purpose of hemp or marijuana analyses is exempted from this requirement.

SECTION 62. (a) Except for the expressed purposes and licensing by the state seed commissioner for hemp plant breeding or hemp research by a person licensed under this document, the collection, sale, offering to sell, or the use of wild Cannabis is a violation of this document. Such actions may be enforceable by Indiana state police or local law enforcement agencies under other statutory authorities.

(b) The collection, possession, or commingling of wild Cannabis with:

(1) a licensed varietal hemp crop; or

(2) a crop purported to be a varietal hemp crop;

is a violation of this document unless a license has been issued by the state seed commissioner under this document explicitly permitting this activity in writing and notification or permission from the Indiana state police.

(c) It is a violation of this document to present any wild Cannabis as hemp or to present as hemp any hemp that has not been tested and demonstrated to comply with this document.

SECTION 63. (a) Growing hemp plants or possessing hemp material in quantities less than the minimum is a violation of this document.

(b) The required growing areas for hemp in Indiana are as follows:

(1) Production field (seed sown) ten (10) contiguous acres minimum (grain/seed/fiber/seed oil).

(2) Production field (clones, cuttings) – one (1) contiguous acre minimum, with a minimum of one thousand five hundred (1,500) plants grown as a single plot (cannabinoids, feminized seed).

(3) Agricultural hemp seed breeding farm – not to exceed five (5) acres (AOSCA standards).

(4) Minimum indoor grow greenhouse – two thousand (2,000) square feet, with a minimum of one thousand five hundred (1,500) plants (for production of clones), or three hundred (300) mature plants for cannabinoid production.

(5) Hoop house, slat house, covered structure, or similar structure, for production of starts only – two thousand (2,000) square feet, with a minimum of one thousand five hundred (1,500) plants (for production of clones), or three hundred (300) mature plants for cannabinoid production.

(6) Indoor – two thousand (2,000) square feet as measured in square feet of area, or as rotational compactor, or similar technology, with one thousand five hundred (1,500) plants (for production of clones), or three hundred (300) mature plants for cannabinoid production or feminized seed production.

(c) It is a violation of this document to grow less than the quantities indicated for the identified site, unless the activity is hemp research conducted by a university employed hemp researcher as defined in this document or a licensed hemp breeder as described in this document.

(d) The size dimensions stated for the respective grow sites are each expected to be an area fully used for growing hemp in the grow operation within the space designated.

(e) Grow sites using less than the minimum growing area or with fewer than the expected numbers of plants may be subject to orders of disposal and revoking of grower's license by the state seed commissioner.

(f) Mother plants for hemp propagation and cloning may be over wintered, not to exceed one hundred (100) total plants. Mother plants are not allowed in a residence.

SECTION 64. The following hemp records must be accurately maintained and made available to the state seed commissioner upon at least three (3) days notice by the state seed commissioner:

(1) Legal description of the land, county, and geospatial location coordinates in decimal format, on which hemp is being grown or was grown over the past two (2) years.

(2) Legal description of the location, including geospatial location coordinates in decimal format, county, and address, for any facility, fixed or mobile, used to store, process, receive, or ship hemp, whether for the licensee or another.

(3) Records and invoices of all hemp seed or propagule purchases made in the past three (3) years.

(4) Records of a licensed grower that must include:

(A) name (person);

(B) address;

(C) county;

(D) each variety of hemp and quantity of each variety grown/sold;

(E) in the case of clones, the quantity, including the number of plants of each variety grown/sold;

(F) delivery date of seed/clones received and delivery date of seed/clones sold;

(G) plant material, including the name and address of the purchaser and the purchaser's license number.

(5) A person who buys hemp in Indiana must retain the receipt of the seller, which must include the seller's name, place of business, Indiana license number (and any out-of-state license number, if held), each variety, and quantity by variety of hemp sold.

(6) For a handler who is a processor of hemp, the following additional records are required to be maintained and to be presented upon demand by the state seed commissioner:

(A) A list of all extracting solvents and description of extracting methods, including solvent concentrations, purity, grade, and source with brand and catalogue number, used by the licensee in processing hemp.

(B) Documentation of acceptable use of a chemical as a solvent for the purpose intended by documented reference to federal applicable codes or references or from the regulatory agency overseeing the final product in the market place.

(C) Records for weed management and identification of weeds in the production area known to be harmful to humans or animals and methods of control to avoid including them in processing.

(D) A copy of the food safety plan, or hazard identification and hazard mitigation plan, and compliance plans for Food and Drug Administration, 21 CFR Part 111 must be made available upon request by the OISC or other authorized state or federal regulatory or enforcement agency.

(E) A copy of the licensee's site safety plan, and, as appropriate to the situation, a copy of the state fire marshal's facility inspection report of the processor site.

(F) It is a violation of this document to handle or otherwise process hemp, or use extractants or solvents to process hemp in a residence or out building associated with a residence.

(G) The certificates of analyses (COA) of all lots produced by a grower must be retained by the licensee for not less than two (2) years and made available upon request.

SECTION 65. (a) Sale of hemp must be conducted by a person licensed under this document.

(b) Sale of hemp grown by an Indiana licensed grower may be sold and distributed to a person who is licensed under the hemp laws of the receiving state able to receive the hemp legally in that state.

(c) Any hemp sold must be tested by a cooperated hemp laboratory or the laboratory of the state seed commissioner to perform the testing for total THC and determined to be compliant with state and federal laws. If tests are completed by the laboratory of the state seed commissioner, those test results will be the final determination of acceptable hemp THC level in the lot sampled.

(d) A person in Indiana who receives hemp sourced from another state must be licensed and comply with the following:

(1) A person who receives hemp must have a certificate of analysis that reports total THC and the date of each analyses.

(2) A person who receives for delivery hemp that is not compliant with Indiana law and is not legally allowed to be sold in Indiana must reject such materials and state in writing the reason for rejection to the seller.

(e) Sales invoices for the sale of agricultural hemp seed must state that "sales or further distribution of hemp seed sold to the person shown in the invoice, are prohibited, unless the person is a licensed seed vendor".

(f) Sales invoices for hemp must include the following information on one (1) form:

(1) Vendor information, including the name of the vendor, the hemp license number of vendor, the legal physical address of the business (street number, street, city, state, zip code, county), the phone number (including area code), website, and email address, as well as the date of the sale (including the month, day, year).

(2) Purchaser information, including the name, physical address (as above) of the purchaser, the license number of the purchaser.

The invoice must include the name of each the [sic] variety transacted, and quantity and form (chopped, baled, fresh cut, dried, etc.) of each variety transacted.

(g) A person may not sell or distribute hemp seed as garden seed packets, except to a person who is licensed as a grower or grower/handler as a researcher and used for educational purposes by a researcher or cooperative extension educator, or by a person who is licensed to breed agricultural hemp seed as a developer of new varieties of hemp.

(h) A person who sells or advertises the sale of hemp, agricultural hemp seed, or hemp clones must be licensed and must sell to a person who is licensed by the state seed commissioner, or who is legally licensed in another state. The seller shall retain the following records for each transaction of hemp seed and make the records available upon request by the state seed commissioner:

(1) Name, address (street number, street, city, state, zip code, county), and license number of the purchaser of the hemp as well as the seller.

(2) Identity of the variety purchased and brand, and the quantity of each variety or brand.

(3) Amount of hemp sold or number of clones sold.

(4) Signature of the person presenting a current and valid government issued identification to the vendor.

(i) These records must be retained for two (2) years from the date of sale and may be requested by the state seed commissioner under [IC 15-15-13-18](#).

(j) Documentation of compliance with [IC 24-4-21](#) and [IC 24-4-22](#) for low THC products must be made available upon request by the state seed commissioner before release to market.

SECTION 66. (a) A person who buys hemp in Indiana must retain the receipt described in [IC 15-15-13-18\(a\)\(2\)](#) for a period of two (2) years.

(b) The receipt must contain the seller's name, place of business (full street address and county), and hemp license number, and variety and quantity of hemp sold.

(c) The receipt of a hemp sale and purchase is a document that may be requested by the state seed commissioner under [IC 15-15-13-18](#).

SECTION 67. (a) Grow sites, handling sites, and contact information of a licensee are considered by the state seed commissioner as public information, unless the licensee commits to one (1) of the following statements on an application provided by the state seed commissioner, submitted in writing at the time of filing a license application with the state seed commissioner, that:

(1) the licensee requests that their grow sites, handling sites, and contact information be excluded from public reporting by the state seed commissioner and held to be confidential by the state seed commissioner; or

(2) the licensee requests that the grow site be excluded from public reporting by the state seed commissioner, but grow site locations may be shared between any two (2) licensed growers within a five (5) mile radius of one another.

(b) A licensee may request a change in their reporting status upon renewal of a hemp license.

SECTION 68. Hemp that has exceeded the acceptable hemp THC level must be treated and disposed in like manner as marijuana:

- (1) Remediation can be performed in accordance with SECTION 51 of this document on crops that do not meet the acceptable hemp THC level.**
- (2) Excess hemp total THC (THC and THCa) in the possession of a grower or handler, regardless of form as an extract, or as plants or plant parts, must be disposed so as to be irretrievable and noningestible.**
- (3) A grower who is aware a hemp crop grown under their license is in excess of the acceptable hemp THC level, whether notified by the state seed commissioner or not, shall:**
 - (A) harvest the crop within thirty (30) days of sampling;**
 - (B) securely maintain the entire crop on the farm or property where the crop was grown;**
 - (C) coordinate with the state seed commissioner for the disposal to be witnessed by the Indiana state police or their local law enforcement designee;**
 - (D) dispose of the crop in a designated site in a manner that complies with local and state burn laws and this document; and**
 - (E) verify disposal of the crop with the state seed commissioner, including photographic or video evidence of disposal.**
- (4) Disposal must occur on the farm or property where the crop was grown.**
- (5) A handler must destroy all excess THC in their control whether:**
 - (A) as a separated extract obtained through extraction of desired legally held cannabinoids, e.g., cannabidiol (CBD), CBN, or other legal cannabinoid; or**
 - (B) as unprocessed hemp plant material that cannot be redeemed for other legal use.**

Only extracts of cannabinoids containing not more than the acceptable hemp THC level are compliant.
- (6) Transfers of THC-containing hemp extracts or hemp that exceeds 0.3% THC to another person are not allowed.**
- (7) With the exception of reference standards of THC used by a laboratory for the purpose of hemp analyses by a cooperated hemp laboratory licensed by the state seed commissioner, transport of THC in an extracted form across state lines is prohibited. A person who transports THC extract or hemp that comes from a tested crop above the acceptable hemp THC level is subject to revocation of a license issued by the state seed commissioner.**
- (8) Oversight of disposal of THC materials, regardless of form as an extract or plants, or plant parts, must be according to United States Drug Enforcement Administration regulations.**
- (9) It is a violation of this document to allow crop tested above the acceptable hemp THC level to be moved off of the property of the grower or handler. This crop may not be sold, transported, or processed and must be destroyed. Growers and handlers must set up procedures that prohibit handling, processing, or entering the stream of commerce of any hemp grown where the acceptable hemp THC level is noncompliant ([IC 15-15-13-9](#)).**

SECTION 69. (a) The state seed commissioner shall follow the field sampling protocols adopted in the Office of Indiana State Chemist & Seed Commissioner MTD 0501-IS, Field Sampling of Hemp. Standard sampling and performance-based sampling procedures will be sufficient at a confidence level of 95 percent (95%) that no more than one percent (1%) of the plants in each lot would exceed the acceptable hemp THC level and ensure that a representative sample is collected that represents a homogeneous composition of the lot.

(b) The state seed commissioner shall follow the testing and analytical protocols for determining total THC using gas chromatography or liquid chromatography with detection adopted in the Office of Indiana State Chemist & Seed Commissioner MTD 0500-FD, Analysis of Delta-9-tetrahydrocannabinol in Hemp by Gas Chromatography; or MTD 0502-FD, Analysis of delta-9-tetrahydrocannabinol in Hemp by Liquid Chromatography.

(c) Official preharvest sampling must be conducted by the state seed commissioner's authorized agent or performed by an authorized third party sampling agent, using the same sampling method.

(d) The producer shall harvest the crop not more than thirty (30) days following the date of sample collection.

(e) If the producer fails to complete harvest within thirty (30) days of sample collection, a secondary preharvested sample of the lot must be submitted for testing at the grower's expense.

(f) It is a violation of this document for a producer to harvest any cannabis before samples are taken.

(g) Third party samplers may not collect samples from their own growing facilities.

SECTION 70. (a) It is a violation of this document to present information in written or in any form to the state seed commissioner as true that is factually false.

(b) It is a violation of this document to falsify any document issued by the state seed commissioner.

(c) A person who violates subsection (a) or (b) is subject to a nine thousand five hundred dollars [*sic*, *dollar*] (\$9,500) fine and permanent revocation of a license. A license may only be renewed if the penalty has been paid in full and the time obligation has been met.

(d) Any person subject to this document who materially falsifies any information contained in an application to participate in the Indiana state hemp program is ineligible to participate in the program.

(e) If a licensee has been determined by the state seed commissioner to have violated this document or [IC 15-15-13](#) with a culpable mental state greater than negligence, the state seed commissioner shall immediately report the licensee to:

- (1) the United States Attorney General;
- (2) the Indiana attorney general; and
- (3) the superintendent of the Indiana state police.

(f) A licensee who has been determined by the state seed commissioner to have violated this document or [IC 15-15-13](#) with a culpable mental state greater than negligence, i.e., intentionally, knowingly, willfully, or recklessly, is not subject to consideration as a violator of those actions as negligent violations.

(g) A producer who violates this document in a culpable mental state greater than negligence shall be reported to the United States Attorney General and the chief law enforcement officer of the state or tribal government.

(h) Civil penalties may not be stacked; consideration of abeyance shall apply as a discretionary option for only one (1) violation per person for any considered time. Any subsequent civil penalties may result in negation and withdrawal of the abeyance and a requirement to pay the accumulated full amount of the civil penalties due:

- (1) The state seed commissioner may hold in abeyance, for a period up to five (5) years, portions or all of a rightfully charged civil penalty to allow time for corrective action plan where the violator is cooperating and has activity to regain compliance, if the violation is subject to correction that requires time or investment, and is an option believed by the state seed commissioner to gain compliance now and in the future, and the violator cooperates with the state seed commissioner. Three (3) negligent violations as defined in the 2018 Agriculture Improvement Act, and defined in this document, including those for which a civil penalty may be lawfully applied by the state seed commissioner, in a five (5) year period, must result in a revocation of the license for five (5) years.
- (2) Knowing or intentional violations of [IC 15-15-13](#) or this document will result in a revocation of license and will be turned over to the Indiana state police, where the violation is one subject to their jurisdiction.
- (3) The state seed commissioner may consult with the director of the Indiana department of agriculture or the superintendent of the state police regarding an abeyance.
- (4) Failure to be a grower and to not be licensed is subject to a late fee of seven hundred fifty dollars (\$750) plus any applicable licensing fees payable to the state seed commissioner.
- (5) A knowing or intentional violation, in subdivision (2), is not a negligent violation and may be subject to either [IC 15-15-13-19](#) or [IC 15-15-13-20](#).
- (6) Failure to pay civil penalties within the period ordered by the seed commissioner shall result in a revocation of a license or the nonrenewal of a license, if a license is up for renewal.

SECTION 71. Failure to cooperate with an audit, records check, inspection, taking of a sample, lawfully initiated by the state seed commissioner may result in one (1) or more of the following actions taken by the state seed commissioner:

- (1) Revocation of the license.

- (2) Probable cause inspection of each property where licensed activities are presented to the state seed commissioner as part of the license application.**
- (3) Detention, seizure, or embargo of a crop based on violation of this document and failure to comply with an order.**
- (4) Disposal of the crop by order of the state seed commissioner based on violation of this document and failure to comply with an order.**
- (5) Payment to the state seed commissioner for any costs of testing conducted.**
- (6) A person who impedes an activity of the state seed commissioner that is lawfully authorized:**
 - (A) is subject to revocation of the person's license; and**
 - (B) commits a Class C misdemeanor.**

LSA Document #23-531

Filed with Publisher: June 22, 2023, 11:13 a.m.

Posted: 06/28/2023 by Legislative Services Agency

An [html](#) version of this document.