

Illinois Department of Agriculture Hemp Plan

This Plan is submitted to the United States Department of Agriculture (USDA), in accordance with the requirements of the 2018 Farm Bill and its Final Rules. In 2015, Illinois enacted into law an Industrial Hemp Pilot Program (720 ILCS 550/15.2), allowing institutions of higher education to grow hemp for research purposes. In 2018, Illinois enacted the Industrial Hemp Act (505 ILCS 89), allowing farmers and entities outside of higher education to grow and process hemp. The Illinois Department of Agriculture (IDOA) was tasked with administering both of those programs and completed administrative rulemaking for each accordingly. IDOA has had primary regulatory authority over hemp in Illinois for several years and will continue to do so. IDOA certifies that it has the personnel and resources to meet the requirements of the 2018 Farm Bill.

IDOA's Hemp Plan is based on the Department's previously published Administrative Rules for Illinois' Industrial Hemp Act, and accordingly requires a revision of those Rules (found at 8 Illinois Administrative Code Part 1200), which IDOA will be commencing in January 2022. Additionally, a secondary rulemaking process will commence to repeal the administrative rules in place under the Industrial Hemp Pilot Program Act (found at 8 Illinois Administrative Code Part 1100), as the Hemp Plan below includes academic research institutions.

Industrial Hemp Act Administrative Rules – 8 Illinois Administrative Code Part 1200

Section 1200.10 Definitions and Incorporations

Definitions for this Part are located in Section 5 of the Industrial Hemp Act [505 ILCS 89]. The following definitions shall also apply to this Part:

“Academic Research” means research conducted by a licensed Academic Research Institution on hemp or industrial hemp.

“Academic Research Institutions” are institutions that: (1) offer in person courses at a physical campus located in Illinois, (2) offer an agricultural program or degree, and (3) conduct research on hemp. This includes accredited public institutions of higher education, as defined in 110 ILCS 205/1; accredited, not for profit, post-secondary educational institutions, as defined at 110 ILCS/1005/1; and community colleges, as defined at 110 ILCS 805/1-2(c); or other academic institutions approved by the Department, which conduct academic research on hemp.

“Academic Sampling Agent” is an individual designated by an Academic Research Institution to sample hemp for that Institution.

“Acceptable hemp THC level” means a total delta-9 tetrahydrocannabinol content concentration level of not more than 0.3 percent on a dry weight basis for hemp or in a hemp product. Hemp or hemp product will satisfy this standard if laboratory testing produces a distribution or range that includes the total THC concentration level of 0.3 percent or less.

"Act" means the Industrial Hemp Act [505 ILCS 89].

"Agent" means any family member, employee, contracted employee, or farmhand of a licensed or registered hemp cultivator or processor.

"Applicant" means the individual or entity who is applying for a license or registration.

"Biomass" shall mean the result of all flowers, buds, trichomes, leaves, stalks, seed, and all plant parts from a lot being be chopped or shredded in such a way as to create a homogenous, uniform blend of the lot. Only one lot may make up biomass. Chopping and shredding may be done by shredders, composters, or other specialty mechanical equipment.

"Cannabis" shall have the same definition as in the Cannabis Regulation and Tax Act (410 ILCS 705/1-10)

"Contiguous Land Area" means land areas used for cultivation of industrial hemp that are not separated by more than 100 feet by waterways, fences, railroads, lanes, roads, highways, interstates, or other separations.

"Culpable mental state greater than negligence" means to act intentionally, knowingly, willfully, or recklessly.

"Cultivating" means planting, growing, harvesting, and storing a plant or crop.

"Decarboxylated", in the context of these Rules and the Act, means the completion of the chemical reaction that converts THC-acid (THCA) into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums up delta-9-THC and 87.7 percent of THCA.

"Decarboxylation" means the removal or elimination of a carboxyl group from a molecule or organic compound.

"Department" means the Illinois Department of Agriculture.

"Director" means the Director of Agriculture.

"Disposal report" means the report and notice that the licensee must submit to the Department on the required form, no more than 48 hours after the crop has been disposed of pursuant to a Department disposal order.

"Disposal" or "disposed of" means an activity that transitions non-compliant hemp or hemp used for research purposes into a non-retrievable or non-ingestible form. Approved methods of disposal include plowing, tilling, or disking plant material into the soil; mulching, composting, chopping, or bush mowing plant material into green manure;

burning plant material; burying plant material into the earth and covering with soil, and; any other methods approved by USDA or the Department

“Dry weight basis” means the ratio of the amount of dry solid in a sample after drying to the total mass of the sample before drying, including the moisture in a sample. Dry weight basis is the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item.

"Farm" means any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming [35 ILCS 200/1-160].

“Farm Bill” means H.R. 2, the Agriculture Improvement Act of 2018, which became Public Law 115-334 on December 20, 2018. This federal statute is incorporated herein by reference.

“Farm Service Agency” or “FSA” means the Farm Service Agency of the United States Department of Agriculture.

"Handle" means to possess, transport or store industrial hemp for any period of time on premises owned, operated or controlled by a person or entity, or the agent thereof, licensed to cultivate industrial hemp or registered to process industrial hemp.

“Hemp” or “Industrial 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 total delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3% on a dry weight basis that has been cultivated under a license issued under the Act or is otherwise lawfully present in this State, and includes any intermediate or finished product made or derived from industrial hemp.

“Hemp manifest” means a document of title evidencing the receipt of hemp for shipment issued by an individual engaged in the business of directly or indirectly transporting or forwarding hemp. “Hemp manifest” does not include a warehouse receipt, or hemp transported within the state of Illinois by a person for that person’s sole use. A hemp manifest shall include the following:

- 1) The name and address of the owner of the hemp;
- 2) The point of origin;

- 3) The point of delivery, including name and address;
- 4) The kind and quantity of packages or, if in bulk, the total quantity of hemp in the shipment; and
- 5) The date of shipment.

“High-performance liquid chromatography” or “HPLC” means a type of chromatography technique in analytical chemistry used to separate, identify, and quantify each component in a mixture. HPLC relies on pumps to pass a pressurized liquid solvent containing the sample mixture through a column filled with a solid adsorbent material to separate and analyze compounds.

"Indoor Cultivation" means the process of cultivating industrial hemp in a greenhouse or in an enclosed building or structure capable of continuous cultivation throughout the year. Continuous cultivation is not required.

“Key participants” means a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer, and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.

"Land Area" means a farm as defined in Section 1-60 of the Property Tax Code [35 ILCS 200] in this State or land or facilities under the control of an academic research institution.

"Law Enforcement" means the officers and activities of the federal, State, and local agencies responsible for maintaining public order and enforcing the law.

"License" means authorization by the Department for any individual or legal entity to grow industrial hemp in the State.

"Licensee" means a person or entity that has applied for, and received, a license to cultivate Industrial Hemp from the Department.

“Lot” refers to the defined term in 7 CFR Part 990 and shares the same definition: a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout. In addition, “lot” is a common term in agriculture that refers to the batch or contiguous, homogeneous whole of a product being sold to a single buyer at a single time. Under the terms of this part, “lot” is to be defined by the producer in terms of farm location, field acreage, and variety (i.e., cultivar) and to be reported as such to FSA. For FSA reporting purposes, FSA staff will determine the appropriate designation for the specific location(s) where hemp is being grown using

FSA terminology such as “farm,” “tract,” “field,” and “subfield” to mean “lot” for the purpose of this rule.

“Official sample” means the preharvest hemp sample collected by the Department, in accordance with Department policy, which is used to assess the THC concentration of a single lot of hemp.

“Order of disposal” means the order furnished to the licensee by the Department, ordering the disposal of cannabis that exceeds the acceptable hemp THC concentration.

“Negligence” is a failure to exercise the level of care that a reasonably prudent person would exercise in complying with the regulations set forth under this part.

"Person" means any individual, partnership, firm, corporation, company, society, association, the State or any Department, agency, or subdivision thereof, or any other entity, or the agent thereof.

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

“Preharvest inspection” means the inspection, prior to the licensee commencing harvest, to collect one or more official samples for official laboratory testing.

"Process" means the conversion of raw industrial hemp plant material into a form that is presently legal to import from outside the United States under federal law.

"Registrant" means any person or entity that has applied for, and received, a Registration to process industrial hemp from the Department.

"Registration" means authorization by the Department for any individual or legal entity to process or handle industrial hemp.

“Remediation” means any process by which non-compliant hemp (THC concentration > 0.3%) is rendered compliant (THC concentration ≤ 0.3%). Remediation can be achieved by separating and destroying non-compliant flowers while retaining stalks, leaves, and seeds; or by shredding the entire hemp plant to create a homogenous “biomass.” Both remediation options require retesting for THC compliance before entering the stream of

commerce.

“Reverse distributor” means a person who is registered with Drug Enforcement Administration (DEA) in accordance with 21 CFR 1317.15 to dispose of marijuana under the Controlled Substances Act.

“Sampling Agent” or “Sample Collector” means someone trained under applicable USDA or State training procedures for sample collection. Hemp growers may not act as their own sampling agents.

“Strain” means variations of a cultivar, generally from breeding techniques or genetic mutations.

“THC” means total tetrahydrocannabinol.

“Total THC” is the value determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation, that expressed the potential total delta-9 tetrahydrocannabinol content derived from the sum of the THC and THCA content and reported on a dry weight basis. This post-decarboxylation value of THC can be calculated by using a chromatograph technique using heat, such as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. Thus, this test calculates the total potential THC in a given sample. The total THC can also be calculated by using a liquid chromatograph technique, which keeps the THCA intact. This technique requires the use of the following conversion: $[\text{Total THC} = (0.877 \times \text{THCA}) + \text{THC}]$ which calculates the potential total THC in a given sample.

"Variety" means a group of plants or an individual plant that exhibits distinctive observable physical characteristics or has a distinct genetic composition. This includes the terms "cultivar" and "strain".

Section 1200.20 General Provisions

- a) No person shall cultivate industrial hemp in the State without first receiving an Industrial Hemp Cultivation License from the Department.
- b) No person shall process or handle industrial hemp in the State without first receiving a processor/handler registration from the Department.
- c) All licensees in the State shall provide reports as outlined in Section 1200.40(a) and (b).
- d) Licensed industrial hemp cultivators are solely responsible for procuring seeds, clones, transplants, or propagules for planting.

- e) All seeds, clones, transplants and propagules used to cultivate industrial hemp in Illinois shall be certified under the Association of Official Seed Certifying Agencies (AOSCA) standards and guidelines for industrial hemp or shall be accompanied by a certificate of analysis from an accredited certified laboratory from a state with a regulated industrial hemp program that certifies the industrial hemp grown will not contain in excess of 0.3% THC.
- f) No land area may contain cannabis plants or parts of cannabis plants that the licensee knows or has reason to know are of a variety that will produce a plant that, when tested, will produce more than 0.3% THC concentration on a dry weight basis. No licensee shall use any such variety for any purpose associated with the cultivation of industrial hemp.
- g) The minimum land area for industrial hemp cultivation shall be a contiguous land area of one quarter of an acre for outdoor cultivation and 500 square feet for indoor cultivation.
- h) Licensee information may be shared with law enforcement without notice to the licensee.
- i) Any violations of the Act, this Part, or any Illinois or Federal Criminal Code may subject the licensee or registrant to administrative penalties as set forth in Sections 1200.120 and 1200.130 and may also subject the licensee or registrant to criminal prosecution.
- j) Harvest Timing and Restrictions
 - 1) No licensee shall harvest any portion of a hemp crop until the Department has sampled the lot to be harvested.
 - 2) Department will collect a sample of each crop within 15 calendar days prior to licensee's reported harvest date
 - 3) There shall be no change of ownership of any hemp crop until laboratory analysis has been complete on such crop.
- k) All licensees and registrants are subject to audit and inspection by the Department.
- l) Each licensee and registrant shall maintain all records for a period of at least 3 years. "Records" includes, but is not limited to: harvest reports, sales data, testing results, sampling documentation, and resampling results, disposal reports, transportation records, any reports made to USDA, FSA, or Department, any related documentation, and any other information deemed pertinent by Department.

Section 1200.30 Application and Licensure

- a) Each applicant for an industrial hemp cultivation license shall submit a signed, complete, accurate and legible application form provided by the Department. The applicant shall provide the following:
 - 1) The name, address, phone number, and email address of the person or entity applying for the cultivation license.
 - 2) The type of business or organization, such as corporation, LLC, partnership, sole proprietor, etc., and the entity's EIN.
 - 3) Business name and address, if different than the ones submitted in response to subsection (a)(1). This shall include the full name of the business, address of the principal business location, and full name and title of the key participants.
 - 4) The legal description of the land area, including Global Positioning System coordinates of each contiguous land area, to be used to cultivate industrial hemp.
 - 5) A map of the land area on which the applicant plans to grow industrial hemp, showing the boundaries and dimensions of the growing area in acres or square feet.
 - 6) The applicable fee prescribed by Section 1200.80; and
 - 7) The varieties of industrial hemp that are intended for cultivation.
 - 8) Academic Research Institutions must also include their designated testing laboratory in their application, in addition to all of the above.
- b) No person who has been convicted of any controlled substances related felony in the 10 years prior to the date of application shall be eligible to obtain a license or registration. For applicants that are entities, this prohibition shall apply to any person associated with the applicant who has executive managerial control of the entity. This does not include non-executive managers such as farm, field, or shift managers.
 - 1) This shall not apply to participants in a state hemp pilot program authorized under the 2014 Agricultural Act prior to December 20, 2018, that had a controlled substance felony conviction
- c) Within 30 calendar days after receipt of a completed application and the associated fee, the Department will either issue a license or deny the

application. Incomplete applications will be rejected, and an additional application fee will be collected for corrected and/or new applications.

- d) A license or registration shall be good for a maximum of 3 calendar years from the date of issuance.
- e) Any changes to the licensee's cultivation application as outlined in the original application shall be approved by the Department prior to implementation.
- f) All processors of industrial hemp shall register with the Department on a form provided by the Department, which shall include:
 - 1) The name and address of the person or entity applying for the processor registration.
 - 2) The business type, such as a corporation, LLC, partnership, sole proprietor, etc.
 - 3) The business name and address if different than the one submitted in response to subsection (f)(1).
 - 4) The nature of the processing by the registrant; and
 - 5) The applicable fee set forth in Section 1200.80.
 - 6) An acknowledgement and consent to the Department collecting, maintaining, and providing to USDA contact and real-time information for each hemp producer licensed or authorized in the state
- g) Any applicant who materially falsifies information in their application shall be ineligible to receive a license or registration
- h) Nothing in this Part is intended to confer a property or other right, duty, privilege or interest entitling an applicant to an administrative hearing upon denial of an application. Applicants may appeal the denial of an application for licensure by submitting a Petition to the Director as proscribed in 8 Ill. Adm. Code Part 1, Subpart C, within 30 calendar days of receiving notice of the denial.

Section 1200.40 Reports

- a) At least 30 calendar days prior to harvest, to the best of the licensee's ability, each licensee shall file a Harvest Report, on a form provided by the Department, that includes:

- 1) The expected harvest dates and locations of each variety of industrial hemp cultivated by the licensee.
 - 2) The licensee shall notify the Department if the harvest dates change in excess of 5 calendar days.
- b) No later than February 1 of each year, each licensee shall submit an Industrial Hemp Cultivator Final Report to the Department that includes:
- 1) Total acres or square feet of industrial hemp planted in the previous calendar year;
 - 2) A description of each variety planted and harvested in the previous calendar year;
 - 3) Total acres or square feet harvested in the previous calendar year; and
 - 4) Total yield in the appropriate measurement, such as tonnage, seeds per acre, or other measurement approved by the Department.
- c) The Department will provide harvest data and the information in b) above to USDA within 30 calendar days of its receipt
- d) Acreage Reports to Farm Service Agency. Licensees shall report hemp planting acreage to the United States Department of Agriculture Farm Service Agency. This reporting shall be done within 30 calendar days after the completion of planting of an outdoor crop site, or within 30 calendar days after the first planting of hemp in the calendar year in an indoor cultivation site. At a minimum, the following information shall be reported:
- 1) Street address for each crop site
 - 2) Geospatial location for each crop site
 - 3) Acreage of each crop site
 - 4) Licensee identifying information, including licensee name and number

Section 1200.50 Inspection, Sampling, and Testing

- a) All licensees shall be subject to inspections at the discretion of the Department to ensure compliance with the Act.
- 1) This includes, but is not limited to: annual inspections, random inspections, and inspections for the purposes of auditing

- b) The Department shall provide a minimum of 5 business days' notice to the licensee for an annual inspection. The notification shall inform the licensee of the scope and process by which the annual inspection will be conducted.
- c) Failure to comply with any inspection shall result in the initiation of disciplinary proceedings pursuant to Section 1200.120.
- d) Either the licensee or an agent of the licensee shall be present for the inspection and sampling and shall provide the inspector with unrestricted access to all industrial hemp plants, parts, seeds, and harvested material, including all buildings and other structures used for the cultivation and storage of industrial hemp and all documents pertaining to the licensee's industrial hemp cultivation and business.
- e) All industrial hemp plants are subject to sampling and testing to verify that the total THC concentration does not exceed 0.3% on a dry weight basis.
 - 1) Individual or composite samples, as appropriate based on lot size and pursuant to published USDA guidance, of each variety of cannabis shall be sampled from the licensee's land area, including indoor cultivation sites, at the Department's discretion.
 - 2) A representative sample will be taken by a sampling agent, Department personnel, approved laboratory personnel, or a third party designated by Department to collect samples
- f) Sampling Procedures shall comply with all Rules in this Part, in addition to the specifications below.
 - 1) The sampling agent shall verify the GPS coordinates of the growing area as compared with the GPS coordinates submitted by the licensee to the Department.
 - A. The licensee or designated employee should accompany the sampling agent throughout the sampling process, if possible.
 - B. The sampling agent shall estimate the average height, appearance, approximate density, condition of the plants, and degree of maturity of the inflorescences (flowers/buds). The sampling agent shall visually establish the homogeneity of the stand to establish that the growing area is of like variety.
 - 2) Within 30 calendar days prior to the anticipated harvest of a designated hemp lot, an approved sampling agent, shall collect representative samples from such cannabis plants for THC concentration level testing. Hemp producers

may not harvest hemp prior to the hemp being sampled for THC concentration.

- 3) All samples shall be collected from the flowering tops of the plant by cutting the top five to eight inches from the “main stem” (that includes the leaves and flowers), “terminal bud” (that occurs at the end of a stem), ”or “central cola” (cut stem that could develop into a bud) of the flowering top of the plant.
 - A. The selection of plants for testing will be at the collector’s discretion, with guidance from Department.
 - B. The number of plants sampled will be determined by the collector based on USDA published guidance.
- 4) The sample collector will take a representative sample of the crop site, using USDA published guidance and industry best practices to ensure a homogenous composition of the sample.
 - A. A sample will be taken from every lot.
- 5) Samples shall be collected and maintained in such a way that there is no comingling of samples or sample material.
- 6) The sample collector shall report to Department and law enforcement any cannabis plants observed outside of the crop site boundaries. Department may elect to contact law enforcement on behalf of the sample collector, or for the sample collector to contact law enforcement directly.
- 7) The sample collector will not collect a sample if the collector: is not allowed complete, unrestricted access to the site; and/or reasonably believes the licensee has commenced harvest prior to sample collection.
 - A. Failure to obtain a sample because of this will be viewed by Department as non-cooperation of the licensee and could result in discipline or other restrictions as deemed necessary and appropriate by Department.
- g) The sampled material shall be tested by an approved laboratory.
 - 1) Quantitative laboratory determination of the total THC concentration on a dry weight basis will be performed.
 - 2) A sample test result with a total THC concentration on a dry weight basis that exceeds 0.3% but is less than 0.7% may be retested at the expense of the licensee. A request for a retest by the licensee shall be received by the

Department within 3 business days after initial receipt of the original test results by the licensee.

- 3) All harvested industrial hemp receiving a sample test result with a total THC concentration on a dry weight basis that exceeds 0.3% and is not retested at the request of the licensee shall be disposed of unless the licensee chooses to remediate.
 - 4) All harvested industrial hemp receiving both a sample test result and a sample retest result with total THC concentrations on a dry weight basis that exceeds 0.3% shall be disposed of unless the licensee chooses to remediate.
 - 5) All harvested industrial hemp receiving a sample test result with a total THC concentration on a dry weight basis that equals or exceeds 0.7% shall be disposed of unless the licensee chooses to remediate.
 - 6) Any sampled material not meeting the definition of hemp will be reported to the Department. Such report will include the disposal records and any other information deemed pertinent.
 - 7) All harvested industrial hemp awaiting test results shall be stored by the licensee or processor and shall not be processed or transported until test results are obtained and the industrial hemp is released by the Department.
 - 8) Testing of industrial hemp will be completed by the Department or by a third-party laboratory approved by the Department pursuant to this Part.
 - 9) Actual cost of testing shall be paid by the licensee.
- h) Standard Remediation Procedures and Guidelines
- 1) Procedures for Non-compliant Hemp Plants
 - A. Non-compliant hemp plants may only be disposed of or remediated. Only successfully remediated crops will be allowed to enter the stream of commerce. All other non-compliant crops shall be disposed. Disposal must take place using one of the methods in the definition in these Rules. Remediation may take place using one of the two options in B and C below.
 - B. Non-compliant hemp plants may be remediated by separating and destroying non-compliant flowers, while retaining stalks, leaves, and seeds.
 - C. Non-compliant hemp plants may be remediated by shredding the entire hemp plant to create “biomass” as defined in the definitions of these

rules. Lots should be kept separate and not be combined during this process.

2) Remediation Guidelines

- A. The licensee or designated employee, or an approved representative of the Department, as the Department deems appropriate, shall remediate or dispose of non-compliant hemp. The Department plan may require that a representative of the Department be present during the remediation or disposal process.
- B. Upon notification that a lot has tested above the acceptable hemp THC level, the licensee should notify the Department of the licensee's decision to either dispose of or remediate the non-compliant lot and the method of disposal or remediation the licensee will use.
- C. All lots subject to remediation should be stored, labeled and kept apart from each other and from other compliant hemp lots stored or held nearby.

3) Separation and removal of the flowers from the stalks, leaves and seeds

- A. The flowers, including buds, trichomes, "trim," and "kief," should be removed from the lot and destroyed. Methods may include, but are not limited to, the removal, by hand, of non-compliant flowers and floral materials and the mechanical removal of non-compliant flowers and floral materials.
- B. Until such time as the non-compliant flowers and floral material are disposed of, the stalks, leaves, and seeds should be separated from the non-compliant floral material and clearly labeled and marked as "hemp for remediation purposes."
- C. Seeds removed from non-compliant hemp during remediation should not be used for propagative purposes.

4) Creation of Biomass

- A. The entire lot, as reported to the Department, should be shredded to create a homogenous, uniform biomass.
- B. The biomass created through this process shall be resampled and retested to ensure compliance before entering the stream of commerce. Biomass that fails the retesting is non-compliant hemp and shall be disposed of.

- C. Remediated biomass should be separated from any compliant hemp stored in the area and clearly labeled as “hemp for remediation purposes.” Remediated biomass should not leave the labeled area until a test result showing compliance with the acceptable hemp THC level is received or the biomass is ready to be disposed of.

5) Re-sampling Remediated Biomass or Remediated Stalks, Leaves and Seeds

- A. Remediated biomass or remediated stalks, leaves, and seeds shall be resampled and retested to ensure compliance before entering the stream of commerce. Remediated biomass or remediated stalks, leaves, and seeds that fail the retesting shall be destroyed.
- B. The resample must be taken by sampling agent as described in USDA published guidance.
- C. When taking the resample, the sampling agent should take remediated biomass or remediated stalks, leaves and seeds material from various depths, locations, and containers in the labeled and demarcated area to collect a representative sample of the material. At minimum, ~750 mL or three (3) standard measuring cups of remediated biomass or remediated stalks, leaves and seeds material should be collected. Sampling agents may collect more remediated biomass or remediated stalks, leaves and seeds material based on the requirements of the testing laboratory. If ~750 mL of material is not available, the sampling agent should collect enough remediated biomass or remediated stalks, leaves and seeds material for a representative sample.
- D. An original copy of the resample test results, or a legible copy, must be retained by the producer or an authorized representative and available for inspection for a period of three (3) years from the date of receipt.
- E. Laboratories testing a resample shall utilize the same testing protocols as when testing a standard sample.

Section 1200.55 Academic Research Institutions

- a) Academic Research Institutions shall be subject to all provisions of this Part with the exception of the following:
 - 1) License Fees. The fee for a license and for renewal of that license will be \$100.

- 2) Laboratory testing. An Academic Research Institution is exempt from state or DEA required testing under Section 1200.50. Testing shall be conducted by a designated laboratory that is under the control of the Academic Research Institution or has a written agreement with another Academic Research Institution.
- 3) Reporting. An Academic Research Institution shall provide the following reports, which shall be confidential to the extent that they reveal or release research conducted, unless the Academic Research Institution provides authorization for release:
 - A. Within 72 hours of the Institution receiving test results, the following data shall be provided to the Department:
 - i. the test results;
 - ii. photos of samples;
 - iii. documentation of sampling chain of custody.
 - B. No later than February 1 of each year, each academic research institution shall submit an Industrial Hemp Academic Institution Research Report to the Department that includes:
 - i. Total acres or square feet of industrial hemp planted in the previous calendar year;
 - ii. A description of each variety planted and harvested in the previous calendar year;
 - iii. Total acres or square feet harvested in the previous calendar year; and
 - iv. Total yield in the appropriate measurement, such as tonnage, seeds per acre, or other measurement approved by the Department.
 - v. A disposal report for each lot or field harvested at the conclusion of the academic research.
 - vi. A description of their research and research findings.
 - C. Acreage Reports to Farm Service Agency. Academic Research Institutions shall report hemp planting acreage to the United States Department of Agriculture Farm Service Agency as described in

1200.40(d), with the exception that this report does not have to be broken down by lot.

- 4) Commerce and Disposal. Hemp grown for research purposes may not enter the stream of commerce at any time. Hemp grown for research purposes must be disposed of in accordance with these Rules at the conclusion of the research period.
- 5) Sampling. Academic Research Institutions shall be exempt from the Inspection and Sampling provisions in 1200.50. Academic Research Institution sampling procedures shall include the following.
 - A. Academic Research Institutions shall notify the Department at least 7 business days prior to collection of samples. The notification shall include the name of the individual designated as the academic sampling agent and the GPS coordinates for the samples to be taken.
 - B. Academic Research Institutions shall identify and designate a Sampling Agent. For Academic Research Institutions only, a Sampling Agent may be an employee.
 - C. The academic sampling agent shall verify the GPS coordinates of the growing area as compared with the GPS coordinates submitted by the licensee to Department.
 - D. The sampling agent shall estimate the average height, appearance, approximate density, condition of the plants, and degree of maturity of the inflorescences (flowers/buds). The sampling agent shall visually establish the homogeneity of the stand to establish that the growing area is of like variety.
 - E. All samples shall be collected from the flowering tops of the plant by cutting the top five to eight inches from the “main stem” (that includes the leaves and flowers), “terminal bud” (that occurs at the end of a stem), ”or “central cola” (cut stem that could develop into a bud) of the flowering top of the plant.
 - F. Samples shall be collected and maintained in such a way that there is no commingling of samples or sample material.
- 6) At the request of the Institution, and with Department’s written permission, an Institution may opt for Performance Based Sampling Protocols instead of the provisions outlined in 1200.55(a)(5) above.
 - A. Consideration for Performance Based Sampling Protocols will include:

- i. Whether the institution can provide proof of a seed certification process or process that identifies varieties that have consistently demonstrated to result in compliant hemp plants;
- ii. The Institution's history of producing compliant hemp plants over an extended period of time;
- iii. The Institution's Plan to ensure, at a confidence level of 95%, that no more than 1% of the plants in each will exceed the acceptable total THC level

B. Performance Based Sampling Protocol will be subject to the following terms and conditions:

- i. When samples are collected, the sampling procedure must follow the provisions of 1200.55(a)(5)(D) and (E).
- ii. The Department reserves the right to sample and test, or order the sampling and testing, of any hemp lot at any time to ensure compliance with the acceptable hemp total THC level.
- iii. Violations of performance-based methods will result in Academic Research Institutions no longer being exempt from the Sampling Procedures outlined in 1200.55(a)(5), and may result in administrative penalties as outlined in Section 1200.130.

Section 1200.60 Laboratory Approval

- a) No laboratory shall handle, test, or analyze hemp unless approved by the Department in accordance with this Section. A list of approved laboratories will be made available by the Department on its website.
- b) No laboratory shall be approved to handle, test, or analyze cannabis unless the laboratory:
 - 1) Is accredited to the ISO/IEX 17025 standard by a private non-profit laboratory accrediting organization, or can demonstrate that it has a current working relationship with an accrediting organization and receives final accreditation within one year of applying to be an approved laboratory with the Department.
 - 2) Is independent from all other persons involved in the hemp industry in Illinois, which shall mean that no person with a direct or indirect interest in

the laboratory shall have a direct or indirect financial, management, or other interest in a cultivation license or processor registration;

- 3) Has employed at least one person to oversee and be responsible for the laboratory testing who has earned, from a college or university accredited by a national or regional certifying authority, at least:
 - A) a master's level degree in chemical or biological sciences and a minimum of 2 years post-degree laboratory experience; or
 - B) a bachelor's degree in biological sciences and a minimum of 4 years post-degree laboratory experience.
- 4) Is registered with the United States Drug Enforcement Agency by December 31, 2022
- c) Each independent testing laboratory that claims to be accredited shall provide the Department with a copy of the most recent annual inspection report granting accreditation and every annual report thereafter.

Section 1200.70 Testing Requirements

- a) Industrial hemp sampled for testing may be transported to the approved laboratory by the Director, or one of his or her designees, or by approved laboratory personnel.
 - 1) An appropriate chain of custody must be maintained at all times.
 - 2) The sampling agent, transporter, and laboratory are each responsible for their own portion of the chain of custody and sharing such with the other parties as necessary.
- b) Testing laboratories shall test industrial hemp using post-decarboxylation, or other similarly reliable methods approved by the USDA, to detect total THC concentration levels of the sampled hemp.
 - 1) This may include, but is not limited to: chromatographic technique using heat, gas chromatography, through which THCA is converted from acid to its neutral THC form; or a high-performance liquid chromatograph technique, which keeps THCA intact and requires a conversion calculation to get the THC value.
- c) When a laboratory tests a hemp sample, the laboratory shall report the total THC tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty.

- 1) The measure of uncertainty shall be estimated and reported with test results.
- d) Prior to testing, laboratory personnel must ensure that hemp samples are dried, and the stem and seed separated from floral material.
- 1) The stem and seed shall be discarded.
 - 2) The floral material shall be ground.
 - 3) The ground floral material shall be tested for THC content.
- e) Treatment of Samples Post-Testing
- 1) Samples shall be stored by the laboratory for a minimum of six months following testing.
 - A. Samples shall be stored in a manner that preserves the quality and content of the sample material.
 - B. Samples may be stored at a location other than the laboratory at the Department's discretion.
 - 2) Licensees may request re-testing of any remaining, un-tested, parts of a sample, but will bear sole cost of any re-test.
 - 3) The laboratory shall notify the Department, in writing, at least 10 business days prior to the disposal of any sample.
- f) Reporting of Test Results
- 1) All laboratories authorized by the Department to test hemp shall also comply with USDA hemp reporting requirements.
 - 2) The Department will take reasonable steps to notify laboratories of specific test reporting requirements, but ultimate responsibility for compliance with USDA reporting lies with the laboratory.
 - 3) Laboratories shall report final, official THC level, test documentation to USDA.
 - A. Laboratories are not required to report test results requested by the grower throughout the season.

- 4) Laboratories shall provide growers with copies of test results. The original test documentation shall be retained by the laboratory or provided to USDA, as appropriate.

Section 1200.80 Fees

An applicant or licensee shall submit the following nonrefundable fees with each license application submitted, in the form of a certified check or money order payable to the "Illinois Department of Agriculture", or by such other means as approved by the Department.

- a) The application fee for an Industrial Hemp Cultivation License shall be \$100 for each noncontiguous land area and each indoor cultivation operation area.
- b) Upon approval of an application, the license fee for each noncontiguous land area and each indoor cultivation operation shall be \$1000 for a 3 year license; \$700 for a 2 year license; and \$375 for a 1 year license.
- c) The application fee for a processor registration shall be \$100 for each address operated by the processor.
- d) Upon approval of an application for registration, the registration fee for each registered address operated by a processor shall be \$1000 for a 3 year registration; \$700 for a 2 year registration; and \$375 for a 1 year registration.
- e) This section shall not apply to academic research institutions. Qualifying academic research institutions shall pay a flat annual fee of \$100 for a license and license renewal.

Section 1200.90 Restrictions on Sale and Transfer

- a) A licensed person shall not sell or transfer, or permit the sale or transfer of, living plants or viable seeds to any person in the State of Illinois who does not hold a license or registration issued by the Department.
- b) A licensed person shall not sell or transfer, or permit the sale or transfer of, living plants or viable seeds outside the State of Illinois that is not authorized by a state agency under the laws of the destination state.
- c) The Department shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of 0.3%) and other marketable hemp products to members of the general public, both within and outside the State of Illinois.

Section 1200.100 Other Prohibited Activities

- a) A licensed person shall not plant or grow hemp on any site not listed in the application.
- b) A licensed person shall not ship or transport, or allow to be shipped or transported, live hemp plants, cuttings for planting, or viable seeds from a variety that is currently designated by the Department as a prohibited variety or a variety of concern to any location outside the State of Illinois.
- c) A licensed person shall not ship or transport, or allow to be shipped or transported, any hemp product with a total THC concentration in excess of 0.3%.

Section 1200.110 Transportation of Industrial Hemp

- a) Only a licensed or registered person who is licensed or registered with the USDA or licensed or registered under a USDA approved State or Tribal hemp plan, or an agent thereof, may transport live or harvested industrial hemp.
- b) Industrial hemp that has not been processed may be transferred by the licensee or registrant from the place of cultivation to the place of processing at any time.
- c) Approved laboratory personnel may transport hemp samples for testing to laboratories for testing purposes.
- d) There is no State restriction on the transportation of industrial hemp products following retail sale to a member of the public.

Section 1200.120 Violations

- a) A licensee or registrant shall be subject to subsection (b) if the Department determines that the licensee or registrant has negligently violated the Act or this Part, including by negligently:
 - 1) Failing to provide a legal description of land on which the licensee produces hemp.
 - 2) Failing to obtain a license or other required authorization from the Department; or
 - 3) Producing cannabis with a total THC concentration exceeding the acceptable hemp THC level. Licensees do not commit a negligent violation under this paragraph (b)(3) if they make reasonable efforts to

grow hemp and the cannabis does not have a total THC concentration of more than 1.0 percent on a dry weight basis.

- b) A licensee or registrant described in subsection (a) shall comply with a plan established by the Department to correct the negligent violation, including :
 - 1) a reasonable date by which the licensee or registrant shall correct the negligent violation; and
 - 2) A requirement that the licensee or registrant shall periodically report to the Department on the compliance of the licensee or registrant for a period of not less than 2 calendar years; and
 - 3) Announced or unannounced inspections by Department of licensee or registrant to confirm compliance with the corrective action plan.
- c) A licensee or registrant that negligently violates the Act or this Part (see subsection (a)) shall not, as a result of that violation, be subject to any criminal enforcement action by any federal, State or local government.
- d) A licensee or registrant that negligently violates subsection (a) 3 times in a 5-year period shall be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.
- e) If the Department determines that a licensee or registrant has violated the Act or this Part with a culpable mental state greater than negligence, the Department shall immediately report the licensee or registrant to:
 - 1) The Attorney General of the United States;
 - 2) The Attorney General of Illinois; and
 - 3) The Illinois State Police.
- f) The Department may, on its own initiative, or after receipt of a complaint against a licensee or registrant, conduct an investigation to determine whether a violation has taken place.
- g) A licensee or registrant that wants to contest the Department's determination of a violation must do so by submitting a request for an administrative hearing to the Bureau of Licensing and Administration within 30 calendar days of receiving notice of the violation.

Section 1200.130 Administrative Penalties

- a) Any hearing conducted by the Department pursuant to the Act shall be conducted in accordance with the Department's rules applicable to formal administrative proceedings (8 Ill. Adm. Code 1. Subparts A and B). All such hearings shall be held in Springfield IL or such other location as mutually agreed to by the Department and the other party.
- b) Notwithstanding any other criminal penalties related to the unlawful possession of cannabis, the Department may revoke, suspend, place on probation or supervision, reprimand, issue cease and desist orders, refuse to issue or renew a license or registration, or take any other disciplinary or no disciplinary action as the Department may deem proper with regard to a licensed or registered entity or person.
- c) The Department may impose fines, not to exceed \$10,000 for each violation, for any violations of the Act or this Part.