

IDOA Rule Recommendations from the Illinois Hemp Business Association

1200.10: Definitions

Changed the definition of "Cannabis" back to the definition from the CRTA

"Cannabis" ~~means 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. Cannabis 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.~~ shall have the same definition as in the Cannabis Regulation and Tax Act: "Cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means cannabis flower, concentrate, and cannabis-infused products.

Added clarifications and more specific definitions of Hemp/Industrial Hemp to include stuff DoA regulates (Illinois Hemp), stuff produced for standard in-state and out-of-state B2B transactions (Intermediate Hemp), stuff the DoA claims to not have the authority to regulated (Finished Hemp Products) and normalizing for Interstate Commerce with Out-of-State USDA approved Hemp Programs.

"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. Hemp and Industrial Hemp in Illinois can be classified into multiple categories, including Illinois Hemp, Foreign Hemp, Intermediate Hemp, Illinois Finished Hemp Product, Safe Harbor Finished Hemp Product & Foreign Finished Hemp Products. Under current state and federal hemp guidelines, the definitions of Acceptable Hemp THC Level, Post Decarboxylation Value, Total THC and Total

Potential THC and the associated licensing, rules, penalty and criminal provisions under these guidelines are only applicable to Illinois Hemp as defined by this statute. “Hemp” or “Industrial Hemp” is different from “Cannabis” as defined under the CRTA and enforced through the Illinois Criminal Code and in accordance with pre-existing Federal Farm Bill guidance and supremacy, Foreign Hemp, Intermediate Hemp, Illinois Finished Hemp Products and Foreign Finished Hemp Products are currently covered under the United States Federal Farm Bill which defines Hemp as “any part of the plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers with a delta 9 THC concentration below 0.3%. ~~and includes any intermediate or finished product made or derived from industrial hemp.~~”

“Illinois Hemp” means Hemp or Industrial Hemp that has been cultivated, tested and certified in Illinois under a license issued under the act and includes raw & unprocessed parts of the plant, including seeds, tissue culture, leaves, stalks, biomass and flower.

“Foreign Hemp” means Hemp or Industrial Hemp that has been cultivated, tested and certified outside of the State of Illinois in a State or Tribal Authority produced in compliance with a USDA-approved plan under the act and includes raw & unprocessed parts of the plant, including seeds, tissue culture, leaves, stalks, biomass and flower.

“Intermediate Hemp” means products sold and purchased between registered in-state or out-of-state hemp businesses establishments derived from hemp that are used as inputs for other intermediate hemp products or Finished Hemp products. Examples of intermediate hemp products include crude, distillate, isolate, full & broad spectrum oils, terpene extracts, crystallines, nanoemulsion concentrates, resins, and dissolvable powders and are not to be sold to the general public. The 0.3% delta-9 THC limit does not apply for intermediate hemp products being sold or transferred between in-state licensed hemp processors or out-of-state licensed hemp business establishments.

“Illinois Finished Hemp Product” means manufactured products that are produced and packaged in the State of Illinois by a registered in-state hemp processor and are sold to the general public. The Total THC or Total Potential THC calculation does not apply to Finished Hemp Products and hemp processors can use High-Performance Liquid Chromatography or other similar testing technologies to differentiate and exclude non-decarboxylated THCa from being incorporated into the 0.3% delta-9 THC threshold to determine whether the Finished Product is Hemp (legal for retail sale) or Cannabis (to be regulated and sold under the CRTA).

“Safe Harbor Finished Hemp Product” means manufactured products that are produced and packaged in the State of Illinois by a registered in-state hemp processor to be exported out of state. Safe Harbor Finished Hemp Products need to be segregated from Illinois Finished Hemp Products and may be subject to more or less restriction production parameters per each respective State or Tribal Government’s USDA Authorized Hemp Plan. Hemp processors can use High-Performance Liquid Chromatography or other similar testing technologies to differentiate and exclude non-decarboxylated THCa from being incorporated into the 0.3%

delta-9 THC threshold to determine whether the Finished Product is Hemp (legal for exportation) or Cannabis (a schedule 1 controlled substance).

“Foreign Finished Hemp Product” means manufactured hemp products that are produced and packaged for Illinois residents by a licensed hemp business establishment located outside of the State of Illinois produced in compliance with a USDA-approved hemp plan. The Total THC or Total Potential THC calculation does not apply to Finished Hemp Products and out-of-state licensed hemp business establishment can use High-Performance Liquid Chromatography or other similar testing technologies to differentiate and exclude non-decarboxylated THCa from being incorporated into the 0.3% delta-9 THC threshold to determine whether the Finished Product is Hemp or Cannabis

1200.50 Inspection, Sampling & Testing

Section 1200.50(d) - clarified the storage and labeling of hemp for inspection that is regulated under IDOA (Illinois Hemp) and hemp that has been regulated and certified by agencies that are outside of IDOA (Foreign Hemp, Intermediate Hemp, Finished Hemp Products)

Section 1200.50(e), (f), (g), (h) - clarified inspection, sampling & testing procedures for Illinois Hemp

Section 1200.50(j) - clarifications on Foreign Hemp that has been certified by an out-of-state USDA Hemp program to prevent “double jeopardy” (E.g., redundant testing & certification)

Section 1200.50(k) - clarifications on Intermediate Hemp to be sold on a B2B basis between Hemp Business Establishments that will generally test “hot” so that it does not become an Illinois Criminal Code Drug/Cannabis Trafficking Provisions

Section 1200.50(l) - clarifications on Final Hemp Products (specifically out of state) so that licensees with certified final-product manufactured inventory do not become violators of the Illinois Criminal Code Drug/Cannabis Trafficking/Delivery/Sale Provisions - we also recognize that the Department has stated that they don’t currently have statutory authority to regulate this, but have inserted this language due to their more stringent THCa testing additions on the production side that could potentially criminalize businesses and consumers buying and selling federally legal hemp products across the State of Illinois.

1200.60 Inspection, Sampling & Testing

Section 1200.60(a), (b), (c) - clarified inspection, sampling & testing procedures for Illinois Hemp

Section 1200.50(d) - clarifications on that Hemp that has been tested by a lab certified by an out-of-state USDA approved Hemp program is “valid”

1200.70 Testing Requirements

Section 1200.70(a), (b), (c), (d) - clarified testing requirements for Illinois Hemp

Section 1200.70(e) - clarifications on the use of HPLC for the separation of THCa from the d9 THC percentage to conform to federally legal USDA Hemp guidelines

1200.100 Prohibited Activities

Section 1200.100(c) - clarified on the shipment of Illinois Hemp Products vs Intermediate Hemp Products vs finished Hemp Products

1200.110 Transportation of Industrial Hemp

Section 1200.110(b) Differentiated more restrictively regulated Illinois Hemp from federal-legal hemp for purposes of Intermediate Hemp Products

Section 1200.110(d) Added back what was deleted so that the general public purchasing hemp do not have any restrictions on transportation.

1200.120 Violations

Section 1200.120(a)(3) Clarified language to encompass items that IDOA can regulate (E.g., in-state) vs out-of-state intermediate hemp products that might be used as inputs in making finished hemp products

PROPOSED RULES TEXT

IHBA Additions Highlighted in Yellow

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER v: LICENSING AND REGULATIONS

PART 1200
INDUSTRIAL HEMP ACT

Section	
1200.10	Definitions and Incorporations
1200.20	General Provisions
1200.30	Application and Licensure
1200.40	Reports
1200.50	Inspection, and Sampling, and Testing
1200.55	Academic Research Institutions
1200.56	Government Demonstration and Research Entity
1200.60	Laboratory Approval
1200.70	Testing Requirements
1200.80	Fees
1200.90	Restrictions on Sale and Transfer
1200.100	Other Prohibited Activities
1200.110	Transportation of Industrial Hemp
1200.120	Violations
1200.130	Administrative Penalties

AUTHORITY: Implementing and authorized by Section 15 of the Industrial Hemp Act [505 ILCS 89].

SOURCE: Adopted at 43 Ill. Reg. 4973, effective April 24, 2019; amended at 48 Ill. Reg. _____, effective _____.

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" means institutions that: offer in person courses at a physical campus located in Illinois; are Illinois not-for-profit entities; offer agricultural programs or degrees; and 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, including, but not limited to, Illinois public or nonpublic secondary schools registered with the Illinois State Board of Education, which conduct academic research on hemp.

"Academic Research Designated Laboratory" means a laboratory that is under the control of the licensed academic research institution or has a written agreement with another licensed academic research institution to conduct testing on its behalf. Testing conducted between licensed academic research institutions does not need to be contingent upon payment for testing services.

"Academic Sampling Agent" means 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% on a dry weight basis for hemp or in a hemp product. A hemp or hemp product will satisfy this standard if laboratory testing produces a distribution or range within the measurement of uncertainty that includes the total THC concentration level of 0.3% 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" means the result of all flowers, buds, trichomes, leaves, stalks, seeds, and all plant parts from a lot being 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: "Cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant *Cannabis sativa* and including derivatives or subspecies, such as *indica*, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act. "Cannabis" also means cannabis flower, concentrate, and cannabis-infused products. ~~means 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. Cannabis 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.~~

"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" or "decarboxylation" 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 calculated using a molecule mass conversion ratio that sums delta-9-THC and 87.7% of THC-acid ((delta-9 THC) + (0.877 * THCA)).

"Department" means the Illinois Department of Agriculture.

"Director" means the Director of Agriculture. [505 ILCS 89/5]

"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 for non-compliance with the Act or this Part.

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

"Government Demonstration and Research Entity" means a state or local government body licensed to grow hemp for research, demonstration, soil or water remediation, or soil erosion control.

"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. **Hemp and Industrial Hemp in Illinois can**

be classified into multiple categories, including Illinois Hemp, Foreign Hemp, Intermediate Hemp, Illinois Finished Hemp Product, Safe Harbor Finished Hemp Product & Foreign Finished Hemp Products. Under current state and federal hemp guidelines, the definitions of Acceptable Hemp THC Level, Post Decarboxylation Value, Total THC and Total Potential THC and the associated licensing, rules, penalty and criminal provisions under these guidelines are only applicable to Illinois Hemp as defined by this statute. “Hemp” or “Industrial Hemp” is different from “Cannabis” as defined under the CRTA and enforced through the Illinois Criminal Code and in accordance with pre-existing Federal Farm Bill guidance and supremacy, Foreign Hemp, Intermediate Hemp, Illinois Finished Hemp Products and Foreign Finished Hemp Products are currently covered under the United States Federal Farm Bill which defines Hemp as “any part of the plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers with a delta 9 THC concentration below 0.3%. ~~and includes any intermediate or finished product made or derived from industrial hemp.~~”

“Illinois Hemp” means Hemp or Industrial Hemp that has been cultivated, tested and certified in Illinois under a license issued under the act and includes raw & unprocessed parts of the plant, including seeds, tissue culture, leaves, stalks, biomass and flower.

“Foreign Hemp” means Hemp or Industrial Hemp that has been cultivated, tested and certified outside of the State of Illinois in a State or Tribal Authority produced in compliance with a USDA-approved plan under the act and includes raw & unprocessed parts of the plant, including seeds, tissue culture, leaves, stalks, biomass and flower.

“Intermediate Hemp” means products sold and purchased between registered in-state or out-of-state hemp businesses establishments derived from hemp that are used as inputs for other intermediate hemp products or Finished Hemp products. Examples of intermediate hemp products include crude, distillate, isolate, full & broad spectrum oils, terpene extracts, crystallines, nanoemulsion concentrates, resins, and dissolvable powders and are not to be sold to the general public. The 0.3% delta-9 THC limit does not apply for intermediate hemp products being sold or transferred between in-state licensed hemp processors or out-of-state licensed hemp business establishments.

“Illinois Finished Hemp Product” means manufactured products that are produced and packaged in the State of Illinois by a registered in-state hemp processor and are sold to the general public. The Total THC or Total Potential THC calculation does not apply to Finished Hemp Products and hemp processors can use High-Performance Liquid Chromatography or other similar testing

technologies to differentiate and exclude non-decarboxylated THCa from being incorporated into the 0.3% delta-9 THC threshold to determine whether the Finished Product is Hemp (legal for retail sale) or Cannabis (to be regulated and sold under the CRTA).

“Safe Harbor Finished Hemp Product” means manufactured products that are produced and packaged in the State of Illinois by a registered in-state hemp processor to be exported out of state. Safe Harbor Finished Hemp Products need to be segregated from Illinois Finished Hemp Products and may be subject to more or less restriction production parameters per each respective State or Tribal Government’s USDA Authorized Hemp Plan. Hemp processors can use High-Performance Liquid Chromatography or other similar testing technologies to differentiate and exclude non-decarboxylated THCa from being incorporated into the 0.3% delta-9 THC threshold to determine whether the Finished Product is Hemp (legal for exportation) or Cannabis (a schedule 1 controlled substance).

“Foreign Finished Hemp Product” means manufactured hemp products that are produced and packaged for Illinois residents by a licensed hemp business establishment located outside of the State of Illinois produced in compliance with a USDA-approved hemp plan. The Total THC or Total Potential THC calculation does not apply to Finished Hemp Products and out-of-state licensed hemp business establishment can use High-Performance Liquid Chromatography or other similar testing technologies to differentiate and exclude non-decarboxylated THCa from being incorporated into the 0.3% delta-9 THC threshold to determine whether the Finished Product is Hemp or Cannabis

"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 by a person for that person's sole use.

"Hemp Microgreens" means immature hemp seedlings grown for human consumption that are harvested above the soil or substrate line, prior to flowering, and not more than 14 days after germination and no more than five inches in height.

"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 or government demonstration and research entity.

"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 a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout.

"Negligence" means a failure to exercise the level of care that a reasonably prudent person would exercise in complying with this Part.

"Official Sample" means the preharvest hemp sample collected by the Department, or sampling agent which is used to assess the THC concentration of a single lot of hemp. The official sample may also be used for sample retesting if a sufficient quantity of the original official sample remains.

"Order of Disposal" means an order furnished to the licensee by the Department, ordering the disposal of cannabis that exceeds the acceptable hemp THC concentration when remediation is refused or has failed, and the grower refuses to destroy the non-compliant lot.

"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 chromatography technique, which keeps the THCA intact and requires a conversion calculation of that THCA to calculate total potential THC in a given sample.

"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. [505 ILCS 89/5]

"Registrant" or "Processor" 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 the process by which non-compliant hemp (THC concentration $> 0.3\%$) is rendered compliant (THC concentration $\leq 0.3\%$). 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.

"Sampling Agent" means someone trained under applicable USDA training program available on the USDA website or a State training program for sample collection and has provided proof of training to the Department.

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

"THC" means total tetrahydrocannabinol.

"Total THC" or "Total potential THC" means 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 within the measurement of uncertainty. 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 high performance liquid chromatography which keeps the THCA intact. This technique requires the use of the following conversion: [Total THC= (0.877 x THCA) + THC] which calculates the potential total THC in a given sample.

"USDA sampling guidance" means United States Department of Agriculture Sampling Guidelines for Hemp issued on January 15, 2021 by the U.S. Domestic Hemp Production Program which have been incorporated by reference and does not include any letter amendments or editions. The guidance may be found at <https://www.ams.usda.gov/rules-regulations/hemp/rulemaking-documents> and is available from the Department upon request.

"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".

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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 registration from the Department.
- c) All licensees in the State must 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.

Licensee shall designate the area where hemp is grown into lots. A lot is to be defined by the licensee in terms of farm location, field acreage, and variety (i.e., cultivar) and to be reported as such to Farm Services Agency. 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.

- j) Harvest Timing and Restrictions
 - 1) No licensee shall harvest any portion of a hemp crop until after the lot to be harvested has been sampled pursuant to Section 1200.50.
 - 2) A sample of each lot must be collected by a sampling agent within 30 calendar days prior to licensee's reported harvest date. Licensee is responsible for obtaining the services of a sampling agent approved by the testing laboratory.
 - 3) There shall be no change of ownership of any hemp crop until laboratory testing has been completed on such crop pursuant to Section 1200.50.

- l) Each licensee and registrant shall maintain all records for a period of at least 3 years. Records may be subject to audit and inspection by the Department. "Records" includes, but is not limited to:
 - 1) harvest reports;
 - 2) sales data including license numbers of licensees or registrants purchasing seed, propagules or raw industrial hemp;
 - 3) testing results;
 - 4) sampling documentation;
 - 5) resampling results;
 - 6) disposal reports;
 - 7) transportation records;
 - 8) any reports made to USDA, FSA, or the Department, and any related documentation; and
 - 9) Records of the USDA hemp lot with lot identification number, crop year, and state of origin.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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; key participants of the license may be required to provide additional personal identifiable information to facilitate background checks, if such background checks are required by the United States Department of Agriculture.
 - 2) The type of business or organization, such as corporation, LLC, partnership, sole proprietor, etc., as well as 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 the 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;
 - 7) The varieties of industrial hemp that are intended for cultivation.
 - 8) The designated testing laboratory for Academic Research Institutions;
 - 9) An acknowledgement and consent to the Department collecting, maintaining, and providing to USDA directly and through the USDA's online platform, any required data, including but not limited to; licensee status, contact information, disposal reporting, background checks if required by the USDA, and real-time information for each hemp licensee licensed or authorized in the State.
- b) Pursuant to the Agricultural Farm Act of 2018 (7 U.S.C. 1639p(e)(3)(B)) and if required by the USDA, 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. This prohibition does not apply to participants in the Industrial Hemp 411 Pilot Program authorized under the 2014 Agricultural Act prior to December 20, 2018 [720 ILCS 550/15.2].
- 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 or applications that do not meet the requirements for licensure or registration will be denied. 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 plan as outlined in the original application as specified in Section 1200.30(a), must be approved by the Department in writing 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;
 - 5) The applicable fee set forth in Section 1200.80; and.
 - 6) A copy of the current local zoning ordinance or permit and verification that the proposed hemp processor is in compliance with the local zoning rules and distance limitations established by the local jurisdiction for hemp processing.
- g) Any applicant who materially falsifies information in their application shall be ineligible to receive a license or registration.
- h) Applicants may appeal the denial of an application for licensure by submitting a Petition to the Director as prescribed in 8 Ill. Adm. Code 1, Subpart C, within 30 calendar days after receipt of the notice of denial.
- i) Hemp processor registrations may not be issued to locations which are zoned residential or are used as residential housing when located on property that is not zoned residential.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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 five calendar 5days.
- b) No later than December 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 since December 1 of the prior year;
 - 2) A description of each variety planted and harvested since December 1 of the prior year;
 - 3) Total acres or square feet harvested since December 1 of the prior 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 the information in 1200.40(b) to USDA by December 15 of each year.
- d) Licensees shall report hemp planting acreage to a local FSA office. This report shall be submitted to the FSA 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; and
 - 4) Licensee identifying information, including licensee name and State licensee number.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 1200.50 Inspection, Sampling, and Testing

- a) All licensees and registrants shall be subject to inspections at the discretion of the Department to ensure compliance with the Act. This includes but is not limited to: both scheduled and unannounced annual inspections, random inspections, and inspections for the purposes of auditing.
- b) 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 **that fall under the definition of Illinois Hemp, 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. **The storage areas of Foreign Hemp, Intermediate Hemp & Finished Hemp Products that have been tested needs to be segregated and separately labeled.**
- e) All samples intended for use for official sample and test results **for Illinois Hemp** must be taken by a sampling agent as defined in Section 100.10, and must be analyzed by a Department-approved laboratory under Section 1200.60.
 - 1) If it is the business practice of the laboratory to have an agreement or contract with the sampling agent to accept samples, the sampling agent must have a valid agreement or contract. Growers are responsible for utilizing a sampling agent that is compliant with this Section.
 - 2) Samples may be hand delivered by the sampling agent to the Department-approved laboratory or may be shipped to a Department-approved laboratory using standard shipping methods where permitted.
- e) **Each lot of Illinois Hemp** must undergo official 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 sample, of each variety of hemp will be sampled from the licensee's land area, including indoor cultivation sites.

- 2) A representative sample will be taken by a sampling agent or Department personnel.
- g) Sampling procedures for Illinois Hemp conducted by sampling agents shall comply with this Part, including the following requirements:
- 1) Standard sampling and performance-based sampling procedures must be sufficient at a confidence level of 95% that no more than 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.
 - 2) 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 may accompany the sampling agent throughout the sampling process.
 - 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, or both flowers and buds). The sampling agent shall visually establish the homogeneity of the stand to establish that the growing area is of like variety.
 - 3) Hemp licensees may not harvest hemp until a sampling agent, within 30 days prior to the anticipated harvest, collects representative samples from the cannabis plants for THC concentration measurements.
 - 4) The sampling agent will take a representative sample from every lot of the crop site, using USDA sampling guidance, dated January 15, 2021 and industry best practices to ensure a homogenous composition of the sample.
 - A) The selection of plants for testing will be at the sampling agent's discretion. Hemp growers may not act as their own sampling agents.
 - B) The number of plants sampled will be determined by the sampling agent based on USDA sampling guidance, dated January 15, 2021.
 - 6) Samples shall be collected and maintained in such a way that there is no comingling of samples or sample material.

- 7) Any cannabis plants observed outside of the crop site boundaries must be reported to the Department and law enforcement. The Department may elect to contact law enforcement on behalf of the sampling agent or request the sampling agent to contact law enforcement directly.
 - 8) The sampling agent shall notify the Department if they are unable to collect a sample because the licensee does not provide unrestricted access to the site or because the sampling agent reasonably believes that the licensee has commenced harvest prior to sample collection. The sampling agent shall not collect a sample if the sampling agent is not allowed complete, unrestricted access to the site; and/or reasonably believes the licensee has commenced harvest prior to sample collection.
- h) The sampled material **for Illinois Hemp** shall be tested by a Department-approved laboratory.
- 1) A 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 if a sufficient quantity of the original official sample remains. 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 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 by the licensee unless the licensee chooses to remediate; pursuant to subsection (j).
 - 4) 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 by the licensee unless the licensee chooses to remediate; pursuant to subsection (j).
 - 5) Any sampled material not meeting the definition of hemp will be reported to the Department. Such report made by a licensee will include the disposal records.
 - 6) All harvested industrial hemp awaiting test results shall be stored by the licensee and shall not be processed or transported until passing test results are obtained.

- 7) The actual cost of testing shall be paid by the licensee.
- i) Crops harvested for hemp microgreens are not subject to the testing requirements described in Section 1200.50(f) and (g).
 - 1) Due to extremely low levels of cannabinoids in the immature plants, sampling and testing of every lot of hemp microgreens is unnecessary.
 - 2) Licensees are responsible for ensuring seeds used by the licensee for hemp microgreen production are from cannabis varieties meeting the definition of hemp.
 - 3) A licensed grower that produces a crop that does not meet the definition of a hemp microgreen under this subsection shall either:
 - A) Follow the compliance, sampling and testing requirements pursuant to this Section; or
 - B) Dispose of the crop by approved methods of disposal that 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.
- j) Foreign Hemp that has been produced and certified in another state with a USDA-approved plan does not need to be retested provided that the batch, test and certification information has been recorded and is available for inspection.
- k) Intermediate Hemp that will only be sold to licensed in-state or out-of-state hemp business establishments do not need testing prior to sale. Intermediate Hemp products are considered unfinished and cannot be sold to the general public.
- l) Finished Hemp Products may be distributed and sold in the state to the general public if the product
 - 1) has a certificate of analysis prepared by an independent testing laboratory that states
 - a) the Final Hemp Product is part of a batch tested by an independent testing laboratory

- b) The batch contains a total delta-9 THC concentration that does not exceed 0.3 percent pursuant to the testing of a random sample of the batch; and
 - c) the batch does not contain contaminants unsafe for human consumption
- 2) is distributed or sold in a container that includes
- a) A scannable bar code or quick response code linked to the certificate of analysis of the Hemp Product batch by an independent testing laboratory
 - b) The batch number
 - c) The Internet address of a web site where batch information may be obtained
 - d) The expiration date; and
 - e) the number of milligrams of each marketed cannabinoid per serving

mj) Standard Remediation Procedures and Guidelines

- 1) Procedures for Non-compliant Hemp.
Non-compliant hemp 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.
- 2) Remediation.
 - A) Remediation may take place using one of the following options:
 - i) Non-compliant hemp may be remediated by separating and destroying non-compliant flowers, while retaining stalks, leaves, and seeds.
 - ii) Non-compliant hemp may be remediated by shredding the entire hemp lot to create biomass. Lots shall be kept separate and shall not be combined during this process.
 - B) 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 may require that a representative of the Department be present during the remediation or disposal process or that the licensee provide pictures, videos, or other proof that disposal occurred.

- C) Upon notification that a lot has tested above the acceptable hemp THC level, the licensee shall 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. If the licensee refuses to dispose of or remediate the non-compliant hemp lot, the Department will issue the licensee an Order of Disposal.
 - D) All lots subject to remediation shall 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", shall be removed from the lot and destroyed. Methods may include, but are not limited to, by hand, mechanical, or chemical 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 shall 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 shall not be used for propagative purposes.
- 4) Creation of Biomass.
- A) The entire lot shall be shredded to create a homogenous and 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 shall be separated from any compliant hemp stored in the area and clearly labeled as "hemp for remediation purposes". Remediated biomass shall not leave the labeled area until a test result that does not exceed 0.3% total THC is received or the biomass is ready to be disposed of.

- 5) Resampling 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 exceed 0.3% total THC concentration on a dry weight basis shall be destroyed.
 - B) The resample must be taken by the sampling agent in a manner described in USDA sampling guidance, dated January 15, 2021.
 - C) When taking the resample, the sampling agent shall 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 standard measuring cups of remediated biomass or remediated stalks, leaves and seeds material shall 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 shall 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 licensee or an authorized representative and be made available for inspection for a period of three years from the date of receipt.
 - E) Laboratories testing a resample shall utilize the same testing protocols as when testing a standard sample.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 1200.55 Academic Research Institutions

Academic research institutions shall be subject to all provisions of this Part with the exception of the following:

- a) License Fees. The fee for a license and for renewal of that license will be \$100 annually.

- b) Laboratory Testing. An academic research institution is exempt from the testing described in Section 1200.50. Potency testing shall be conducted by an academic research designated laboratory.
- c) 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:
 - 1) Within 72 hours after the academic research institution receives test results, the following data shall be provided to the Department:
 - A) the test results;
 - B) photos of samples; and
 - C) documentation of sampling chain of custody.
 - 2) No later than December 1 of each year, each academic research institution shall submit an Industrial Hemp Academic Institution Research Report to the Department that includes:
 - A) Total acres or square feet of industrial hemp planted in the current calendar year;
 - B) A description of each variety planted and harvested in the current calendar year;
 - C) Total acres or square feet harvested in the current calendar year;
 - D) Total yield in the appropriate measurement, such as tonnage, seeds per acre, or other measurement approved by the Department;
 - E) A disposal report for each lot or field harvested at the conclusion of the academic research; and
 - F) A description of the research and research findings.
 - 3) 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 Section 1200.40(d), with the exception that this report does not have to be broken down by lot or planting date.

- d) 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 this Part at the conclusion of the research period. An academic research institution must obtain a standard hemp grower license if they intend to offer any product for sale or commerce.
- e) Sampling. Academic research institutions shall be exempt from the Inspection and Sampling provisions in Section 1200.50. Academic research institution sampling procedures shall include the following:
 - 1) Academic research institutions shall notify the Department at least seven 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.
 - 2) Academic research institutions shall identify and designate a sampling agent. For academic research institutions only, a sampling agent may be an employee.
 - 3) The academic sampling agent shall verify the GPS coordinates of the growing area as compared with the GPS coordinates submitted by the academic research institution to Department.
 - 4) 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.
 - 5) 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.
 - 6) Samples shall be collected and maintained in such a way that there is no commingling of samples or sample material.
- f) At the request of the academic research institution, and with the Department's written permission, an academic research institution may opt for performance-based sampling protocols instead of the provisions outlined in Section 1200.55.

- 1) Consideration for performance-based sampling protocols will include:
 - A) Whether the academic research institution can provide proof of a seed certification process or process that identifies varieties that have consistently demonstrated to result in compliant hemp plants;
 - B) The academic research institution's history of producing compliant hemp plants over an extended period of time; or
 - C) The academic research institution's plan to ensure, at a confidence level of 95%, that no more than 1% of the plants in each sampling will exceed the acceptable total THC level.
- 2) Performance-based sampling protocol will be subject to the following terms and conditions:
 - A) When samples are collected, the sampling procedure must follow the provisions of Section 1200.55(a)(5)(D) and (E);
 - B) 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; and
 - C) Violations of performance-based methods will result in academic research institutions no longer being exempt from the sampling procedures outlined in Section 1200.55(a)(5), and may result in administrative penalties as outlined in Section 1200.130.

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 1200.56 Government Demonstration and Research Entity

- a) A government demonstration and research entity shall be subject to all provisions of this Part with the exception of the following:
 - 1) Licensing
 - A) The fee for a license shall be \$200.
 - B) Renewal fee shall be \$200.
 - C) Licenses shall be valid for a period of two years.

- D) The Department shall be exempt from the license fee.
- 2) Laboratory Testing. A government demonstration and research entity is exempt from the testing described in Section 1200.50, so long as all hemp produced is destroyed according to the Act and the provisions of this Part.
- b) Hemp grown for governmental research and demonstration purposes may not enter the stream of commerce at any time. A government demonstration and research entity must obtain a standard hemp grower license if they intend to offer any product for sale or commerce.
- c) Hemp grown for these purposes must be disposed of in accordance with this Part at the conclusion of the demonstration or research period.
- d) Acreage Reports to Farm Service Agency. Government demonstration and research entity 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 or planting date.

(Source: Added at 48 Ill. Reg. _____, effective _____)

Section 1200.60 Laboratory Approval

- a) No laboratory shall handle, test or analyze **Illinois hemp** unless approved by the Department in accordance with this Section or the Cannabis Regulation and Tax Act. 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 **Illinois hemp** unless the laboratory:
 - 1) Is accredited to the ISO/IEC 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 chemical or biological sciences and a minimum of 4 years post-degree laboratory experience.
- 4) Has procedures requiring hemp testing adherence to standards of performance for detecting total THC concentration, including the Measurement of Uncertainty (MU), and is registered with the United States Drug Enforcement Agency, if registration is required by the USDA.
- c) Each hemp testing laboratory applicant and department approved **Illinois hemp** testing laboratory that claims to be accredited must provide the Department with a copy of the most recent annual inspection report granting accreditation and every annual report thereafter.
- d) **Foreign Hemp & Finished Hemp Products that have been tested and certified by lab certified under an out-of-state USDA approved hemp program do not need to be retested under by a Section 1200.60 approved lab..**

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 1200.70 Testing Requirements

- a) **Illinois hemp** sampled for testing may be transported to a Department approved laboratory by the Director, or the Director's one of his or her designees, or by approved laboratory personnel, or by a sampling agent.
 - 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.
 - 3) The Department may conduct testing at a Department operated laboratory on behalf of licensees to meet testing requirements under this Part or for compliance testing.

- 4) The Department may conduct testing on final hemp products offered for sale.
- b) Testing laboratories shall test **Illinois industrial hemp** using post-decarboxylation, or other similarly reliable methods approved by the USDA, to detect total THC concentration levels of the sampled hemp. Reliable methods of testing may include 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 an **Illinois hemp** sample, the laboratory shall report the total THC concentration level on a dry weight basis and the measurement of uncertainty. The measure of uncertainty shall be estimated and reported with test results.
- d) **Illinois hemp** Samples shall be obtained in accordance with USDA sampling guidance dated January 15, 2021.
- e) **Illinois Finished Hemp Products & Illinois Safe Harbor Hemp Products tested using High-Performance Liquid Chromatography that can differentiate THCa from Delta-9 THC will be evaluated solely on Delta-9 THC concentration levels in accordance with federal standards.**
- 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. To be considered an official result, any re-testing under this Section must be conducted under the processes outlined in Section 1200.50.
 - 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 the USDA. Laboratories are not required to report test results requested by the grower throughout the season to the USDA or the Department.
- 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.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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. All fees shall be deposited into the Industrial Hemp Fund.

- 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) Qualifying academic research institutions shall pay a flat biannual fee of \$200 for a license and license renewal.

- f) Qualifying government research and demonstration entities shall pay a flat annual fee of \$100 for a license and license renewal. The Department is exempt from this fee when registering as a qualifying government research and demonstration entity.
- g) The Department may assess a fee of \$100-1000 per analysis for hemp testing conducted by the Department.
- h) The Department may assess a fee of up to \$500 per sample if the sample is collected by the Department.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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 or registered 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 or registered person shall not ship or transport, or allow to be shipped or transported, any **Illinois Hemp** with a total THC concentration in excess of

0.3% on a dry weight basis, any Finished Hemp Product with a delta-9 THC concentration in excess of 0.3% on a dry weight basis and any Intermediate Hemp Products to anyone who is not a licensed hemp business inside of the State of Illinois or an out-of-state licensed hemp business operating under a USDA approved Hemp Program..

- d) A licensed or registered person shall not ship or transport cannabis seeds, 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.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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 industrial hemp.
- b) ~~Industrial~~ Illinois 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 after passing official THC compliance testing.
- c) Approved laboratory personnel, Department personnel, a third party designated by the Department, or sampling agents may transport hemp samples for testing to laboratories for testing purposes.
- d) There is no State restriction on the transportation of hemp or industrial hemp product following retail sale to a member of the public

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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, registration or other required authorization required by this Part from the Department; or

- 3) Producing or processing ~~Illinois Hemp~~^{Cannabis sativa L.} with a total THC concentration exceeding the acceptable hemp THC level. Licensees do not commit a negligent violation under subsection (b)(3) if they make reasonable efforts to grow hemp and the ~~plant cannabis~~ does not have a total THC concentration of more than 1% on a dry weight basis.
- b) A licensee or registrant described in subsection (a) shall comply with a corrective action 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;
 - 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 and shall not receive more than one negligent violation per growing season.
- d) A licensee or registrant that negligently violates subsection (a) 3 times in a 5-year period shall be ineligible to hold a license or registration for a period of 5 years beginning on the date of the third violation.
- e) If the Department determines that a licensee has violated the Act or this Part with a culpable mental state greater than negligence, the Department shall immediately report the licensee 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 of the Act or this Part must do so by submitting a request for an administrative hearing in writing to the Department's Division of Cannabis Regulation, attention Hemp Program, within 30 calendar days after receiving notice of the violation.

(Source: Amended at 48 Ill. Reg. _____, effective _____)