TITLE 360 STATE SEED COMMISSIONER

Emergency Rule
LSA Document #21-487(E)

DIGEST

Temporarily adds provisions to update and clarify the requirements for licensing, production, and management of hemp and agricultural hemp seed. Statutory authority: IC 15-15-13-14. Effective November 9, 2021.

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

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

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

SECTION 4. **"Cannabis" is the Latin name of the plant that, depending on its THC concentration level, is further defined as either "hemp", "non-compliant hemp", or "marijuana". Cannabis is a genus of flowering plants in the family Cannabaceae, of which Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis are subspecies thereof.**

SECTION 5. **"Cooperator laboratory" has the meaning of any laboratory that receives hemp, for any purpose, including as:**
(1) a diagnostic laboratory that receives hemp; or
(2) an analytical laboratory.
A cooperator laboratory may be determined by the Indiana state police to be a cooperator for state police purposes. A cooperator laboratory that is not a state police laboratory must be licensed by the state seed commissioner to receive and handle hemp.

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

(b) A crop may be comprised of one (1) or more fields, or grow sites.

(c) A crop may be comprised of the same variety or differing varieties.

SECTION 7. **(a) "Lot" means a specific and particular amount of hemp crop grown of one variety on one space of land or in one area of a greenhouse or indoor structure.**

(b) to include other terms used by FSA with the same meaning. FSA uses terms like "farm", "tract", "field", and "subfield".

SECTION 8. **"Crop disposal" means complete annihilation of a hemp crop by plowing under, mulching/composting, disking, bush mower/chopper, deep burial, or burning so that THC is nonretrievable and the residue is noningesitable.**

SECTION 9. **(a) "Remediation" means to grind the plant for a post harvest sampling.**

(b) Remediation must be completed as follows:
(1) Either disposing of flower materials and salvaging the remainder of the plant or blending the entire plant into biomass plant material; and
(2) Preparing the plant in a single lot, not blended with other lots.

(c) If the farmer elects to perform remediation activities under the State plan, an additional sampling

and testing of the remediated crop must occur to determine THC concentration levels.

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

SECTION 10. **"Crop termination" means the intentional causing of a hemp crop to rapidly cease its growth through cutting down the crop (severing completely the stalks of the plant), or by application of an effective herbicide. A terminated crop that is not terminated with a pesticide may be used in certain situations when specifically approved by the state seed commissioner.**

SECTION 11. **"Distribute" for purposes of this article** *[document]* **means to sell, exchange, barter, broker, supply, or to offer to provide such services, or advertise to provide such services, for hemp.**

SECTION 12. **"Field average" means the results of an analysis of a consolidated sampling taken from multiple places within a planted variety from a field or other hemp production site. The field average may be as a part of the crop, or as the whole of the crop depending on how the licensed grower has partitioned the crop fields, and determined to be appropriate to the situation by the state seed commissioner. The sampling and the average apply individually to each variety sown or planted, when sown or planted as segregated varieties and not mixed varietal stands, of hemp as the crop. Varieties of hemp are not mixed with other varieties to obtain a field average.**

SECTION 13. **A grow site means any place or location where a hemp crop is legally grown whether outdoors or indoors.**

SECTION 14. **"Grower" means:**
(1) A person who conducts any hemp growing activity.
(2) A grower include *[sic, includes]* **a person who grows hemp as part of the Indiana hemp research program under authority of the state seed commissioner.**
(3) A grower who conducts an activity subject to this article *[document]* **must be licensed by the state seed commissioner.**
(4) A grower of clones is subject to this article *[document]* **and is held to the same standards and accountabilities numerated in IC 15-15-13-9.5.**

SECTION 15. **"Handler" means:**
(1) A person that receives hemp for any purpose and who is not the grower of the hemp but is one who is providing a service or transacting to another person. A handler must be licensed under this article *[document]***.**
(2) For purposes of this article *[document]***, the term includes a person that conducts an activity or provides a service regulated under this article** *[document]* **as, e.g., a person that receives, transports, brokers, processes, stores, or makes available for distribution hemp, offers for sale, distribution, gifting of hemp, hemp for scientific research, or for processing into commodities or products exempted from regulation by state or federal law, or agricultural hemp seed. The term also includes cooperator laboratories licensed under this article** *[document]* **as competent to perform analyses of hemp.**

SECTION 16. **" Hemp" means:**
(1) The plant Cannabis sativa L., and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, for any part of the Cannabis sativa plant L.
(2) The term includes hemp clones, agricultural hemp seed, hemp grains, and hemp propagative materials, such as cell cultures, cuttings, grafts, other asexual methods of propagation, and all derivative and extracts of hemp as defined in law.
(3) The term includes hemp in any stage, and raw harvested hemp (whole, chopped, shredded, cut, retted, etc.) distributed to a handler licensed under this article *[document]***.**
(4) The term includes starts, clones, and microgreens for human consumption or that will not be brought to the flowering stage or physiological maturity.
(5) The term does not mean a hemp product.

SECTION 17. **(a) "Hemp product" means a product derived from, or made by, processing hemp plants or plant parts including derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers.**

(b) A hemp product is market ready, meaning it is finished and labeled or packaged for distribution. No other emendation or process of the "final product" so termed is allowed.

(c) A hemp product does not mean hemp in the growing stages, while in the ground, or the raw harvested hemp, in any form, e.g., seed, grain, chopped, shredded, cut, retted, etc.; all handlings of harvested hemp, if not a grower of the crop, must be conducted as a licensed handler under this article *[document]* **up to the final market ready status.**

SECTION 18. **(a) "Hemp production site" means a site where hemp may be processed, stored, staged, delivered, or received, or other similar activity regulated under this article** *[document]***.**

(b) A hemp production site must be reported in a written application for a hemp license issued by the seed commissioner including county and GPS coordinates in decimal format.

SECTION 19. **(a) "Hemp propagative material" means any part of the plant Cannabis sativa L. that may be used for propagation of hemp plants; the term primarily refers to propagation by asexual means, e.g., clones, cuttings, rootings, graftings, cell cultures, and the like.**

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

(c) The term "propagative material" does not mean "hemp grain" that is a seed used for purposes of consumption by humans or animals, or a seed used for crushing or other processing in the production of oils, flour, or meal, or other consumable matrices.

SECTION 20. **(a) "Hemp researcher" means an individual who:**
(1) is employed by an Indiana institution of higher education (as defined by IC 21-7-13-32) as determined by Indiana statute; and
(2) is technically qualified to conduct the hemp research described; and
(3) is authorized by the employing institution to do hemp research.

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

(c) A licensed researcher is anticipated to be engaged in research in which they are the principle *[sic, principal]* **investigator in small scale, noncommercial activities regulated under this article** *[document]***, the primary purpose of which is to gain or contribute knowledge.**

(d) A licensed researcher as defined in this rule may participate or conduct research in conjunction with a fully licensed commercial enterprise.

(e) The basis for a claim as a researcher and a research proposal must meet the above requirements and be clearly stated and provided in a written application for a hemp license.

SECTION 21. **"Licensee" for purposes of this article** *[document]* **means a person who is licensed by the state seed commissioner subject to this article** *[document]* **to conduct an activity subject to this article** *[document]***, including:**
(1) a grower (including an "agricultural hemp seed producer"); or
(2) a handler; or
(3) a researcher; or
a combination of these.

SECTION 22. **(a) A "licensee of record" means a person who is licensed by the state seed commissioner under this article** *[document]* **who holds a license under which one (1) or more persons licensed under this article** *[document]* **are contracted to fulfill the objectives of the license held by the licensee of record.**

(b) The licensee of record must assemble any reports or data required as a reporting requirement of

this article *[document]***, based on the reports gathered from those reporting to the licensee of record.**

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

SECTION 24. **"Negligent violation" means:**
(1) failure to provide a legal description of land on which the producer produces hemp; or
(2) failure to obtain a license; or
(3) producing Cannabis sativa L. with a delta-9-tetrahydrocannabinol concentration exceeding the acceptable hemp THC level over 1.0% + measurement of uncertainty total THC.

SECTION 25. **"Official sample" means a sample taken by a representative of the state seed commissioner who has been trained according to office of Indiana state chemist or USDA hemp sampling standards to take the sample and who is authorized to maintain chain of custody for a sample representing a crop upon which a legally required determination will be made by the state seed commissioner, or information that is requested by the state seed commissioner for regulatory purposes.**

SECTION 26. **"Person", as applicable, means an individual, not less than 18 years of age at the time of making application for a license, a partnership, a company, a corporation, a firm, an association, a cooperative, a body politic, a joint stock association, a trustee, a receiver, a fiduciary, an assignee, any representative for any of the entities named, any organized group of persons whether incorporated or not, or like entities, conducting or advertising to conduct an activity subject to this article** *[document]* **or IC 15-15-13.**

SECTION 27. **(a) The state chemist is the state seed commissioner.**

(b) The term as referenced in this article *[document]* **may include the state seed commissioner's representative to whom a responsibility under IC 15-15-13 has been assigned by the state seed commissioner.**

SECTION 28. **"Testing THC of hemp" means the analysis of hemp for determination of total THC (THC and THCa) using a post decarboxylation or other similarly reliable method and instrumentation that has been determined by the state seed commissioner to accurately and fairly represent the total THC (THC and THCa) in a sample, that allows the state seed commissioner to be confident that the sample is within the acceptable hemp total THC level. Total THC accounts for the conversion of THCa into THC.**

SECTION 29. **(a) "THC" means delta-9-tetrahydrocannabinol.**

(b) "THCa" means delta-9-tetrahydrocannabinolic acid.

SECTION 30. **"Variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics, by which a plant can be differentiated from other plants of the same kind.**

SECTION 31. **"Wild Cannabis" means a Cannabis sativa L. plant, including the seed thereof, that is growing, or that has been harvested, not as part of a licensed cultivation. Wild Cannabis is regulated under applicable Indiana marijuana laws, unless it has been collected for purposes of research by a researcher/plant breeder licensed by the seed commissioner subject to this article** *[document]***.**

SECTION 32. **A person who grows, handles, researches, distributes, conducts laboratory analyses, conducts commerce in hemp, a person who brokers hemp, or otherwise possesses or receives hemp, or otherwise conducts, offers to provide, or advertises to conduct an activity regulated under this article** *[document]* **or IC 15-15-13 must be not less than eighteen (18) years of age when first making application to be licensed under this rule, and must be licensed by the state seed commissioner and is subject to the rules and statutes set forth in Indiana law.**

SECTION 33. **(a) The state seed commissioner issues the following hemp licenses:**
(1) Hemp growers license that shall include any person that conducts the activities of a grower (farmer, propagator, and the like):
(A) Out of doors grow sites, agricultural fields, and the like.
(B) Indoor, roofed, or contained operations, e.g., greenhouse operations, shade houses (slatted,

netted, or other), cold frames, polyhouses, quonset hut, warehouses, and the like, hemp production facilities (hydroponics, grow-light houses or rooms, etc.).
(C) Agricultural hemp seed production. A person in this license category engages in the sale of seed for sowing and use in growing a crop that is fiber, grain, or a crop for cannabinoid extraction. A licensed person is subject to the federal seed code and any and all applicable Indiana seed laws, in addition to any applicable requirements subject to seed certification requirements held by Indiana Crop Improvement Association.
(D) Hemp grain is a crop grown for seed as oil, meal, flour, whole grain for consumption, or other consumption by humans or animals, as allowed by law. Hemp grain is not licensed for sowing or for seed to produce a crop.
(2) Handlers license that shall include persons who receive hemp for any reason, other *[sic, than]* **to conduct the activity of a grower, e.g., those who transport hemp in any quantity, process, bale, harvest, inspect hemp, broker, test hemp, provide laboratory support, who receive hemp for any purpose. A person who advertises or offers to perform such services or like services is a handler. A grower of hemp does not require a license as a handler to conduct activities of a grower.**
(3) Researchers license (as defined in this article *[document]***) employed by institutions of higher education as defined in federal and state law.**
(4) It is the responsibility of a licensed person to ensure that employees, volunteers, family member *[sic, members]***, or others servicing a hemp production site, and subject to the management of the licensee, comply with the requirements of this article** *[document]***.**

(b) A hemp license application to conduct any activity subject to this article *[document]***, or an activity regulated under IC 15-15-13, must be filed with the state seed commissioner on an official application form provided by the state seed commissioner's office:**
(1) Applicants for a license shall be not less than eighteen (18) years old when first making application.
(2) An applicant shall provide the state seed commissioner with the following information on hemp production sites, on an official form provided by the state seed commissioner:
(A) legal description of the land;
(B) GPS coordinates in decimal format; and
(C) the county.
These records must be retained by the applicant and by the state seed commissioner for at least three (3) years.
(3) Applicants must provide a valid and accurate government issued identification, such as a state driver's license, a passport, or a government identification card, if the first two (2) forms of identification are not available.
(4) Not more than sixty (60) days prior to submitting an application for a hemp license, applicants must apply for a background check through the Federal Bureau of Investigation's Identity History Summary.
(5) All background checks must be paid by the applicant to the issuing agency.
(6) An applicant must successfully pass a background check that is required by the state seed commissioner, including review of 10 years from the date of application for freedom from any drug related felonies or drug related misdemeanors. A person with a state or federal felony relating to a controlled substance is subject to a 10-year ineligibility to participate in the Indiana State Hemp Program plan from the date of the conviction. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction occurred before that date.
(7) Any licensee lawfully with a license under the Indiana pilot program authorized by section 7606 of the USDA Agricultural Act of 2014 (7 U.S.C. 5940) before October 31, 2019, shall be exempted from paragraph (b) (6) of this rule *[subdivision (6)]***.**
(8) An applicant must pay a nonrefundable application fee made to the office of Indiana state seed commissioner at the time the application is made.

(c) Neither an applicant nor a licensee shall conduct an activity regulated under this article *[document]* **on property owned by, leased from, or previously submitted in an application by any person who is ineligible or was terminated or denied a license by the state seed commissioner for one (1) or both of the following reasons:**
(1) Failure to obtain an acceptable criminal background check.
(2) Failure to comply with an order from the state seed commissioner or the state seed commissioner's representative.

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

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

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

(g) An applicant must declare and attest to a DEA registered laboratory to conduct analytical testing for total THC. This paragraph *[subsection]* **is enforceable as of December 31, 2022.**

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

(i) An applicant must declare growing site(s) by field, each storage site(s), receiving sites, staging site(s), and similar activities where hemp activities subject to this article *[document]* **or IC 15-15-13 may take place. Each site must be labeled, i.e., given a unique name, and state the intended function of the site, e.g., grow site, processing site, greenhouse, etc.; and reported as a decimal GPS reference.**

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

(k) For the year 2020, a grower or handler license issued under the 2020 Indiana research program must include a research proposal of adequate verbiage to clearly explain the intent of the research and the anticipated outcome. The research proposal must also indicate the name and contact information of a cooperating Indiana licensed researcher.

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

(m) The license application must be approved in writing by the state seed commissioner prior to conducting any hemp activity or handling of hemp receipt, such as distribution, transport of hemp, or advertises to receive, distribute, or transport hemp, agricultural hemp seed, or hemp clones.

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

(o) A license number shall be as 18_000x - when issued by the state seed commissioner.

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

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

(1) contact information including street address, city in Indiana, county, for each hemp production or hemp grow site;

(2) the acreage of each hemp production site or hemp grow site identified; and

(3) license number of the grower.

The state seed commissioner shall also report a legal description of the land, or an accurate geospatial (GPS) record in decimal format, telephone number and email address (if available), and the status and

license number of the licensee. Changes in records or licenses will be updated to the USDA.

(r) Indiana's official labs will report results to the USDA. It is also required that any lab used by Indiana growers and approved by the DEA (after December 31, 2022) and approved by Indiana report results to the USDA.

(s) Indiana will report to the USDA Secretary of Agriculture on USDA forms all required documents, test results, contact information, background check approval dates, and other information as required in Section 990.7of the final rule and within 30 days of the information being received.

(t) A person who applies for a license as business must provide as part of the application for a hemp license the Employer Identification Number (Tax ID) (EIN).

(u) A business making application for a hemp license must identify "key participants" in their organization required to have a background check subject to paragraph (b)(6) of this rule *[subdivision (b)(6)]***. A key participant is an employee working in a licensed business with multiple employees within the business, in which one or more of the following conditions apply:**

(1) One who is in a supervisory role with the hemp grow site or hemp production site, the hemp lab, or hemp processing site, e.g., person who is the supervisor responsible for transit of crop, for crop production (seed purchase, planting, sale of harvested crop), receipt of crop in a processing facility; or

(2) One who oversees workers who perform duties for which workers are in contact with hemp; or

(3) One who is otherwise deemed necessary to be subjected to this provision by the business entity.

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

(v) A person who is licensed under this article *[document]* **shall report hemp crop acreage to the USDA Farm Services Agency (FSA), and to the AMS/USDA including the following:**

(1) Street address, if available, and geospatial (GPS) location for each production or grow site where hemp will be grown or handled.

(2) Acreage dedicated to the growing of hemp, or greenhouse, or indoor square footage dedicated to the growing of hemp, must be reported.

(3) License number of the grower.

(4) The purpose of the crop as fiber, grain, CBD, or other.

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

SECTION 34. **(a) Hemp grower/agricultural hemp seed producer: A person that conducts the following activities or advertises to conduct the following activities, or like activities, must be in possession of a hemp grower license issued by the state seed commissioner:**

(1) Growing hemp, offering to grow hemp, contracting to grow hemp.

(2) Growing agricultural hemp seed, or hemp for seed production for sowing, offering to handle, receive, or handling, agricultural hemp seed:

(A) sale of seed for sowing or for use in research purposes as seed; or

(B) seed to be sown for development of new varieties; or

(C) seed to be sown and harvested and devitalized for a wild bird feed;

(D) seed to be sown and harvested and used as an FDA/USDA approved food for humans or animals.

(b) Selling hemp seed for sowing, a person selling agricultural hemp seed in Indiana must be a licensed seedsman under Indiana seed law (360 IAC 1) and must obtain a grower's license as an agricultural hemp seed grower. A person selling hemp seed in Indiana is subject to the federal seed code and all Indiana seed law requirements regulating the sale, labeling, reporting, and distribution of seed.

SECTION 35. **(a) A person who receives, possesses, or processes hemp, whether from a facility or not, or offers to process hemp as a middle step in moving from the grow site, or from another processor, to manufacturing must be licensed as a handler. Examples of processing include, but are not limited** *[sic, to]* **the following kinds of activities:**

(1) Use of any hemp plant part or clone for drying, extraction, distillation, crushing, pressing, desiccation, devitalizing, and the like.
(2) Any process that subjects hemp to a physical or chemical activity on any hemp, such as, but not limited to, extracting, shredding, cleaning, baling, carding, stripping, drying, freeze drying, decanting, filtering, using in a digester, and similar processing, and the like.

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

(c) A person who distributes hemp clones and is not a grower is subject to IC 15-15-13-9.5.

(d) For a handler license (examples of types: processor, transporter, service provider (harvest, storage, laboratory testing, and like activities determined to be acceptable by the state seed commissioner). In addition to the above, as applicable, a processor handler must maintain a list of all solvents and extracting solutions used in processing, retain records for two (2) years of any laboratory analyses on the runs, especially to track testing for metals, mycotoxins, pesticides, or similar contaminants and adulterants. The processor must maintain and have available for inspection by ISDH or OISC a food safety plan and practice compliant with 21 CFR Part 111, or 21 CFR Part 501, or Indiana state department of health *[sic, Indiana department of health]* **standards as applicable to their own operations.**

(e) A person that conducts transportation activities or advertises to conduct these activities and who is not a grower conducting these activities for their own crop management purposes and not those of another must be in possession of a hemp handler license issued by the state seed commissioner.

(f) A person who transports or offers to transport hemp must have the following in their immediate possession while transporting hemp under a handler license, and must provide:
(1) Evidence of a current valid, hemp handler or research license from the state seed commissioner;
(2) The driver must hold a valid driver's license with photo ID and current legal address of the driver;
(3) An invoice or delivery document showing to whom the hemp is to be delivered, the full address, telephone number, variety of hemp, and quantity of hemp; and
(4) A valid certificate of analysis issued by a competent laboratory showing the total THC for the hemp transported, or a copy of such certificate.
Only a person who is the licensee, or a family member of the licensed person, or a person who or *[sic]* **is working for the licensed hemp person may transport his/her own hemp and is required to be in possession of the same requirements as the above.**

SECTION 36. **(a) Required Actions for Hemp Growers. A grower who is aware a hemp crop grown under their license is in excess of the acceptable hemp THC level, whether notified by the state seed commissioner or not, shall:**
(1) secure the crop;
(2) harvest the crop within thirty (30) days of sampling; or and *[sic]* **transport the crop to an approved Indiana reverse distributor; or**
(3) dispose of the crop in a designated site in a manner that complies with local and state burn laws;
(4) verify disposal of the crop with the state seed commissioner.

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

SECTION 37. **(a) A person conducting research on hemp, or doing plant breeding research as a hemp researcher, and:**
(1) employed by an institution of higher education; or
(2) employed by a commercial entity that conducts research on hemp;
must be licensed by the state seed commissioner.

(b) The following are requirements of a researcher license:
(1) A researcher must be in the employ of an institution of higher education (as defined by IC 21-7-13-32); and

(2) Must be an individual who is academically qualified, or qualified through demonstration of relevant experience; and
(3) Must be authorized by the institution in which he/she is employed to conduct research on hemp.

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

(d) The state seed commissioner may waive some license requirements for Purdue University Cooperative Extension Educators and Purdue Agricultural Center managers, or other academic institution faculty, who are not actively managing their own research as a principle *[sic, principal]* **researchers** *[sic, researcher]***, but are advising growers in an authorized state research program, or for purposes of working with cooperators or assisting growers in conducting research.**

(e) A person conducting hemp research may be exempted subject to the approval of the seed commissioner from the requirements of minimum acreage as described in this article *[document]* **and is exempted or bears reduced costs for license fees as determined by the state seed commissioner in this article** *[document]***.**

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

(g) For the 2020 growing season, a cooperating researcher employed by a legally recognized academic institution under IC 15-15-13, and subject to employment conditioned upon compliance with Indiana drug laws, does not need to be licensed for purposes of serving as an advisor to a licensee, but must be registered with the state seed commissioner and complete the standard application form.

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

SECTION 38. **(a) Upon completion of an application for a license or renewal of a license for grower or handler license, a nonrefundable payment of not more than one thousand dollars ($1,000) shall be paid to the office of Indiana state seed commissioner. This fee is due for grower and handler applications, or not more than two thousand dollars ($2,000) for both.**

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

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

(d) A remediation sampling, travel, and laboratory fee of $325 will be charged to a licensee as permitted by law.

SECTION 39. **A license application for any hemp activity regulated under this article** *[document]* **for which a license is required for conducting a regulated activity any given year may be initiated when publicly announced by the state seed commissioner, but no earlier than October 1 of the year preceding the year for which the license is sought.**

SECTION 40. **An applicant for renewal of a hemp license issued under this article** *[document]* **is subject to any and all requirements of an applicant for a license.**

SECTION 41. **The state seed commissioner may revoke a license issued under IC 15-15-13 to a person that fails to cooperate with:**
(1) the state seed commissioner;
(2) the state police;
(3) a federal law enforcement agency;

(4) a local law enforcement agency; or
(5) in an inspection, or in taking of a sample of any hemp crop during the crop's growth phase; or
(6) the seed commissioner may revoke the license of a person that grows, sells, or distributes hemp or any of the following:
(A) That the licensee has not complied with the requirements under IC 15-15-13-9.5.
(B) The report required in IC 15-15-13-9.5 subsection (a) *[sic, IC 15-15-13-9.5(a)]* **has not been submitted and is more than ten (10) days late.**
(C) The report required in IC 15-15-13-9.5 subsection (a) *[sic, IC 15-15-13-9.5(a)]* **contained false information.**
(D) The labeling requirements under IC 15-15-13-9.5 have not been met.

SECTION 42. **The state seed commissioner may revoke or refuse to issue or renew a hemp license or an agricultural hemp seed production license for:**
(1) a violation of a license requirement;
(2) a violation of license terms of conditions, including falsification or misrepresentation of license;
(3) a violation of IC 15-15-13 or a rule relating to the growing or handling of hemp;
(4) discovery of a drug conviction of a licensee after a license has been issued;
(5) a person who violates IC 15-15-13-19 in the sale of hemp buds (as defined in IC 35-48-1-17.2) or hemp flowers (as defined in IC 35-48-1-17.3); or
(6) a violation of this rule.

SECTION 43. **(a) It is a violation of this rule:**
(1) to present as valid an expired license; or
(2) to change, without notification of the state seed commissioner, the content of any truthful information on a license issued by the state seed commissioner; or
(3) to misrepresent oneself as the person licensed to another; or
(4) to falsely state information filed with the state seed commissioner in application for any hemp license, causing the licensed grower to no longer be eligible for a future license and immediately losing the current license;
(5) to fail to notify the state seed commissioner in writing of an error on a license issued by the commissioner and to seek correction in a timely manner; or
(6) to fail to report in decimal format any changes to previously reported hemp grow or production sites;
(7) to harvest any cannabis prior to samples being taken by office of Indiana chemist representatives or approved third party samplers.

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

SECTION 44. **The state seed commissioner shall revoke or refuse to issue or renew a hemp license or an agricultural hemp seed production license for a licensee found to be growing cannabis exceeding the acceptable hemp THC level with a culpable mental state greater than negligence.**

SECTION 45. **(a) A licensed grower may request on an application form provided by the state seed commissioner that:**
(1) the name of the licensed grower or handler be held as confidential;
(2) the licensed hemp grow site may be held as confidential for purposes of IC 5-14-3.

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

(c) Hemp growers and handlers may choose to release their contact information to the public and mark it as not confidential. These not confidential grower's contact information will be posted on the agency website.

SECTION 46. **(a) Negligent violations document instances of when the statute or rule are violated. Negligent violations include:**

(1) A grower who fails to report a legal description of the land on which hemp is grown;
(2) A grower who is aware a hemp crop grown under their license is in excess Total THC and 1.0% + measurement of uncertainty Total THC, whether notified by the state seed commissioner or not; or
(3) failure to obtain a license.

(b) A producer may not be found to have committed more than one negligent violation per year.

(c) Three (3) negligent violations in a five (5) year period shall result in the immediate revocation of the person's hemp license and prohibition to apply for a hemp license or be a participant to a hemp license issued by the state seed commissioner for a period of five (5) years from the date of the third violation.

(d) A person who is negligently without a license or fails to report a grow or processing site must complete an application form and submit to the state seed commissioner within seven (7) business days all required fees including penalties to gain compliance.

(e) Hemp found to be produced in violation of this rule, such as hemp produced on a property not disclosed by the licensed producer or without a license, would be subject to the same disposal provisions as for cannabis testing above the acceptable hemp THC level. Further, if it is determined a violation was committed with a culpable mental state greater than negligence, the state seed commissioner shall report the violation to the Indiana state police.

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

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

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

(i) Upon determination of a negligent violation the licensee must report the following information in writing to the state seed commissioner for a period of two (2) years:
(1) Report the acreage planted and selection of a variety of hemp, or varieties of hemp that are reported to be compliant with achieving and not exceeding the acceptable hemp THC level;
(2) Monitor the crop regularly through a sampling plan acceptable to the state seed commissioner, and using a competent laboratory for monitoring THC levels in the crop prior to harvest; and
(3) During the growing season reporting on a weekly basis or as timely and consistent with the monitoring plan agreed with the state seed commissioner;
(4) The licensee name, address, if applicable, and GPS coordinates in decimal format, of the monitored site(s);
(5) The license number of the licensee who is reporting; and
(6) Maintaining a log of all testing activities and results that can be examined by the state seed commissioner upon request.

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

(k) The seed commissioner shall conduct inspections to determine if a corrective action plan has been implemented. The corrective action plan must include a way for the producer to choose compliant varieties and to confirm suppliers are permitted in Indiana. Requirements of the corrective action plan are:
(1) a reasonable date to correct he *[sic]* **violation;**
(2) reporting requirements for 2 years from date of the negligent violation;
(3) negligent violations are not subject to federal, state, tribal, or local government criminal enforcement action;
(4) provides that a negligent violation 3 times within ga *[sic]* **5-year period is ineligible to produce hemp for a period of 5 years from the date of the 3rd violation;**
(5) state government shall conduct inspections to determine if corrective action plan has been implemented.

Additional requirements may be added by the state seed commissioner.

(l) A crop cannot be planted in a comingled *[sic]* **or mixed variety planting. Each lot must be of only one variety.**

SECTION 47. **Unless otherwise prescribed by law, the following practices may be considered for approval by the state seed commissioner upon receipt of an appeal of an order to destroy a hemp field or identifiable portion thereof, by a grower:**

(1) Hemp that is grown in a greenhouse, or other nonfield grow site, in violation of this rule or IC 15-15-13, and that is without recourse to be used in another legal processor, shall be destroyed by burning, or as determined by the licensee's disposal plan required as a part of the application for a license under this article *[document]***, and in a manner agreeable to the state seed commissioner, or in a manner ordered by the Indiana state police.**

(2) Hemp that is a standing fiber crop grown out of doors in a field and found to be in violation of the acceptable hemp THC level shall be terminated and not moved from the site, although the retting process may be managed by on-site rolling of the crop, for a minimum of 15 days for retting (a request for inundated retting must be requested by the licensed grower and approved by the state seed commissioner). After the hemp plants are fully retted they may be moved to a processor.

(3) Hemp that is standing seed grain crop and found to be in violation of the acceptable hemp THC level shall be terminated. The seed grain may be harvested and certified for use in a processor. Grain seed shall not be used for seed for sowing. Flowers from a hemp crop that is in excess of the acceptable hemp THC level may not be removed for use as hemp flower, or hemp buds. The unused plant material must be completely burned on site, or cut down and chopped and disked into the soil.

(4) The state seed commissioner shall provide notice of the determination of noncompliance in writing to the licensee or his/her designee as designated on the license application, and the order to destroy the identified crop within a timeframe determined by the state seed commissioner. The order shall further include an order to terminate the crop and to hold and not move from the site any hemp without explicitly written approval and direction by the state seed commissioner.

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

(6) It is a violation of this rule to co-mingle *[sic]* **hemp that is in the field or harvested and in storage if crop was above the acceptable level of hemp and has not successfully been remediated:**

(A) that has not been tested and labeled with a certificate of analysis for that particular lot or field; or

(B) that is from different fields, or lots; or

(C) that is of more than one variety; or

(D) that is in storage, drying, or dried; or

(E) hemp that is in excess of the acceptable hemp THC level; or

(F) hemp that is suspected of being in excess *[sic, of]* **the acceptable hemp THC level, with compliant hemp, unless combined by a reverse distributor, or allowed for processing by a licensed processor.**

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

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

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

SECTION 48. **(a) A person who violates an order of the state seed commissioner that is authorized subject to IC 15-15-13 or this article** *[document]* **shall be subject to the maximum civil penalty allowed under law.**

(b) A violation of hemp statutes or administrative rules subject to the state seed commissioner does not prevent the state seed commissioner from communicating fully with another agency for consideration of enforcements under any other state or federal law by another agency.

SECTION 49. **(a) A person who grows hemp must use named varieties of hemp seed or hemp clones purchased from reputable dealers.**

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

(c) Each variety of hemp used must be accurately declared on a label written according to federal seed code and Indiana seed laws, and must be from source parentage of plants known to be compliant with federal and state law of *[sic]* **not in excess of the acceptable hemp THC level.**

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

(e) In no circumstances shall any person use wild Cannabis seed, or seed from hemp in excess of 0.3% THC dry weight, as representing hemp, agricultural hemp seed, or be used as a basis for clones or a crop, unless that person is licensed by the state seed commissioner as a hemp breeder developing new hemp lines for eventual introduction into commerce.

(f) A person who grows, distributes, or sells hemp, offers or advertises the growing, sale, or distribution of hemp subject to this rule must be licensed by the seed commissioner under IC 15-15-13-1-34 *[sic]***. Sales of agricultural hemp seed must be compliant with 360 IAC 1.**

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

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

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

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

(k) In addition to being tested as required under 360 IAC 1 or seed laws of the United States and Indiana, a variety that makes claim of feminized seed must also be tested by an AOSCA laboratory to confirm the percent feminized seed claim on the label.

(l) For clones, the conditions of IC 15-15-13-9.5 apply.

SECTION 50. **(a) A person who is licensed as a researcher, or a researcher hemp breeder of agricultural hemp seed, who is employed to conduct research in an area of investigation applicable to hemp by a university or college as defined in IC 15-15-13 and who is a person licensed by the state seed commissioner in the precommercialization development phases of seed quality, trait, and trait stabilization development, and increase for production, and related hemp commercialization development efforts may have fees waived by the state seed commissioner.**

(b) Minimal growing space requirements for growing hemp under this rule may be waived in writing by the state seed commissioner to accommodate low volumes of breeder seed or propagative material.

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

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

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

(f) Any person doing harm or destroying a breeder plot managed by a researcher licensed under this article *[document]* **is subject to maximum civil penalty allowed subject to administration by the state seed commissioner.**

SECTION 51. **(a) Labeling required for agricultural hemp seed, clones, and other propagative materials is subject to any and all other labeling regulations pertaining to plant seed and propagative material in Indiana.**

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

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

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

SECTION 52. **(a) Each hemp production site must be accurately declared in a decimal GPS format to the state seed commissioner as part of the application and license process.**

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

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

SECTION 53. **(a) Each licensee shall file with the state seed commissioner a harvest and distribution report at the end of the growing season. Failure to file a report will result in a refusal to renew a license presented by an applicant in the consecutive year. The report shall be filed with the state seed commissioner not later than thirty (30) days after the harvest or distribution (sale, ship, etc.). Depending on the requirements of a growing season, it is expected that reports will be filed no later than November 1.**

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

(c) The report shall include the *[sic, following]* **minimal information:**
(1) License number.
(2) County.
(3) A statement verifying the crop type(s) (fiber, seed, oil, CBD, etc.).
(4) Variety(s) of the hemp.
(5) Grow site(s) of each variety, and cite by contractor.
(6) Acres planted.
(7) Acres harvested.
(8) Total quantity produced (pounds per acre, plants per square foot, etc.) by variety.
(9) Disposition of the crop(s) (sold, processed, destroyed, etc.).
(10) Production costs per unit.
(11) Wholesale or retail value of the crop(s) per unit.
(12) Names of buyers (in state or out of state).
(13) Other data requests may be added by the state seed commissioner.

(d) The state seed commissioner shall consolidate the report and combine summary data so as to not

reveal any one (1) source of data. The consolidated data may be discussed with the ISDA and with an industry economic round table to help in market decisions for industry and to identify supporting regulatory needs.

(e) Reports of all persons reporting as individuals or as a licensee of record must be sent to: Office of Indiana State Chemist & Seed Commissioner, Attn: Seed Administrator, 175 S. University Street, West Lafayette, IN 47907-2063, or on forms provided by the state seed commissioner.

SECTION 54. **(a) Hemp that is grown as a crop must be maintained within the crop site(s). Plants escaped and proximal to the crop must be eradicated.**

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

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

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

SECTION 55. **(a) Hemp bud (as defined in IC 35-48-1-17.2) and hemp flower (as defined in IC 35-48-1-17.3) may be sold only to a processor licensed under this article** *[document]***.**

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

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

SECTION 56. **(a) A request for an official growing season sample must be made in writing to the state seed commissioner not less than 30 calendar days prior to expected harvest, and be requested that the inspection be conducted in a field that is within 30 days of harvest at the time of the requested sampling to be accomplished, and include the exact location of the crop to be sampled and the expected date of the harvest. Once sampled, the crop must be harvested or dispose** *[sic, disposed]* **of within thirty (30) days.**

(b) Test samples of hemp, hemp extracts, may be transferred to a person licensed under this article *[document]***, or who is licensed under the hemp laws of the receiving state to accomplish the following, only if the material transferred is from a crop with an acceptable hemp THC level. Examples for which such samples may be expected include, but are not limited to:**

(1) to test the quality, or purity of the extract, or raw hemp for compliance with buyer standards, or legal definition of hemp; or

(2) to test the hemp or hemp extract, for compliance with health, safety, or contaminants, or acceptable contaminant levels, or concentration levels; or

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

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

(d) It is a violation subject to maximum extent of penalty allowed by law to divert a noncompliant extract to a nonlicensed person, or to remove an extract of hemp from a licensed handler/processor without notification to the *[sic]* **and written permission by the state seed commissioner or the Indiana state police, subject to the existing enforcement authorities of each agency.**

(e) Documentation of a test sample shall include: the license number of the licensee (submitter), the name of the licensee (submitter), county in which the operation is sited, the extract's known characterization, its intended use, a statement of rationale for the requested testing, a list of the analytes to be monitored, a statement of expected test results, the method of extraction for the sample (specific

solvents, cold press, mechanical, CO2, distillation, etc.), quantity of the sample, quantity of material represented by the sample, and the license number of the testing laboratory or firm, name of the laboratory or person.

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

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

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

SECTION 57. **(a) To provide increased capacity in making determinations of analytical compliance with federal and state hemp laws, the state seed commissioner may license a willfully participating analytical laboratory to conduct analyses of hemp for total THC, or other cannabinoids, or constituent compounds and nutritive evaluations or determinations (nitrogen, etc.), or disease. Upon completion of an application prescribed by this article** *[document]***, signed by the laboratory manager, of its agreement to the following:**

(1) To own or to possess under their control on their premises analytical instrumentation capable of accurately analyzing using gas or liquid chromatography with detection. Any and all instruments used in the analyses of hemp must comply with the following:

(A) The analytical equipment must operate under written procedures for calibrating, maintenance, and record retention.

(2) A laboratory under this SECTION must be certified by a nationally recognized standard, such as the most current ISO17025, or similar standard approved by the state seed commissioner.

(3) A laboratory must apply for and receive a Schedule 1 Registration from the Drug Enforcement Administration.

(4) All training records of personnel establishing competencies for hemp analyses must be retained and made available for review by the state seed commissioner or his/her representative.

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

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

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

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

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

(10) To pay the nonrefundable application fees.

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

SECTION 58. **(a) Except for the expressed purposes and licensing by the state seed commissioner for hemp plant breeding, or hemp research by a person licensed under this article** *[document]***, the collection, sale, offering to sell,** *[sic, or]* **use of or** *[sic]* **wild Cannabis is a violation of this rule. Such actions may be enforceable by Indiana state police or local law enforcement agencies under other statutory authorities.**

(b) The collection, possession, commingling of wild Cannabis with a licensed varietal hemp crop, or a crop purported to be a varietal hemp crop, is a violation of this rule unless a license has been issued by the state seed commissioner under this rule explicitly permitting this activity in writing, and notification or permission from the Indiana state police.

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

SECTION 59. **(a) Growing hemp plants or possessing hemp material in quantities less than the minimum is a violation of this rule.**

(b) The required growing areas for hemp in Indiana are as follows:
(1) Production field (seed sown) 10 contiguous acres minimum (grain/seed/fiber/seed oil).
(2) Production field (clones, cuttings) – 1 acre (contiguous) minimum, with a minimum of one thousand five hundred (1,500) plants grown as a single plot (CBD and other cannabinoids, feminized seed).
(3) Agricultural hemp seed breeding farm – not to exceed 5 acres (AOSCA standards).
(4) Minimum indoor grow greenhouse - 2,000 square feet, with a minimum of one thousand five hundred (1,500) plants (for production of clones), or 300 mature plants for cannabinoid production.
(5) Hoop house or slat house, or like, for production of starts only - 2,000 square feet, with a minimum of one thousand five hundred (1,500) plants (for production of clones), or 300 mature plants for cannabinoid production.
(6) Indoor – 2,000 square feet as measured in square feet of area, or as rotational compactor, or similar technology, with one thousand five hundred (1,500) plants (for production of clones), or 300 mature plants for cannabinoid production or feminized seed production.

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

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

(e) Grow sites utilizing less than the minimum growing area or with fewer than the expected numbers of plants may be subject to orders of disposal by the state seed commissioner.

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

SECTION 60. **The following hemp records must be accurately maintained and made available to the state seed commissioner upon at least three (3) days notice by the state seed commissioner:**
(1) Legal description of the land, county, and GPS coordinates in decimal format, on which hemp is being grown or was grown over the past two (2) years.
(2) Legal description of the location including GPS coordinates in decimal format, county, and address, for any facility, fixed or mobile, used to store, process, receive, or ship hemp, whether for the licensee or another.
(3) Records and invoices of any and all hemp seed or propagule purchases made in the past three (3) years.
(4) Records of a licensed grower that must include:
(A) name (person);
(B) address;
(C) county;
(D) variety and quantity of each variety grown/sold;
(E) in the case of clones, the quantity, shall include the number of plants of each variety grown/sold;
(F) delivery date of seed/clones received and delivery date of seed/clones sold;
(G) plant material, include *[sic, including]* **name and address of the purchaser, the purchaser's license number;**
(H) for the 2020 license year, a copy of the approved research plan, and demonstration of data being collected as required by the research plan.
(5) A person who buys hemp in Indiana must retain the receipt of the seller, which must include the

seller's name, place of business, Indiana license number (and any out-of-state license number, if held), variety(s), and quantity by variety of hemp sold.
(6) For a handler who is a processor of hemp, the following additional records are required to be maintained and to be presented upon demand by the state seed commissioner:
(A) A list of any and all extracting solvents and description of extracting methods including solvent concentrations, purity, grade, and source with brand and catalogue number, used by the licensee in processing hemp.
(B) Documentation of acceptable use of a chemical as a solvent for the purpose intended by documented reference to federal applicable codes or references or from the regulatory agency overseeing the final product in the market place.
(C) Records for weed management and identification of weeds in the production area known to be harmful to humans or animals and methods of control to avoid including them in processing.
(D) A copy of the food safety plan, or hazard identification and hazard mitigation plan, and compliance plans for Food and Drug Administration, 21 CFR Part 111 must be made available upon request by the OISC or other authorized state or federal regulatory or enforcement agency.
(E) A copy of the licensee's site safety plan, and, as appropriate to the situation, a copy of the state fire marshall's *[sic, marshal's]* **facility inspection report of the processor site.**
(F) It is a violation of this article *[document]* **to handle or otherwise process hemp, or use extractants or solvents to process hemp in a residence or out building associated with a residence.**
(G) The certificates of analyses (COA) of all lots produced by a grower shall be retained by the licensee for not less than two (2) years and made available upon request.

SECTION 61. **(a) Sale of hemp must be conducted by a person licensed under this article** *[document]***.**

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

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

(d) Indiana persons who receive hemp sourced from another state must be licensed:
(1) A person who receives hemp must have a certificate of analysis that reports total THC and the date(s) of the analyses.
(2) A person who receives for delivery hemp that is not compliant with Indiana law and is not legally allowed to be sold in Indiana must reject such materials and state in writing the reason for rejection to the seller.

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

(f) Sales invoices for hemp shall include both on one (1) form:
(1) vendor information, including the name of the vendor, the hemp license number of vendor, the legal physical address of the business (street number, street, city, state, zip code, county), the phone number (including area code), website, and email address, as well as the date of the sale (including the month, day, year); and
(2) purchaser information, including the name, physical address (as above) of the purchaser, the license number of the purchaser.
The invoice shall name the variety (varieties) transacted, and quantity and form (chopped, baled, fresh cut, dried, etc.) of each variety transacted.

(g) It is prohibited to sell or distribute hemp seed as garden seed packets, or in quantities smaller than 50 pounds, except to a person is who *[sic]* **licensed as a researcher and used for educational purposes by a researcher or cooperative extension educator, or by one who is licensed to breed agricultural hemp seed as a developer of new varieties of hemp.**

(h) Persons selling or advertising the sale of hemp, agricultural hemp seed, or hemp clones must be licensed and must sell to a person who is licensed by the state seed commissioner, or one who is legally licensed in another state, and must retain the following records for each transaction of hemp seed and

make such records available upon request by the state seed commissioner:

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

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

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

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

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

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

SECTION 62. **(a) A person who buys hemp in Indiana must retain the receipt described in IC 15-15-13-18(a)(2) for a period of two (2) years.**

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

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

SECTION 63. **(a) Grow sites, handling sites, and contact information of a licensee shall be considered by the state seed commissioner as public information, unless the licensee commits to one (1) of the following statements on an application provided by the state seed commissioner, submitted in writing at the time of filing a license application with the state seed commissioner:**

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

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

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

SECTION 64. **Hemp that has exceeded the acceptable hemp THC level must be treated and disposed in like manner as marijuana:**

(1) Remediation according to this rule can be performed on all crops below the 1.0% Total THC + measurement of uncertainty.

(2) Excess hemp total THC (THC and THCa) in the possession of a grower or handler, regardless of form as an extract, or as plants or plant parts, must be disposed so as to be irretrievable and non-ingestible.

(3) A grower who is aware a hemp crop grown under their license is in excess of the acceptable hemp THC level, whether notified by the state seed commissioner or not, shall:

(A) harvest the crop within thirty (30) days of sampling;

(B) securely maintain the entire crop on the farm or property where the crop was grown;

(C) coordinate with the state seed commissioner for the disposal to be witnessed by the Indiana state police or their local law enforcement designee;

(D) dispose of the crop in a designated site in a manner that complies with local and state burn laws and this rule;

(E) verify disposal of the crop with the state seed commissioner, including photographic or video evidence of disposal.

(4) Disposal must occur on the farm or property where the crop was grown.

(5) A handler must destroy all excess THC in their control whether:

(A) as a separated extract obtained through extraction of desired legally held cannabinoids, e.g., CBD, CBN, or other legal cannabinoid; or

(B) as unprocessed hemp plant material that cannot be redeemed for other legal use.

Only extracts of cannabinoids containing not more than the acceptable hemp THC level are compliant.

(6) Transfers of THC-containing hemp extracts or hemp that exceeds 0.3% THC to another person are

not allowed.
(7) With the exception of reference standards of THC used by a laboratory for the purpose of hemp analyses by a cooperator hemp laboratory licensed by the state seed commissioner, transport of THC in an extracted form across state lines is prohibited. A person who transports THC extract or hemp that comes from a tested crop above the acceptable hemp THC level is subject to revocation of a license issued by the state seed commissioner.
(8) Oversight of disposal of THC materials, regardless of form as an extract or plants, or plant parts, must be according to federal DEA regulations.
(9) It is a violation of this rule to allow crop tested above the acceptable hemp THC level to be moved off of the property of the grower or handler. This crop shall not be sold, transported, or processed and must be destroyed. Growers and handlers must set up procedures that prohibit handling, processing, or entering the stream of commerce of any hemp grown where the acceptable hemp THC level is noncompliant (15-15-13-9) *[sic, (IC 15-15-13-9)]*.

SECTION 65. **(a) The state seed commissioner shall follow the field sampling protocols adopted in the Office of Indiana State Chemist & Seed Commissioner MTD 0501-IS, Field Sampling of Hemp. Standard sampling and performance-based sampling procedures will be sufficient at a confidence level of 95 percent that no more than one percent of the plants in each lot would exceed the acceptable hemp THC level and ensure that a representative sample is collected that represents a homogeneous composition of the lot.**

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

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

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

(e) If the producer fails to complete harvest within thirty (30) days of sample collection, a secondary preharvested sample of the lot shall be required to be submitted for testing.

(f) It is a violation of this article *[document]* **for a producer to harvest any cannabis prior to samples being taken.**

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

SECTION 66. **(a) It is a violation of this article** *[document]* **to present information in written or in any form to the state seed commissioner as true that is factually false.**

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

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

(d) Any person subject to this article *[document]* **who materially falsifies any information contained in an application to participate in the Indiana state hemp program shall be ineligible to participate in the program.**

(e) If a licensee has been determined by the state seed commissioner to have violated this article *[document]* **or IC 15-15-13 with a culpable mental state greater than negligence, the state seed commissioner shall immediately report the licensee to:**
(1) the U.S. Attorney General; and
(2) the Indiana attorney general; and

(3) the superintendent of the Indiana state police.

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

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

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

(1) The state seed commissioner may hold in abeyance, for a period up to five (5) years, portions or all of a rightfully charged civil penalty to allow time for corrective action plan where the violator is cooperating and has activity to regain compliance, if the violation is subject to correction that requires time or investment, and is an option believed by the state seed commissioner to gain compliance now and in the future, and the violator cooperates with the state seed commissioner Three (3) negligent violations as defined in the 2018 Agriculture Improvement Act, and defined in this article *[document]***, including those for which a civil penalty may be lawfully applied by the state seed commissioner, in a five (5) year period shall result in a revocation of the license for five (5) years.**

(2) Knowing or intentional violations of IC 15-15-13 or this rule will result in a revocation of license and will be turned over to the Indiana state police, where the violation is one subject to their jurisdiction.

(3) The state seed commissioner may consult with the director of the Indiana department of agriculture or the superintendent of the state police regarding an abeyance.

(4) Failure to be a grower and to not be licensed is subject to a late fee of $750 plus any applicable licensing fees payable to the state seed commissioner.

(5) A knowing or intentional violation, as in (2) above *[subdivision (2)]***, is not a negligent violation and may be subject to either IC 15-15-13-19 or IC 15-15-13-20.**

(6) Failure to pay civil penalties within the period ordered by the seed commissioner shall result in a revocation of a license or the nonrenewal of a license, if a license is up for renewal.

SECTION 67. **Failure to cooperate with an audit, records check, inspection, taking of a sample, lawfully initiated by the state seed commissioner may result in one (1) or more of the following actions taken by the state seed commissioner:**

(1) Revocation of the license.

(2) Probable cause inspection of the property(s) where licensed activities are presented to the state seed commissioner as part of the license application.

(3) Detention, seizure, or embargo of a crop based on violation of this rule and failure to comply with an order.

(4) Disposal of the crop by order of the state seed commissioner based on violation of this rule and failure to comply with an order.

(5) Payment to the state seed commissioner for any costs of testing conducted.

(6) A person who impedes an activity of the state seed commissioner that is lawfully authorized is subject to:

(A) faces revocation of license; and

(B) commits a Class C misdemeanor.

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