

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

**Mark Martin**

500 Woodlane, Suite 026  
Little Rock, Arkansas 72201-1094

(501) 682-5070

[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Department of Agriculture

Department State Plant Board/Plant Industries Division

Contact Scott Bray E-mail scott.bray@agriculture.arkansas.gov Phone 501-225-1598

Statutory Authority for Promulgating Rules Under Authority of A.C.A. 2-15-401 et seq.

Rule Title: ARKANSAS INDUSTRIAL HEMP RESEARCH PROGRAM RULES

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September 6 - 8, 2019

October 5, 2019

May 15, 2020

March 10, 2020

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Linda Luebke

linda.luebke@agriculture.arkansas.gov

May 20, 2020

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501-225-1598

Phone Number

scott.bray@agriculture.arkansas.gov

E-mail Address

Director

Title

May 20, 2020

Date



Asa Hutchinson  
Governor

# ARKANSAS DEPARTMENT OF AGRICULTURE

1 Natural Resources Drive, Little Rock, AR 72205  
agriculture.arkansas.gov  
(501) 225-1598



Wes Ward  
Secretary of Agriculture

May 20, 2020

Honorable John Thurston  
Secretary of State  
State Capitol Rm. 01  
Little Rock, Arkansas 72201-1094

Enclosed is a Transmittal Sheet and copies of a **Final Rule**, as listed below. The Rule was approved by the Plant Board at a State Plant Board meeting held March 10, 2020.

The Rule was reviewed and approved by the Arkansas Legislative Council Administrative Rules Subcommittee on May 14, 2020 and the Arkansas Legislative Council on May 15, 2020. This is now to be considered a **Final Rule**.

**Title: Arkansas Industrial Hemp Research Program Rule**

If more information is needed, please contact me.

Sincerely,

Scott Bray, Director  
Arkansas State Plant Board

SB:ll

Enclosures

# **Arkansas Industrial Hemp Research Program Rules**

**APPROVED AND ISSUED BY:**

**ARKANSAS STATE PLANT  
BOARD**

**UNDER AUTHORITY of A. C. A. 2-15-401 et seq.  
Arkansas Industrial Hemp Act**

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## Arkansas Industrial Hemp Research Program Rules

As approved and effective August 31, 2018. Address communications to Arkansas Department of Agriculture, Industrial Hemp Program. 1 Natural Resources Drive, Little Rock, Arkansas 72205.

### THE RULES

The Industrial Hemp research program rules were made by the Arkansas State Plant Board under authority of SECTION 1. Arkansas Code Title 2, Chapter 15, Subchapter — Arkansas Industrial Hemp Act 2-15-401 through 2-15-412, given in the Appendix.

#### SECTION 1. DEFINITIONS. When used in these rules

(A).

- (1) "**Act**" means Arkansas Industrial Hemp Act (A.C.A. 2-15-401 et seq)
- (2) "**Applicant**" means a person, or a person who is authorized to sign for a business entity, who submits an application.
- (3) "**Approved cultivar**" means any variety of industrial hemp designated by the Arkansas State Plant Board in a published list and may be amended from time to time.
- (4) **Association of Official Seed Certifying Agencies (AOSCA) "AOSCA Certified seed", "AOSCA Registered seed", and "AOSCA Foundation seed"** mean seed that has been produced and labeled in accordance with the procedures and in compliance with the rules of an AOSCA seed certifying agency or by the Organization for Economic Co-operation and Development (OECD) Seed Schemes. AOSCA Certified Seed programs provide standards and procedures approved by the United States Secretary of Agriculture to maintain and make available to the public high quality seed and propagating materials of superior crop plant varieties grown & distributed to insure genetic identity and purity.
- (5) "**Board**" means the Arkansas State Plant Board.
- (6) "**Cannabis**" means all parts of the cannabis plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts. Cannabis does not include publicly marketable hemp products, as defined in this rule.
- (7) "**CBD**" means cannabidiol.
- (8) "**DEA**" means the United States Drug Enforcement Administration.
- (9) "**Delta-9-THC**" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis).
- (10) "**Department**" means the Arkansas Department of Agriculture.
- (11) "**GPS**" means Global Positioning System.
- (12) "**Grower Licensing Agreement**" means a document executed by a person and the department authorizing the person to grow, handle and store hemp at one or more specified locations in Arkansas under the terms set forth in the document, Arkansas Industrial Hemp Act 2-15-401- 2-15-412, and this rule.
- (13) "**Handling**" means possessing or storing industrial hemp for any period of time

on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. "Handling" also includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person.

- (14) "**Industrial hemp**" shall be used interchangeably with "Hemp" and have the same meaning. Hemp means *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 0.3 percent on a dry weight basis, as defined in the Agriculture Improvement Act of 2018, 21 U.S.C. & 801 et seq. as it currently exists or as it may be subsequently amended.
- (15) "**Industrial hemp products**" or "hemp products" means products derived from, or made by, processing industrial hemp plants or plant parts, including without limitation:
- (A) Certified seed for cultivation if the seeds originate from industrial hemp varieties; (B) Cloth; (C) Cordage; (D) Fiber; (E) Food; (F) Fuel; (G) Paint; (H) Paper; (I) Particleboard; (J) Plastics; and (K) Seed, seed meal, and seed oil for consumption.
- (16) "**Law enforcement agency**" means the Arkansas State Police, DEA, or other federal, state, or local law enforcement agency or drug suppression unit.
- (17) "**Licensed Grower**" means an individual or business entity possessing a license issued by the department under the authority of this chapter to grow, handle, cultivate, process, or market industrial hemp or industrial hemp products.
- (18) "**Licensed Processor**" means a person in the state authorized by the department to process, handle, store, and market industrial hemp under the terms set forth in a Processor Licensing Agreement, as set forth in the policies developed under these rules.
- (19) "**Location ID**" means the unique identifier established by the applicant for each unique set of GPS coordinates where industrial hemp will be grown, handled, stored, or processed, which may include a field name or building name.
- (20) "**Marketing**" means promoting or selling a product within Arkansas, in another state, or outside of the United States. "Marketing" includes efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers;
- (21) "**Nonviable seed**" means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.
- (22) "**Person**" includes any individual, partnership, corporation, company, society, or association.
- (23) "**Pesticide**" means any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest; intended to be used as a plant regulator, defoliant, or desiccant; or intended to be used as a spray adjuvant, once they have been mixed with a U.S. Environmental Protection Agency registered product.
- (24) "**Phytocannabinoids**" are cannabinoids that occur naturally in the cannabis plant. The classical cannabinoids are formed through decarboxylation of their respective 2-carboxylic acids (2-COOH), a process which is catalyzed by heat,

light or alkaline conditions.

- (25) **"Plot"** means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.
- (26) **"Post-Harvest Sample"** means a sample taken from the harvested industrial hemp material from a particular plot's harvest in accordance with the procedures as defined in the policies developed under these rules; the entire plot's harvest must be in the same form (intact-plant, flowers, ground materials, etc.), homogenous, and not mixed with non-hemp materials or industrial hemp materials from another plot.
- (27) **"ppm"** means parts per million.
- (28) **"Pre-Harvest Sample"** means a composite, representative portion from plants in an industrial hemp plot collected prior to harvest in accordance with the procedures as defined in the policies developed under these rules.
- (29) **"Processing"** means converting an agricultural commodity into a marketable form.
- (30) **"Processor Licensing Agreement"** means a document executed by a person and the department authorizing the person to process, handle, and store industrial hemp at one or more specified locations in Arkansas under the terms set forth in the document, Arkansas Industrial Hemp Act 2-15-401- 2-15-412, and these rules.
- (31) **"Program"** means the Arkansas Industrial Hemp Research Program as established by the Arkansas Industrial Hemp Act, A.C.A. 2-15-401 et seq. and these rules.
- (32) **"Prohibited Variety"** means a variety or strain of cannabis excluded from the department's Industrial Hemp Research Program.
- (33) **"Propagule"** means a plant or plant part that can be utilized to grow a new plant.
- (34) **"Publicly marketable hemp product"** means a hemp product that meets one or more of the following descriptions:
- (a) the product does not include any living hemp plants, viable seeds, leaf materials, floral materials, or decarboxylated delta-9-THC content above 0.3 percent; and does include, without limitation, the following products: bare stalks, bast fiber, hurd fiber, nonviable roots, nonviable seeds, seed oils, and plant extracts (excluding products containing decarboxylated delta-9-THC above 0.3 percent).
  - (b) the product is CBD that was derived from industrial hemp, as defined in these rules; or
  - (c) the product is CBD that is approved as a prescription medication by the United States Food and Drug Administration.
- (35) **"Secondary Post-Harvest Sample"** means a post-harvest sample that is taken in a given plot or processing, handling or storage location after the first post-harvest sample is taken. A Secondary Post-Harvest Sample is taken on a different day than the initial post-harvest sample.
- (36) **"Secondary Pre-Harvest Sample"** means a pre-harvest sample that is taken in a given plot after the first pre-harvest sample is taken. A Secondary Pre-Harvest Sample is taken on a different day than the initial pre-harvest sample.
- (37) **"Seed source"** means the origin of the seed or propagules as determined by

the department.

- (38) **"Signing authority"** means an officer or agent of the organization with the written power to commit the legal entity to a binding agreement.
- (39) **"Street address"** means any postal address used for official purposes, specifically closest to industrial hemp plots/fields/greenhouses, storage buildings, or processing operations, for means of identifying different locations under the same hemp license.
- (40) **"Total THC"** means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value may also be calculated using a conversion formula that sums delta-9-THC and THC-acid.
- (41) **"University"** means an accredited institution of higher education located in Arkansas.
- (42) **"Variety"** means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics by which it can be differentiated from other plants of the same kind. A variety also is "uniform" & "stable" – uniform in the sense that variations in essential and distinctive characteristics are describable; and "stable" in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.
- (43) **"Variety of Concern"** means any variety of hemp in the program that tests above 0.3% total delta-9-THC in one (1) or more pre-harvest samples from diverse locations and production conditions. A hemp variety designated as a "Variety of Concern" may be subject to restrictions and additional testing. Materials testing at a total delta-9-THC concentration above 0.3 percent may be subject to law enforcement action.
- (44) **"Volunteer hemp plant"** means an industrial hemp plant that was not intentionally planted, but results from a previous crop, growing on its own accord from seeds or roots in the years following an intentionally planted industrial hemp crop.

**(B) Definitions specific to industrial hemp seed production.**

Industrial Hemp (*Cannabis sativa* L.) includes varieties of these kinds:

- (1) **"Dioecious type"** means a type of industrial hemp that has male and female flowers on separate plants.
- (2) **"Industrial hemp seed production"** means an industrial hemp seed production field established with an appropriate generation of AOSCA certified seed intended to produce a subsequent generation of AOSCA certified seed.
- (3) **"Licensed Plant Breeder"** means an individual who has met the requirements listed in the Official Standards for Seed Certification in Arkansas (Circular 15) Under Act 73 of 1931; A.C.A. 1987 Sections 2-18-101 through 2-18-108.
- (4) **"Monoecious type"** means a type of industrial hemp that has male and female flowers on the same plant.
- (5) **"Too male"** means an intersexual plant that exceeds the ratio of male and female flowers as described in the variety description.
- (6) **"Unisexual female"** means a monoecious type of industrial hemp plant that has sterile male and fertile female flowers.



- (7) "**Unisexual female hybrid**" means a hybrid where the A line is a unisexual female type and the B line produces male fertile flowers.

## SECTION 2. LICENSING

### (A) Who must apply:

- (1) Growers and Processor/Handlers:

A license to grow shall allow the license holder to obtain seed pursuant to these Rules for planting, possess seed for planting, cultivate the crop, harvest plant parts, possess and store harvested plant parts, and transport plant parts to a market for sale. The license holder must abide by the terms set forth in the Grower Licensing Agreement with the department.

A license to engage in the processing or handling of industrial hemp that does not fall within the definition of a "publicly marketable hemp product" shall allow the license holder to process, handle, and store industrial hemp at one or more specified locations in the state. The license holder must abide by the terms set forth in the Processor/Handler Licensing Agreement with the department.

- (a) No person who does not hold a Hemp Grower or Processor/Handler license from the department shall grow, cultivate, handle, store, or process industrial hemp at any location within Arkansas.

- (b) No person under the age of eighteen (18) years of age shall apply for or hold a Grower or Processor/Handler License.

- (2) Two types of licenses can be issued by the department for cultivation or processing of industrial hemp in Arkansas:

- (a) Research Only

- (b) Research with Intent to Market

These types of licenses may include seed research projects through a university, private entity working with a university, or private entity working with a licensed plant breeder to develop industrial hemp seed varieties that would meet the requirements listed in in these rules in Section 5. Approved Seed For Planting.

- (3) Applications for cultivation or processing of industrial hemp in Arkansas may be made at any time during the year, but the effective date of the license will be July 1<sup>st</sup> through June 30<sup>th</sup> annually. Renewal applications will be due June 15<sup>th</sup>.

- (4) Applications shall be handled and processed by the department and reviewed for approval or denial. The department review process may require 60 days to complete. Acceptance of applications may be suspended for a period of time to allow the department staff adequate time to process applications and/or handle additional hemp related duties. Any delays or additional requirements for submitting applications may be set as policy and published on the department's industrial hemp webpage. After review and acceptance, the applicant will be notified to send the required application fees, and upon receipt, the license certificate will be issued.

- (5) A person interested in holding a Grower License or Processor/Handler License shall complete the department's Industrial Hemp Application Form annually, or follow an established protocol or renewal process as notified. A person interested in both a grower license and a processor/handler license must complete both license applications.

- (6) Failure to comply with any of these Rules or the provisions of the act, shall result in an automatic revocation of the license for the full remaining period of the license.
- (7) An analytical testing of THC levels greater than 0.3% shall not result in revocation of a license so long as the crop is destroyed in accordance with these rules.
- (8) Applicants shall disclose the date and location of any conviction of any criminal offense (other than misdemeanor traffic offenses) committed in any jurisdiction. Failure to comply with this requirement in a complete and truthful manner shall be grounds for denial, suspension, or revocation of a permit, as may be determined by the Industrial Hemp Committee and approved by the full board.
- (9) The following applicants shall not be granted a permit:
  - (a) Any applicants with any felony conviction in the prior 10 years
- (10) Industrial hemp business licenses. Licensees must maintain all proper state, county and local business licenses and permits and comply with all applicable zoning rules.

**(B) Application for Licenses**

- (1) **Growers License:** Growers in Arkansas who wish to cultivate industrial hemp shall submit to the department an application for a license to do so. The application shall include the following information for consideration:
  - (a) Type of License as set forth in Section 2. A(2);
  - (b) Full name, Arkansas residential address, telephone number and email address.
  - (c) Street address, location ID, and GPS coordinates for each field, greenhouse, building or site where industrial hemp will be grown, handled, or stored, updated annually, or as needed; If the applicant represents a business entity, the full name of the business, the principal Arkansas business location address, the full name of the applicant who will have signing authority on behalf of the entity, title, and email address of the person;
  - (d) Maps depicting each site where hemp will be grown, handled, or stored, with appropriate designations for entrances, field boundaries, and specific locations corresponding to the GPS coordinates;
  - (e) Research plan, including the proposed acreage or greenhouse/ indoor square footage to be planted;
  - (f) Intended variety name, origin, and seed or plant certifying agency for each planting. This information must conform to Section 3 of these rules;
  - (g) Intended marketable portion of the plant (seed, fiber, hurd, cannabinoids, not including THC, or certified planting seed or propagule as set forth in A.C.A. 2-15-401 et seq.); The department may limit the scope and acreage of research projects. Initial acreage may be limited to one acre or less.
  - (h) Intended market, and intended purchaser's name and address if license is of the type "Research with Intent to Market";
  - (i) Written statement of the research objective and data or observations to be collected and reported to the department. The research objective must conform to the authorized research purposes set forth in A.C.A. 2-15-401 et seq. The written statement in this section constitutes a written agreement between the license holder and the department.

- (j) Evidence of income from a farming operation and/or agricultural or research experience. Examples may include tax returns (IRS 1040 schedule F), Farm serial number, or education in agriculture, research or related field. These will be listed on the license application form & instructions published annually when the current year application forms become available.
  - (k) Intended storage location (expressed in GPS coordinates) for harvested plant parts;
  - (l) Agreement to provide access to the department and law enforcement agencies at any time for sampling or inspection in the field or storage;
  - (m) Agreement to ensure the monitoring and destruction of volunteers for three years following cultivation regardless of land lease or ownership status during that period;
    - i. It shall be the responsibility of the license holder to monitor and destroy volunteers.
    - ii. The responsibilities of the license holder in this provision may be transferred to another entity by mutual agreement in writing with both parties' signatures.
  - (n) Agreement to maintain all records, including but not limited to those for agronomics, contracts, sampling, storage, expenses, transportation and delivery, as stated in Section Seventeen (17) of these rules.
    - i. All records shall be kept within the state of Arkansas and made available for inspection on request.
    - ii. An in-state agent shall be maintained for receipt of records or receipt of services.
  - (o) Agreement to notify the department within one month if there are any changes or deviations; and
  - (p) Agreement to notify the department if there are any changes to the license holder's address within one month of a change for the duration of the license.
  - (q) Policies may be established and reviewed annually for necessary updates to address unforeseen needs. These will be published annually when the current year application forms become available.
  - (r) An applicant shall not be a participant in the Program until the conditionally approved applicant and the department have executed a Grower Licensing Agreement, which shall be signed within the industrial hemp grower application. The Grower Licensing Agreement shall set forth the terms and conditions governing participation in the Program. The terms and conditions set forth in the Agreement shall include, at a minimum, the requirements listed in the Act and in these rules for Licensed Growers and may include other requirements set as policy and published annually.
- (2) **Processor/Handler License:** The Processor/Handler License Application form shall require applicants to submit, at a minimum, the following information and documents:
- (a) Full name, Arkansas residential address, telephone number, and email address, if an email address is available;

- (b) If the applicant represents a business entity, the full name of the business, the principal Arkansas business street address, the full name of the applicant who will have signing authority on behalf of the entity, title, and email address if an email address is available, of the person;
- (c) Research plan;
- (d) Planned source of industrial hemp; and
- (e) Maps and street address, location ID, and GPS coordinates for each building or site where hemp will be processed, handled, or stored.
- (f) Agreement to maintain all records, including but not limited to those for agronomics, contracts, sampling, storage, expenses, transportation and delivery, as stated in Section Seventeen (17) of these rules.
  - i. All records shall be kept within the state of Arkansas and made available for inspection on request.
  - ii. An in-state agent shall be maintained for receipt of records or receipt of services.
- (g) Policies may be established and reviewed annually for necessary updates to address unforeseen needs. These will be published annually when the current year application forms become available.
- (h) An applicant shall not be a participant in the Program until the conditionally approved applicant and the department have executed a Processor/Handler Licensing Agreement, which shall be signed within the industrial hemp processor application. The Processor/Handler Licensing Agreement shall set forth the terms and conditions governing participation in the Program. The terms and conditions set forth in the Processor/Handler Licensing Agreement shall include, at a minimum, the requirements listed in the Act and in these rules for Licensed Processors/Handlers and may include other requirements set as policy and published annually.

**(C) Criminal History Background Check**

- (1) Each Licensed Grower, Processor/Handler or applicant shall undergo and pay for an annual criminal background check.
- (2) Each person who is required to undergo an annual criminal background check shall:
  - (a) Submit a criminal background check request to the Arkansas State Police or other law enforcement agency designated by the department;
  - (b) Submit payment for the background check fee directly to the Arkansas State Police or other law enforcement agency designated by the department;
  - (c) Following completion of the background check, ensure delivery of the report to the department not more than fourteen (14) days following the date the application was received by the department, directly from the Arkansas State Police or other law enforcement agency designated by the department.
  - (d) The department shall not accept a report from a criminal background check that occurred more than 60 days prior to submission of the application.
  - (e) Failure to submit the background check by the deadline stated in subsection

- (2) (c) shall be cause for denial of application.
- (f) Substitution of a signing authority shall require approval from the department and the submission of a current criminal background check (for the substitute).

### **SECTION 3. LAND USE RESTRICTIONS**

#### **(For Licensed Growers or Licensed Processors/handlers.)**

- (A) A **Licensed Grower or Processor/Handler** shall not grow, process, or store industrial hemp in any structure that is used for residential purposes.
- (B) A **Licensed Grower or Processor/Handler** shall not grow, store or process industrial hemp in any field or site that is located within 1,000 feet of a school, daycare or similar public areas frequented by children as determined by policy on an individual case basis by the department.
- (C) An **applicant or licensed Grower or Processor/Handler** shall not include any property on their application or Site Modification Request to grow, cultivate or process industrial hemp that is not owned or completely controlled by the applicant or licensed grower.
- (D) A **Licensed Grower or Processor/Handler** shall not grow, handle, process or store industrial hemp on property owned by or leased from any person who is ineligible or was terminated, or denied admission to the program for one or both of the following reasons:
- (1) Failure to obtain an acceptable criminal background check
  - (2) Failure to comply with an order from a representative of the department.
- (E) A **Licensed Grower** shall not:
- (1) plant or grow any cannabis that is not industrial hemp.
  - (2) plant or grow industrial hemp on any site not listed in the Grower Licensing Agreement.
  - (3) handle or store leaf or floral material from industrial hemp within any structure that is used for residential purposes.
  - (4) plant industrial hemp in an outdoor growing location of less than one-quarter acre and 1,000 plants unless prior approval is received in writing from the department. Industrial Hemp shall be physically segregated from other crops unless prior approval is obtained in writing from the department.
- (F) A **Licensed Grower** is required to post signage at all field locations. The signage shall include the following information:
- (1) The Statement, "Arkansas Industrial Hemp Research Program"
  - (2) License Holder's Name and License Number;
  - (3) The department's telephone number.

### **SECTION 4. ADMINISTRATIVE APPEAL**

#### **(From denial of application)**

- (A) An applicant wishing to appeal the department's denial or partial denial of an application shall submit a written request for a hearing postmarked within fifteen (15) days of the date of the department's notification letter or email.
- (B) An appealing applicant shall mail a hearing request letter to the Industrial Hemp

Research Program, 1 Natural Resources Drive, Little Rock, Arkansas 72205.

- (C) Appeals shall be heard by a three-person administrative panel whose members shall be designated by the Plant Board Director. The panel shall include at least one person who is a Program employee and at least one person who is not a Program employee and not involved or invested in any hemp research projects in Arkansas.
- (D) The members of the administrative panel shall not be required to accept or consider information or documents that were not compliant with application deadlines set forth in this rule.
- (E) Hearings on appeals shall be open to the public and occur at a time, date and location designated by the Plant Board Director.
- (F) An appealing applicant shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.
- (G) An appealing applicant shall be allowed up to fifteen (15) minutes to present arguments for reversing the department's denial of the application.
- (H) A representative of the department shall be allowed up to fifteen (15) minutes to present arguments for affirming the department's denial of the application.
- (I) The three members of the administrative panel shall rule on the appeal by a majority vote.

## **SECTION 5. APPROVED SEED FOR PLANTING**

### **(A) (For Licensed Growers or Licensed Processors/handlers.)**

- (1) Approved seed or transplants for cultivating industrial hemp in Arkansas shall be from one of the following:
  - (a) Seed or transplants produced from seed or living plant parts that meet the criteria for Breeder, Foundation, Registered, or Certified categories as defined by the Official Standards for Seed Certification in Arkansas, including certification by other AOSCA seed agencies recognized by the Arkansas Seed Certification Program. All such seed and transplants shall include a certifying tag of varietal purity issued by Arkansas Seed Certification Program or another official certifying agency as defined in these rules\_ (Section 1 A. 3) or
  - (b) As allowed by the Industrial Hemp Research Program, seed or transplants produced lawfully under an industrial hemp research program within the United States provided that the seed or transplants have accompanying documentation of:
    - i. being produced by a licensed grower within the state of production, and
    - ii. have accompanying documentation that the crop from which the seed or transplants were harvested had a THC analysis of 0.3% or less by

dry weight, and

iii. the variety is listed as an approved variety published annually in the Industrial Hemp Research Program guidance policy.

iv. the variety owner's permission has been granted.

- (2) Growers or other organizations in Arkansas may produce seed or transplants for distribution or sale for cultivation, if the source is Subparagraph (a)(1) of this Rule, in subsequent years only if it is overseen and certified by the Arkansas Seed Certification Program to be true to type under Association of Official Seed Certifying Agencies' (AOSCA's) guidelines: Industrial Hemp (*Cannabis sativa* L. Subsp. *Sativa*) Certification Standards. No other seed or transplants may be produced in Arkansas for distribution or sale in Arkansas unless approved by the Industrial Hemp Research Program.
- (3) All seed or transplants produced in Arkansas for distribution or sale in Arkansas to be utilized for cultivation of industrial hemp shall include a certifying tag of varietal purity issued by the Arkansas Seed Certification Program or another official certifying agency as defined in the above Section 1: Definitions.
- (4) A business entity, including an agricultural co-operative enterprise ("co-op") or other farm aggregator ("aggregator") who contracts with one or more permitted growers, may, upon registering with the department, obtaining any required permitting from the United States Drug Enforcement Agency, and pursuant to Federal and State law, obtain bulk quantities of seed or transplants approved under this Rule for distribution to permitted growers. A permitted grower may own and plant seed or transplants obtained from such registered co-ops or aggregators, who must document quantities delivered to each named grower within 10 days of delivery.
- (B) All Industrial Hemp seed or transplants sold within or into Arkansas must be labeled as to variety or hybrid name. Labelers of seed or transplants must provide to the board breeder descriptions and variety release information including any subsequent updates/amendments to these descriptions.
- (1) For purposes of labeling, the number or other designations of hybrid industrial hemp shall be used as a variety name.
- (2) All Industrial Hemp seed for planting purposes sold within or into Arkansas is subject to the rules in the Board's Circular 10: Regulations on the Sale of Planting Seed in Arkansas.

## **SECTION 6. Seed/Propagule Acquisition**

### **(A) Seed/Propagule acquisition from a source within Arkansas**

- (1) No department pre-approval shall be required for a transfer of hemp seed or propagules of any variety listed on the department's published Summary of Varieties list, excluding Prohibited Varieties, between Arkansas Licensed Growers and/or Licensed Processors/Handlers within Arkansas.
- (2) A Licensed Grower or Licensed Processor/Handler shall not buy, sell, possess, or transfer hemp seeds or propagules to or from any person in Arkansas without first verifying that the person is licensed as required by these rules.

- (3) Upon request from a representative of the department, a Licensed Grower or Licensed Processor/Handler shall provide a distribution list showing locations where and to whom hemp seeds or propagules were distributed.

**(B) Seed/propagule acquisition from a source in a U.S. territory, tribal land, or state other than Arkansas.**

- (1) No person shall acquire seeds or propagules from a source in a U.S. territory, tribal land, or state other than Arkansas without first:
  - (a) Submitting a complete Domestic Seed/Propagule Request form and all required attachments, and
  - (b) Obtaining written approval of the Domestic Seed/Propagule Request from a representative of the department.
- (2) A Domestic Seed/Propagule Request shall not be approved unless the Licensed Grower or Processor/Handler affirms in writing that the requested seed acquisition plan will not infringe on the intellectual property rights of any person.
- (3) A person submitting a Domestic Seed/Propagule Request form shall submit to the department THC test results showing that floral material sampled from mature plants that produced the seed or propagule variety has a total\_delta-9-THC content of not more than 0.3 percent on a dryweight basis from an independent third-party laboratory.
- (4) A person acquiring seeds or propagules from a source outside Arkansas shall arrange for the seeds or propagules to arrive at the department's facility at 1 Natural Resources Drive, Little Rock, Arkansas 72205 or at a location designated by the department, for inventory and distribution.
- (5) Upon request from a representative of the department, a Licensed Grower or Processor/Handler shall provide a distribution list showing locations where and to whom the hemp seeds were distributed following inventory at the department facility.

**(C) Seed/propagule acquisition from a source outside the United States.**

- (1) A person seeking to obtain seeds/propagules from an international source shall submit a complete International Seed Request form to the department.
  - (a) If approved, the department shall request the DEA Permit to Import under the department's DEA registration, if required.
  - (b) No person shall acquire seeds/propagules from a source outside the United States unless the department first obtains a Permit to Import from the DEA, if required.
- (2) No person shall acquire propagules or seeds from outside the United States, unless all federal and state requirements have been met and the acquisition is approved by the department.
- (3) The department shall not approve an International Seed Request form for any purpose other than seeds for planting in Arkansas. All Licensed Growers intending to plant the requested seed must be listed on the request form.
- (4) The department shall not approve an International Seed Request form unless the Licensed Grower or Processor affirms in writing that the planned activities will not



infringe on the intellectual property rights of any person.

- (5) A person submitting an International Seed Request form shall submit to the department documentation showing that mature plants that produced the seed variety have a floral material total THC content of not more than 0.3 percent on a dry weight basis.
- (6) A person acquiring seeds or propagules from a source outside the United States shall arrange for the seeds/propagules to arrive at the department's facility at 1 Natural Resources Drive, Little Rock, Arkansas 72205, or at a location designated by the department, for inventory and distribution.
- (7) Upon request from a representative of the department, a Licensed Grower or Processor/Handler shall provide a distribution list showing locations where and to whom the imported hemp seeds were distributed following inventory at the department's designated facility.

**(D) Seed/Propagules of wild, landrace, or unknown origin.**

- (1) No person shall acquire or grow hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the department.
- (2) Hemp or cannabis seeds or propagules of wild, landrace, or unknown origin shall not be permitted to be planted, cultivated, or replicated by any person without the department first arranging for replication and THC testing of mature plants grown from such seeds or propagules by the department or its designee.
- (3) Any Licensed Grower or Licensed Processor found to have saved seed, propagules, or cuttings, or cultivated seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without permission from the department may be subject to suspension or revocation of their license and forfeiture without compensation of their materials.

## **SECTION 7. PLANTING REPORTS**

**(A) Planting Reports for Outdoor Plantings.**

- (1) A Licensed Grower shall submit to the department a complete and current Field Planting Report, within ten (10) days after every planting, including replanting, of seeds or propagules in an outdoor location.
- (2) Each Field Planting Report shall identify the correct variety name as designated upon approval of the acquisition request or as approved by the department, the field location ID as listed in the Grower Licensing Agreement, the planting date and the primary intended use of the harvest for each planting.
- (3) A Licensed Grower who does not plant hemp in an approved outdoor site listed in the Grower License Agreement shall submit a Field Planting Report, on or before July 31, stating that hemp has not and will not be planted at that site.

**(B) Planting Reports for Indoor Plantings.**

- (1) A Licensed Grower shall submit to the department a complete and current Greenhouse/Indoor Planting Report within ten (10) days after establishing plants at an indoor location.

- (2) Each Greenhouse/Indoor Planting Report shall identify the correct hemp variety name as designated in the Seed/Propagule Request form and approved by the department, the greenhouse or indoor growing location ID as listed in the Grower Licensing Agreement, the planting date and the primary intended use for the harvest of each planting.
- (3) In addition to the initial Greenhouse/Indoor Planting Report, a Licensed Grower with an approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to the department. Greenhouse/Indoor Planting Reports are due no later than March 31, June 30, September 30, and December 31.

## **SECTION 8. SITE ACCESS**

### **For Representatives of the department and Law Enforcement Agencies.**

- (A) The department shall provide information about approved growing, handling, and storage site locations to representatives of the Arkansas State Police, DEA, and other law enforcement or cooperating agencies whose representatives request registered site information, including GPS coordinates.
- (B) Licensed Growers and Licensed Processors/Handlers shall have no reasonable expectation of privacy with respect to premises where industrial hemp seeds, plants, or materials are located, and any premises listed in the Grower or Processor/Handler Licensing Agreements.
- (C) A Licensed Grower or Licensed Processors/Handler, whether present or not, shall permit a representative of the department or a law enforcement agency to enter into premises where industrial hemp seeds, plants, or materials are located and any premises listed in the Grower or Processor/Handler Licensing Agreements with or without cause and with or without advanced notice.
- (D) A Licensed Grower or Licensed Processor/Handler shall obtain in writing from the owner of any leased or rented field or structure the owner's acknowledgement they will abide to the terms listed in Section 8. Site Access

## **SECTION 9. PESTICIDE USE**

- (A) A Licensed Grower who uses a pesticide on hemp must be certified to apply pesticides pursuant to Federal and Arkansas laws and Board rules.
- (B) A Licensed Grower shall not use any pesticide in violation of the product label.
- (C) A Licensed Grower who uses a pesticide on a site where hemp will be planted shall comply with the longest of any planting restriction interval on the product label prior to planting the hemp.
- (D) The department shall have the authority to perform pesticide testing on a random basis or when representatives of the department have reason to believe that a

pesticide may have been applied to hemp in violation of the product label.

- (E) Hemp seeds, plants, and materials bearing pesticide residue in violation of the label shall be subject to forfeiture or destruction without compensation.

### **SECTION 10. LICENSED GROWER'S RESPONSIBILITY- Prior to Harvest**

- (A) The department may collect samples of any industrial hemp (*Cannabis sativa* L.) material at any time.
- (B) A Licensed Grower shall submit a complete and current Harvest/Destruction Report form to the department at least 15 days (or the number of days established in the department's published guidance policy) prior to the intended harvest date or intended destruction of a failed crop.
- (C) The department's receipt of a Harvest/Destruction Report triggers a Pre-harvest sample collection by the department.
- (D) During the department's scheduled sample collection, the grower or an authorized representative shall be present at the growing site.
- (E) Representatives of the department shall be provided with complete and unrestricted access to all industrial hemp (*Cannabis sativa* L.) plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all industrial hemp (*Cannabis sativa* L.) plants; and all locations listed in the Grower Licensing Agreement.
- (F) The Licensed Grower shall harvest the crop not more than fifteen (15) days following the date of sample collection by the department, unless specifically authorized in writing by the department.
- (G) Should the Licensed Grower fail to complete harvest within fifteen (15) days, the department may order a Secondary pre-harvest sample of the plot, and the Licensed Grower shall be assessed a Secondary Pre-Harvest Sample Fee per plot in the amount specified in the section on fees prior to the department collecting the sample.
- (H) Harvested materials from Varieties of Concern shall not be commingled with other harvests without prior written permission from the department.
- (I) Floral materials harvested for phytocannabinoid extraction shall not be moved outside the state or beyond a processor, nor commingled, nor extracted, until the releases the material in writing.
- (J) A Licensed Grower who fails to submit a Harvest/Destruction Report or who does submit a Harvest/Destruction Report and proceeds to harvest a crop prior to a sample being collected by the department shall be subject to revocation of their license.

## SECTION 11. SAMPLING AND ANALYSING HEMP

All plantings of industrial hemp listed in licensed Grower Applications/Agreements or products derived from industrial hemp or cannabis in possession of a Licensed Processor/Handler are subject to sampling for THC levels. The sampling method shall be per guidelines adopted by the department for collecting regulatory samples of industrial hemp. The license holder shall be responsible for the cost of all laboratory analytical services of the sample, billable to the license holder by the laboratory performing the analysis.

### (A) Sample Collection:

- (1) **Licensed Growers:** A number of days (determined by the department and published annually as policy) prior to harvesting or destroying any hemp plants, a participant must submit to the department a Harvest/Destruction Notification Form. The department will notify the participant of the date and approximate time when samples will be collected from the participant's plot(s) and/or greenhouse(s). The department will collect samples from each plot or greenhouse, in accordance with the department's sampling and testing procedures (published annually as guidelines/policy). The participant or a knowledgeable representative must be present for the sample collection. Samples must be collected prior to any harvest or destruction of plants within that plot or greenhouse. The department reserves the right to collect any number of samples at any time.
- (2) **Licensed Processor/Handlers:** The department shall have the authority to collect and retain samples of industrial hemp and products derived from all industrial hemp in the possession of a Licensed Processor/Handler.
  - a) If final products are any type of consumable, and are intended for human consumption the processor/handler is responsible for obtaining any required state and federal food safety permits.

- (B) Representatives of the department collecting or transporting the samples shall have the legal right to possess industrial hemp in Arkansas for purposes of collecting the sample and transporting the sample to a laboratory for analysis. The laboratory performing the analysis shall have the legal right to possess industrial hemp, perform the analysis, and retain a portion of the sample. All samples collected by the department become the property of the department and are non-returnable. No compensation shall be owed by the department.

### (C) Laboratory Testing:

The department will select samples for testing in accordance with its THC Testing Protocol (published annually as guidelines/policy). If harvesting floral material, the participant must wait for THC test results prior to co-mingling of the individual plot or variety with harvested materials from different plots or varieties, or undertaking any extraction activities.

- (1) When possible, all testing will be conducted by the department. Other labs may be used if authorized by the department. As soon as it is available, the results of

the THC analysis shall be reported to the department and the holder of the license.

- (2) Samples with a total THC level equal to or below 0.3% THC shall require no further action and the area or harvested plant material from which the sample was obtained shall be released for marketing or further processing.
- (3) Samples with a total THC level greater than 0.3% THC shall be reported by the department to the licensee and to the board's Industrial Hemp Committee. The license holder may request a re-test of the sample. If no re-test is requested, or the re-tested sample is greater than 0.3% THC, the area represented by the sample, or any harvested plant parts from the area represented by the sample shall be subject to the following disposition:
  - (a) Industrial hemp stalks (denuded) may be harvested, processed and used for fiber and/or any other lawful purpose; or
  - (b) Industrial hemp seed may be harvested, processed, and rendered non-viable for food products, provided the source of the seed or transplants is seed or transplants produced from seed or a living plant part which meets the criteria for Breeder, Foundation, Registered, or Certified categories as defined by the Arkansas Seed Certification Program, including certification by other seed agencies recognized by AOSCA, and include a certifying tag of varietal purity issued by the department or another official certifying agency as defined in Section 1 of these rules.
- (4) If industrial hemp plant parts are harvested from a field, greenhouse, or a variety within a field or greenhouse, and are co-mingled with plant parts from another field, greenhouse, or variety within a field or greenhouse, prior to having knowledge of the results of the sample, the license holder does so at his or her own risk and with full knowledge that if an analysis of greater than 0.3% THC is returned, all co-mingled plant parts shall be destroyed.
- (5) No plants or plant parts harvested from a planting being tested shall be marketed until released by the department.
- (6) All samples become the property of the department and are non-returnable. No compensation shall be owed by the department.

## **SECTION 12. Restrictions on Sale or transfer**

- (A) A Licensed Grower or Licensed Processor/Handler shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person in the state who does not hold a license issued by the department.
- (B) A Licensed Grower or Licensed Processor/Handler shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person outside the state of Arkansas (but within the United States) who is not authorized by a university or state department of agriculture under the authority of the Act and the laws of that state. The Licensed Grower or Licensed Processor/Handler is responsible for ensuring that such sale or transfer is lawful in other states.
- (C) The department shall permit the sale or transfer of stripped stalks, fiber, dried roots, seed oils, nonviable seeds including seed meal and seed oils for consumption as

human food or animal feed, floral and plant extracts and other marketable hemp products to members of the general public, both within and outside the state, provided that the marketable hemp product's total THC level is not more than 0.3 percent.

- (D) A Licensed Grower or Licensed Processor/Handler selling or transferring, or permitting the sale or transfer, of floral or plant extracts (including CBD), shall retain testing data or results for at least three (3) years demonstrating that the extract's total THC level is not more than 0.3 percent.
- (E) The department shall permit a Licensed Grower or Licensed Processor/Handler to transfer up to one (1) pound of hemp material per transfer to testing laboratories, both within and outside the state, for the purpose of measuring THC, CBD, or other phytocannabinoid profile levels. It is the responsibility of the Licensed Grower to ensure compliance with laws in other states.
- (F) Licensed Growers or Licensed Processor/Handlers shall comply with the federal Food Drug and Cosmetic Act and all other applicable local, state, and federal laws and rules, relating to product development, product manufacturing, consumer safety, and public health.
- (G) A Licensed Grower or Licensed Processor/Handler shall not knowingly permit hemp to be sold to or used by any person involved in the manufacture of an item named on the Prohibited Products List set forth in A.C.A. 2-15-401 et seq.: Arkansas Industrial Hemp Act.
- (H) A Licensed Grower or Licensed Processor/Handler shall not:
  - (1) plant, grow, store or process hemp on any site not listed in the Grower Licensing Agreement or Processor/Handler License Agreement;
  - (2) transport live hemp plants, viable seeds, leaf materials or floral materials to unapproved locations including trade shows, county fairs, educational or other events, celebrations, ceremonies or any other address not listed in the grower or processor's current Grower Licensing Agreement or Processor/Handler License Agreement except by express written permission from the department;
  - (3) allow unsupervised public access to industrial hemp plots or plantings.

### **SECTION 13. REPORTING**

Licensed Growers and Licensed Processor/Handlers are required to submit several reports listed in the Act and in these rules. Forms for these required reports will be provided by the department. These forms may include other requirements set as policy and published annually.

#### **Production Reports:**

- (A) Licensed participants shall report, annually by December 31st, to the department, the following information:
  - (1) Licensed Growers:
    - (a) Acreage, or greenhouse space planted, planting date, harvested date, and

varieties grown;

(b) Weight and type of plant part marketed, purchaser, and research information provided to the department or participating Arkansas Universities; and

(c) Current industrial hemp plant parts in storage and location of storage.

(2) Licensed Processors/Handlers shall report the source, total weight and type of raw industrial hemp processed, as well as the amount and composition/nature of final marketable hemp products made.

(B) Participants in the Industrial Hemp Program must submit a completed Production Report form. Grower & Processor/Handler License holders shall report annually to the department the research data or observations collected and reported in provided forms or templates from the cultivation or processing of industrial hemp as stated on the license application forms and in these rules. Failure to submit a fully complete and truthful Production Report form may result in denial to participate in future Industrial Hemp Research Programs.

## **SECTION 14. Fees and Services**

(A) Each application shall be accompanied by a nonrefundable fee of fifty dollars (\$50.00).

(B) A license is issued for one year, for an annual fee of two hundred dollars (\$200.00).

(C) For a renewal license, the same fee schedule will apply as in Paragraph (C) of this Rule.

(D) Fees paid for a license are not refundable once the licensee takes possession of seed or transplants or if the license is revoked for any cause over the duration of the license.

(E) The initial and renewal license fees are due annually when the license applicant is notified of the acceptance of a license application and before the licensee takes possession of the seed or transplants, whichever is earlier.

(F) The license holder shall be responsible for the cost of all inspection and sampling services.

(G) The license holder shall be responsible for the cost of all laboratory analytical services.

(H) Any applicant or licensee participating in the Arkansas Seed Certification Program is responsible for all fees and rules associated with the program.

(I) The license holder shall be responsible for the cost of any other oversight required by the board. This may include site verification visits, seed/propagule verification visits,

pesticide residue testing, staff time, and program administration. A fee schedule will be established on an annual basis and published on the department's website or be available on request.

**(J) Established Fees**

**(1) Grower Applications**

- (a)** \$50 Application Fee (non-refundable)
- (b)** \$200 License Fee
- (c)** \$200 Modification Fee (per modification, max. of 3 allowed per license year)
- (d)** Applied Acreage Fee
  - i.** \$50 for less than 5 acres
  - ii.** \$100 for 5 to less than 50 acres
  - iii.** \$250 for 50 to less than 100 acres
  - iv.** \$500 for 100 to less than 200 acres
  - v.** \$1000 for greater than 200 acres
- (e)** \$100 applied Greenhouse fee (each greenhouse)
- (f)** \$100 Lab Sample Fee (per lab compliance sample)
- (g)** \$100 GPS Verification Fee for Each Location ID
- (h)** \$25 Hemp Transfer Fee (each transfer)

**(2) Processor/Handler License**

- (a)** \$50 Application Fee (non-refundable)
- (b)** \$200 License Fee
- (c)** \$200 Modification Fee (per modification, max. of 3 allowed per license year)
- (d)** \$100 Lab Sample Fee (per lab compliance sample)
- (e)** \$100 GPS Verification Fee, each Location ID
- (f)** \$25 Hemp Material Transfer Fee (each transfer)
- (g)** Applied Producer Fee
  - i.** \$1500 for Flower/Bud Material
  - ii.** \$500 for Fiber, Seed and Grain
  - iii.** \$500 Handler Fee

**SECTION 15. License Suspension or Revocation**

- (A)** The department shall notify a Licensed Grower or Processor in writing that the Licensing Agreement has been temporarily suspended if a representative of the department receives information supporting an allegation that a licensee has:
- (1)** Engaged in conduct violating a provision of this rule, the Act, or the Grower Licensing Agreement;
  - (2)** Made a false statement to a representative of the department or a law enforcement agency;
  - (3)** Been found to be growing or in possession of cannabis with a measured total THC concentration at or above 3 percent; or



- (4) Failed to comply with an order from a representative of the department or a law enforcement agency.
- (B) A person whose Licensing Agreement has been temporarily suspended shall not harvest, process, or remove cannabis from the premises where hemp or other cannabis was located at the time when the department issued its notice of temporary suspension, except as authorized in writing by a representative of the department.
- (C) As soon as possible after the notification of temporary suspension, a representative of the department shall inspect the Licensee's premises and perform an inventory of all industrial hemp, and hemp products that are in the Licensee's possession.
- (D) The department shall schedule a license revocation hearing for a date as soon as practicable after the notification of temporary suspension, but in any event not later than sixty (60) days following the notification of temporary suspension.

## **SECTION 16. GRANT FUNDS**

- (A) If grant funds become available, an applicant must apply on forms supplied by the department. Applications will be evaluated on a competitive basis (if appropriate) by a department appointed review committee.
- (B) Records will be required to be kept, reported and made available for audits.
- (C) If it is determined any grant funds were spent inappropriately, refunds will be required.

## **SECTION 17. PROHIBITIONS SUMMARIZED:**

The prohibitions listed below shall not invalidate any provisions of these rules through omission or repetition, but shall be a supplement thereto.

### **No person shall:**

- (A) Sell, offer, expose, distribute or transport industrial hemp seed or transplants not produced or labeled in accordance with the provisions of the above rules or having a false or misleading labeling;
- (B) Sell, offer, expose, distribute or transport industrial hemp seed not labeled in accordance with the provisions listed in the Board's Circular 10, Regulations on the Sale of Planting Seed in Arkansas including selling seed containing prohibited noxious weeds or excessive numbers of noxious weeds;
- (C) Sell, offer, or expose for sale any industrial hemp seed labeled AOSCA "Certified Seed," "Registered Seed," or "Foundation Seed," unless it has been

produced and labeled in compliance with the rules of an officially recognized AOSCA seed-certifying agency or association;

- (D) Fail to comply with sample collection and testing requirements prior to harvesting or destroying any hemp plants, in accordance with these rules;
- (E) Detach, alter, deface, or destroy any labeling or other required documentation specified in these rules, or alter or substitute seed or transplants in a manner that may defeat the purpose of these rules;
- (F) Disseminate any false or misleading advertisement concerning industrial hemp seed or propagating material in any manner or by any means;
- (G) Hinder or obstruct in any way any authorized agent(s) of the department or law enforcement in the performance of their duties;
- (H) Fail to comply with all licensing and reporting requirements as outlined in these rules or in the Act;
- (I) Fail to keep required records including but not limited to those for agronomics, contracts, sampling, storage, expenses, transportation and delivery, and income, while the license is valid and for at least three years thereafter, or make available for inspection such records to the department or any authorized agent thereof;
- (J) Fail to keep the agreement ensuring the monitoring and destruction of hemp plant volunteers for three years following cultivation regardless of land lease or ownership status during that period.
- (K) Represent industrial hemp seeds which are indistinguishable by seed characteristics to be of a recognized variety, without having adequate information for such variety representation, such as that they were grown from AOSCA Certified seed on land free of volunteer plants that might affect the purity of the seed under consideration, and if a cross-pollinated crop, isolated so as to prevent cross-pollination, and handled in harvesting, storing and processing so that the varietal purity and quality of the seed is maintained;
- (L) Fail to comply, upon request of the department of any producer of industrial hemp seed (including hybrids), who wishes to offer their seed for sale in the state, to give the department a complete description of the characteristics of the variety or hybrid and become certified under the Arkansas Certified Seed Program.
- (M) Provide false, misleading, or incorrect information to the department pertaining to the licensee's cultivation or processing of industrial hemp by any means, including but not limited to information provided in any application form, report, record or inspection required or maintained for purposes of industrial hemp

research plots / production in these rules or in the Act;

- (N)** Plant, grow, store, transfer or process hemp on, from or to any site not listed in the Grower Licensing Agreement or Processor/Handler License Agreement;
- (O)** Sell or transfer, or permit the sale or transfer, of living plants, viable seeds, living or dried/ground leaf material, or floral material to any person in the state who does not hold a license issued by the department, or to any unauthorized person outside the state.

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## APPENDIX

### **For An Act To Be Entitled**

AN ACT TO CREATE THE ARKANSAS INDUSTRIAL HEMP ACT; TO CREATE A RESEARCH PROGRAM TO ASSESS THE AGRICULTURAL AND ECONOMIC POTENTIAL OF INDUSTRIAL HEMP PRODUCTION IN ARKANSAS; AND FOR OTHER PURPOSES.

### **Subtitle**

TO CREATE THE ARKANSAS INDUSTRIAL HEMP ACT; AND TO CREATE A RESEARCH PROGRAM TO ASSESS THE AGRICULTURAL AND ECONOMIC POTENTIAL OF INDUSTRIAL HEMP PRODUCTION IN ARKANSAS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

**SECTION 1.** Arkansas Code Title 2, Chapter 15, is amended to add an additional subchapter to read as follows:

Subchapter — Arkansas Industrial Hemp Act

2-15-401. Title.

This act shall be known and may be cited as the "Arkansas Industrial Hemp Act".

2-15-402. Legislative intent.

This subchapter is intended to assist the state in moving to the forefront of industrial hemp production, development, and commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors, both nationally and globally, and to the greatest extent possible.

2-15-403. Definitions.

As used in this subchapter:

- (1) "Agribusiness" means the processing of raw agricultural products, including without limitation timber and industrial hemp, or the performance of value-added functions with regard to raw agricultural products;
- (2) "Certified seed" means industrial hemp seed that has been certified as having no more tetrahydrocannabinol concentration than that adopted by federal law under the Controlled Substances Act, 21 U.S.C. § 801 11 et seq.;
- (3) "Grower" means a person licensed to grow industrial hemp by the State Plant Board;
- (4) "Hemp product" means a product made from industrial hemp, including without limitation:
  - (A) Certified seed for cultivation if the seeds originate from industrial hemp varieties;
  - (B) Cloth;
  - (C) Cordage;
  - (D) Fiber;
  - (E) Food;
  - (F) Fuel;
  - (G) Paint;
  - (H) Paper;
  - (I) Particleboard;
  - (J) Plastics; and
  - (K) Seed, seed meal, and seed oil for consumption;
- (5) "Industrial hemp" means all parts and varieties of the plant *Cannabis sativa*, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of no more than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. 32 § 801 et seq.;
- (6) "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production; and

(7) "Tetrahydrocannabinol" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, *Cannabis sativa*, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

2-15-404. State Plant Board — Research program.

- (a) (1) The State Plant Board may adopt rules to administer the industrial hemp research program and to license persons to grow industrial hemp under this subchapter.
- (2) The board may include as part of its rules the establishment of industrial hemp testing criteria and Protocols.
- (b) (1) The board shall promote research and development concerning industrial hemp and commercial markets for Arkansas industrial hemp and hemp products.
- (2) The board may work in conjunction with the Division of Agriculture of the University of Arkansas and the Cooperative Extension Service of the University of Arkansas regarding industrial hemp research programs.
- (3) (A) The board may undertake research concerning industrial hemp production through the establishment and oversight of a ten-year industrial hemp research program.
- (P) In conjunction with the Division of Agriculture of the University of Arkansas, the board may create a program consisting primarily of demonstration plots planted and cultivated in this state by growers licensed under this subchapter.
- (Q) The board may determine the location, and the total number and acreage, of each demonstration plot.
- (D)(i) In conducting research under this subchapter, higher tetrahydrocannabinol concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of industrial hemp.
- (ii) However, tetrahydrocannabinol levels shall not exceed three-tenths of one percent (0.3%).
- (4) The board may seek permits or waivers from the United States Drug Enforcement Administration or appropriate federal agency that are necessary for the advancement of the industrial hemp research program.
- (5) In conjunction with the Division of Agriculture of the University of Arkansas, the board may:
- (A) Oversee and analyze the growth of industrial hemp by selected and licensed growers for agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of industrial hemp that may be suitable for various commercial hemp products, including without limitation industrial hemp seed, paper, clothing, and oils;
- (B) Conduct seed research on various types of industrial hemp that are best suited to be grown in Arkansas, including without limitation:
- (i) Creation of Arkansas hybrid types of industrial hemp;
- (ii) Industrial hemp seed availability; and
- (iii) In-the-ground variety trials and seed production;
- (C) Establish a program to recognize certain industrial hemp seed as being Arkansas heritage hemp seed;
- (D) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the state;
- (E) Report on the estimated value-added benefits, including environmental benefits, that Arkansas businesses could reap by having an industrial hemp market of Arkansas-grown industrial hemp varieties in the state;
- (F) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;
- (G) Research and promote Arkansas industrial hemp and hemp seed on the world market that can be grown on farms in the state; and
- (H) Study the feasibility of attracting federal and private funding for the Arkansas industrial hemp research program.
- (6) The board may:
- (A) Coordinate with the Arkansas Energy Office to study the use of industrial hemp in new energy technologies, including without limitation:

- (i) Evaluation of the use of industrial hemp to generate electricity, and to produce biofuels and other forms of energy resources;
- (ii) Growth of industrial hemp on reclaimed mine sites;
- (iii) Use of hemp seed oil in the production of fuels; and
- (iv) Assessment of the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy; and
- (B) Promote awareness of the financial incentives that may be available to agribusiness and manufacturing companies that manufacture industrial hemp into hemp products to:
  - (i) Attract new businesses to the state;
  - (ii) Create a commercial market for industrial hemp;
  - (iii) Create new job opportunities for Arkansas residents; and
  - (iv) Diversify the agricultural economy of the state.
- (7) The research activities under this subchapter shall not:
  - (A)(i) Subject the industrial hemp research program to criminal liability under the controlled substances laws of the state.
  - (ii) The exemption from criminal liability under subdivision (b)(7)(A)(i) of this section is a limited exemption that shall be strictly construed and that shall not apply to an activity of the industrial hemp research program that is not expressly permitted under this subchapter; or
  - (B) Amend or repeal by implication a provision of the Uniform Controlled Substances Act, § 5-64-101 et seq.
- (8) The board shall notify the Department of Arkansas State Police and each local law enforcement agency with jurisdiction of the duration, size, and location of all industrial hemp demonstration plots.
- (9) The board may cooperatively seek funds from both public and private sources to implement the industrial hemp research program created in this subchapter.
- (10) By December 31, 2018, and annually thereafter, the board shall report on the status and progress of the industrial hemp research program to the Governor and to the Arkansas Agriculture Department.
- (11) The board may establish and collect fees to administer the industrial hemp research program.

#### 2-15-405. Interagency cooperation.

- (a) The Division of Agriculture of the University of Arkansas may provide research and development related services under this subchapter for the State Plant Board, including without limitation:
  - (1) Testing of industrial hemp;
  - (2) Processing of documents relating to the program of licensure;
  - (3) Financial accounting and recordkeeping, and other budgetary functions; and
  - (4) Meeting coordination and staffing.
- (b)(1) The Arkansas Economic Development Commission may work in conjunction with the State Plant Board to promote:
  - (A) The development of industrial hemp production in the state; and
  - (B) The commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors, to the greatest extent possible.
- (2) The commission may promote the availability of financial incentives offered by state government for the processing and manufacture of industrial hemp into hemp products in the state, including without limitation incentives offered to interested parties both within and without this state.
- (c) Administrative expenses under this section shall be paid from the Arkansas Industrial Hemp Program Fund.

#### 2-15-406. State Plant Board — Reports.

The State Plant Board may report to the Governor and to the Arkansas Agriculture Department concerning industrial hemp policies and practices that may result in the proper legal growing, management, use, and marketing of the state's potential industrial hemp industry, including without limitation:

- (1) Federal laws and regulatory constraints;
- (2) The economic and financial feasibility of an industrial hemp market in Arkansas;
- (3) Arkansas businesses that might use industrial hemp;
- (4) Examination of research on industrial hemp production and use;
- (5) The potential for globally marketing Arkansas industrial hemp;

- (6) A feasibility study of private funding for the Arkansas industrial hemp research program;
- (7) Enforcement concerns;
- (8) Statutory and regulatory schemes for growing of industrial hemp by private producers; and
- (9) Technical support and education about industrial hemp.

2-15-407. Federal regulations regarding industrial hemp.

- (a) The State Plant Board shall adopt the federal rules and regulations that are currently enacted regarding industrial hemp as in effect on January 1, 2017.
- (b) This subchapter does not authorize a person to violate any federal rules or regulations.
- (c) If any part of this subchapter conflicts with a provision of federal law relating to industrial hemp, the federal provision shall control to the extent of the conflict.

2-15-408. Industrial hemp licenses.

- (a) The State Plant Board may establish a program of annual licensure to allow persons to grow industrial hemp in the state.
- (b)(1) The industrial hemp licensure program shall include the following forms of license:
  - (A)(i) An industrial hemp research program grower license, to allow a person to grow industrial hemp in this state in a controlled fashion solely and exclusively as part of the industrial hemp research program overseen by the board.
    - (ii) A license under subdivision (b)(1)(A)(i) of this section is subject to the receipt of necessary permissions, waivers, or other forms of authentication by the United States Drug Enforcement Administration or another appropriate federal agency pursuant to applicable federal laws relating to industrial hemp; and
  - (B)(i) An industrial hemp grower license to allow a person to grow industrial hemp in this state.
    - (ii) A license under subdivision (b)(1)(B)(i) of this section is subject to the authorization of legal industrial hemp growth and production in the United States under applicable federal laws relating to industrial hemp.
- (2) A license issued under this section shall authorize industrial hemp propagation only on the land areas specified in the license.
- (c)(1) A person seeking an application to grow industrial hemp, whether as part of the industrial hemp research program or otherwise, shall apply to the board for the appropriate license on a form provided by the board.
  - (2) The board shall require the applicant to include on the form provided by the board under subdivision (c)(10) of this section the following information, including without limitation:
    - (A)(i) The name and mailing address of the applicant;
    - (ii) The legal description and global positioning coordinates of the production fields to be used to grow industrial hemp; and
    - (B)(i) Written consent allowing the board, if a license is ultimately issued to the applicant, to enter onto the premises on which the industrial hemp is grown to conduct physical inspections of industrial hemp planted and grown by the applicant to ensure compliance with this subchapter and rules adopted under this subchapter.
      - (ii) Unless a deficiency is found, the board shall make no more than two (2) physical inspections of the production fields of an industrial hemp licensee; and
      - (iii) Tetrahydrocannabinol levels shall be tested as provided in this subchapter; and
- (e) Each application shall be accompanied by a nonrefundable fee of fifty dollars (\$50.00).
- (f) The board shall establish a fee not to exceed two hundred (\$200) for an:
  - (1) Initial license; and
  - (2) Annual renewal license.
- (g)(1) For an industrial hemp research program grower licensee, the board may approve licenses for only those growers whose demonstration plots that the board determines will advance the goals of the industrial hemp research program.
  - (2) The board shall base a determination under subdivision (g)(1) of this section on:
    - (A) Growing conditions;
    - (B) Location;
    - (C) Soil type;
    - (D) Various varieties of industrial hemp that may be suitable for various hemp products; and



## (E) Other relevant factors.

- (h) The board shall determine the number of acres to be planted under each license.
- (i) A copy of or an electronic record of a license issued by the board under this section shall be forwarded immediately to the sheriff of the county in which the industrial hemp location is licensed.
- (j) Records, data, and information filed in support of a license application is proprietary and subject to inspection only upon the order of a court of competent jurisdiction.
- (k) At the expense of the license holder, the board shall:
  - (1) Monitor the industrial hemp grown by each license holder;
  - (2) Provide for random testing of the industrial hemp for compliance with tetrahydrocannabinol levels;and
  - (3) Provide for other oversight required by the board.

## 2-15-409. License required — Records.

- (a)(1) A person shall obtain an industrial hemp grower license under this subchapter before planting or growing industrial hemp in this state.
  - (2) An industrial hemp grower license holder who has planted and grown industrial hemp in this state may sell the industrial hemp to a person engaged in agribusiness or other manufacturing for the purpose of research, processing, or manufacturing that industrial hemp into hemp products.
- (b) An industrial hemp grower shall:
  - (1) Maintain records that reflect compliance with this subchapter and all other state laws regulating the planting and cultivation of industrial hemp;
  - (2) Retain all industrial hemp production records for at least three (3) years;
  - (3) Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the board or its agents;
  - (4) File with the board documentation indicating that the industrial hemp seeds planted were of a type and variety certified to have no more tetrahydrocannabinol concentration than that adopted in the federal Controlled Substances Act, 21 U.S.C. § 801 et seq.;
  - (5) Notify the board of the sale of industrial hemp grown under the license and the names and addresses of the persons to whom the industrial hemp was sold; and
  - (6) Provide the board with copies of each contract between the licensee and a person to whom industrial hemp was sold.
- (c) A person licensed to grow industrial hemp under this subchapter may import and resell industrial hemp seed that has been certified as having no more tetrahydrocannabinol concentration than that adopted in the federal Controlled Substances Act, 21 U.S.C. § 801 et seq.

## 2-15-410. Transportation of industrial hemp.

- (a)(1) Only an industrial hemp grower licensee or their designees or agents may transport industrial hemp off the premises of the licensee.
  - (2) When transporting industrial hemp off the premises of an industrial hemp grower licensee, the licensee or a designee or agent of the licensee shall carry the licensing documents from the State Plant Board, evidencing that the industrial hemp:
    - (A) Was grown by a licensee; and
    - (B) Is from certified seed.
- (b) Industrial hemp that is found in this state at any location off the premises of an industrial hemp grower licensee is contraband and subject to seizure by any law enforcement officer, unless the person in possession of the industrial hemp has in his or her possession either:
  - (1) The proper licensing documents under this subchapter; or
  - (2) A bill of lading, or other proper documentation, demonstrating that the industrial hemp was legally imported or is otherwise legally present in this state under applicable state and federal laws relating to industrial hemp.

## 2-15-411. License revocation.

- (a)(1) The State Plant Board shall revoke the license of an industrial hemp grower licensee who fails to comply with this subchapter or the rules adopted under this subchapter.
  - (2) An industrial hemp grower licensee whose license is revoked under subdivision (a)(1) of this section is ineligible for licensure under this subchapter for up to five (5) years after the revocation.

(b)(1) Before revocation of an industrial hemp grower license, the board shall provide the industrial hemp grower licensee notice and an informal hearing before the board to show cause why the license should not be revoked and the licensee's right to grow forfeited.

(2) If a license is revoked and a licensee's right to grow is forfeited as the result of an informal hearing under subdivision (b)(1) of 12 this section, the industrial hemp grower licensee may request a formal administrative hearing before the board.

(c) An industrial hemp grower licensee whose license is revoked may appeal the final order of the board by filing an appeal in the circuit court of the district in which the licensee resides.

2-15-412. Grant funds.

(a) An industrial hemp grower licensed under this subchapter may receive funds received by the state under the Arkansas Industrial Hemp Fund.

(b) The State Plant Board shall adopt rules for applications for grants under this section.

SECTION 2. Arkansas Code § 19-6-301, concerning special revenues enumerated, is amended to add an additional subdivision to read as follows:

(255) Permit fees paid under the Arkansas Industrial Hemp Act, § 2-15-401 et seq.

SECTION 3. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended to add an additional section to read as follows:

19-6-833. Arkansas Industrial Hemp Program Fund.

(a) There is established on the books of the Treasurer of State, Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the "Arkansas Industrial Hemp Program Fund".

(b) The fund shall consist of:

(1) Fees collected under the Arkansas Industrial Hemp Act, § 2-15-401 et seq.;

(2) Gifts, grants, and other funds both public and private; and

(3) Other revenues as may be authorized by law.

(c) Any unallocated or unencumbered balances in the fund shall be invested in the fund and any interest or other income earned from the investments, along with the unallotted or unencumbered balances in the fund, shall not lapse but shall be carried forward for purposes of the fund, and made available solely for the purposes and benefits of the industrial hemp research program under the Arkansas Industrial Hemp Act, § 2-15-401 et seq.

**QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE**  
**ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT/AGENCY Arkansas Department of Agriculture  
DIVISION State Plant Board/ Plant Industries  
DIVISION DIRECTOR Scott Bray, State Plant Board Director  
CONTACT PERSON Scott Bray  
ADDRESS #1 Natural Resources Drive, Little Rock, AR 72205  
PHONE NO. 501-225-1598 FAX NO. \_\_\_\_\_  
E-MAIL scott.bray@agriculture.arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Scott Bray  
PRESENTER E-MAIL  
scott.bray@agriculture.arkansas.gov

**RECEIVED**

SEP 06 2019

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. **LEGISLATIVE RESEARCH** **BUREAU OF** **LEGISLATIVE RESEARCH** Use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

\*\*\*\*\*

1. What is the short title of this rule? Arkansas Industrial Hemp Research Program rules
2. What is the subject of the proposed rule? Clarification of definitions and establishing a fee schedule
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes \_\_\_\_\_ No x \_\_\_\_\_  
If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?  
Yes \_\_\_\_\_ No x \_\_\_\_\_  
If yes, what is the effective date of the emergency rule? \_\_\_\_\_  
When does the emergency rule expire? \_\_\_\_\_  
Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes \_\_\_\_\_ No \_\_\_\_\_

5. Is this a new rule? Yes \_\_\_\_\_ No x If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes \_\_\_\_\_ No x If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes X No \_\_\_\_\_ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."** (See attachment)

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A. § 2-15-404(a)&(b)(11)

7. What is the purpose of this proposed rule? Why is it necessary? Establishes a fee structure to support the Department's operational cost associated with implementing the program.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). [www.aadd.arkansas.gov](http://www.aadd.arkansas.gov)

9. Will a public hearing be held on this proposed rule? If requested. Yes \_\_\_\_\_ No \_\_\_\_\_  
If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

October 6, 2019 \_\_\_\_\_

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

Ten days after filing with Secretary of State \_\_\_\_\_

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e).

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. Unknown.

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SEP 06

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

BUREAU OF  
LEGISLATIVE RELATIONS

DEPARTMENT Arkansas Department of Agriculture  
 DIVISION State Plant Board  
 PERSON COMPLETING THIS STATEMENT Scott Bray  
 TELEPHONE NO. 501-225-1598 FAX NO. \_\_\_\_\_  
 EMAIL: Scott.bray@agriculture.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Arkansas Pest Control Law Rules and Regulations

1. Does this proposed, amended, or repealed rule have a financial impact?  
 Yes  No \_\_\_\_\_
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
 Yes  No \_\_\_\_\_
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes  No \_\_\_\_\_

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;
  
  - (b) The reason for adoption of the more costly rule;
  
  - (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
  
  - (d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.
4. If the purpose of this rule is to implement a federal rule or regulation, please state the following: N/A
- (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_

Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

**Next Fiscal Year**

\$ Unknown \_\_\_\_\_

\$ Unknown \_\_\_\_\_

Licensed Industrial Hemp growers and processors \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

**Next Fiscal Year**

\$ none \_\_\_\_\_

\$ none \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes \_\_\_\_\_ No x \_\_\_\_\_

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously

with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.



Asa Hutchinson  
Governor

# ARKANSAS DEPARTMENT OF AGRICULTURE

1 Natural Resources Drive, Little Rock, AR 72205  
agriculture.arkansas.gov  
(501) 225-1598



Wes Ward  
Secretary of Agriculture

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SEP 06 2019

BUREAU OF  
LEGISLATIVE RESEARCH

## Summary of Proposed Amendments to the Industrial Hemp Rules

### PURPOSE

The proposed amendments clarify certain definitions and establish a fees schedule for operational costs to implement the program.

### BACKGROUND

The 2014 Farm Bill authorized states to establish research programs to study the feasibility of introducing hemp as an agricultural crop. In response, in 2017 the Arkansas General Assembly passed Act 981 creating the Arkansas Industrial Hemp Act (The Hemp Act). The Hemp Act authorized the State Plant Board to promulgate rules to administer the Industrial Hemp Research Program, and in June 2018, the Board promulgated its first hemp rules.

While the 2017 Hemp Act gave the Board authority to collect application and permit fees, there was no authority given to establish any other fees to cover the cost of administering the program. However, in 2019 the General Assembly passed Act 140, which did give the Board authority to establish other fees.

The proposed amendments establish those fees. Department of Agriculture staff met over the course of several weeks and assembled a draft of proposed rule changes. This draft was submitted to and approved by the Plant Board Industrial Hemp committee May 23, 2019, and approved by the full Board June 11, 2019.

### KEY POINTS

Notable amendments to the existing hemp rules include:

- Establishment of administrative fees to support the program
- Clarification of the roles of the Plant Board and the Department of Agriculture staff
- Clarification and amendment of certain definitions

### DISCUSSION

The establishment of fees in accordance with Act 140 is the primary reason that amendments to the rules were considered. The fees established by the rule amendments are found on page 22 of the rule.

The Plant Board also took the opportunity to clarify the roles of the Board and the Department of Agriculture staff. For example, if the original rules stated things like "the Plant Board has the authority to inspect . . .", the amendments clarify that staff will be making the inspection, not the actual members of the Plant Board. This should help defend any legal challenges to Board or Department procedures that an applicant or licensee might raise.

Additionally, some definitions were clarified or amended to match the current Farm Bill and the Controlled Substances Act. Those definitions can be found on pages 2-5 of the rule.



## INDUSTRIAL HEMP RESEARCH PROGRAM PROPOSED RULE COMMENT SUMMARY

14 comments in total were received. Of these, 8 comments were for the rule in part, 4 comments were against the proposed rule, and 2 comments were undecided. Majority of the comments received touch on several different program rules. Majority of the comments were for the proposed fees to implement the research program, but are also against other program rules. 8 comments were against the definition of a publicly marketable hemp product and would like to see the raw floral or smokable hemp market open to Arkansas hemp growers. 4 comments were received regarding the 15-day harvest limit rule being too short and laborious and would like to see a 28 to 30-day harvest period instead. 5 comments received were regarding laboratory compliance testing, touching on one or more of the following: compliance testing taking too long, the desire to implement delta-9-THC compliance testing over Total THC testing, requesting to raise the 0.3% Total THC limit to 1% Total THC, and to allow independent third-party laboratories to conduct the final compliance testing for growers. 1 comment was received disputing the compliance sampling policy of taking the top 8in/20cm cuttings from the plant's main or apical stem. 1 comment disputes the various fees to implement the research program, and another comment says the GPS Verification fee for each Location ID is too expensive.

As previously noted, majority of the comments received were for the proposed additional fees to implement the research program and welcome the additional fees, but take issue with various other program rules not directly addressed in the proposed rule change. It should also be noted that the following issues have already been addressed and federally mandated by USDA's Interim Final Rule on the US Domestic Hemp Production Program: the use of Total THC compliance testing, the 15-day harvest limit, and the 0.3% Total THC limit as directed by state and federal laws.