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DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

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

PART 1200  
INDUSTRIAL HEMP ACT

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

SOURCE: Adopted at 43 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1200.10 Definitions and Incorporations**

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

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

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

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

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

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

*"Department" means the Illinois Department of Agriculture.*

*"Director" means the Director of Agriculture.*

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

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

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

*"Industrial Hemp" means the plant Cannabis sativa L. and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3% on a dry weight basis that has been cultivated under a license issued under the Act or is otherwise lawfully present in this State, and includes any intermediate or finished product made or derived from industrial hemp.*

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

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

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

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

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

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

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

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

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

**Section 1200.20 General Provisions**

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

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- e) All seeds, clones, transplants and propagules used to cultivate industrial hemp in Illinois shall be certified under the Association of Official Seed Certifying Agencies (AOSCA) standards and guidelines for industrial hemp or shall be accompanied by a certificate of analysis from an accredited certified laboratory from a state with a regulated industrial hemp program that certifies the industrial hemp grown will not contain in excess of 0.3% THC.
- f) No land area may contain cannabis plants or parts of cannabis plants that the licensee knows or has reason to know are of a variety that will produce a plant that, when tested, will produce more than 0.3% THC concentration on a dry weight basis. No licensee shall use any such variety for any purpose associated with the cultivation of industrial hemp.
- g) The minimum land area for industrial hemp cultivation shall be a contiguous land area of one quarter of an acre for outdoor cultivation and 500 square feet for indoor cultivation.
- h) Licensee information may be shared with law enforcement without notice to the licensee.
- i) Any violations of the Act, this Part, or any Illinois or Federal Criminal Code may subject the licensee or registrant to administrative penalties as set forth in Sections 1200.120 and 1200.130 and may also subject the licensee or registrant to criminal prosecution.

**Section 1200.30 Application and Licensure**

- a) Each applicant for an industrial hemp cultivation license shall submit a signed, complete, accurate and legible application form provided by the Department. The applicant shall provide the following:
  - 1) The name and address of the person or entity applying for the cultivation license;
  - 2) The type of business or organization, such as corporation, LLC, partnership, sole proprietor, etc.;
  - 3) Business name and address, if different than the ones submitted in response to subsection (a)(1);

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- 4) The legal description of the land area, including Global Positioning System coordinates of each contiguous land area, to be used to cultivate industrial hemp;
  - 5) A map of the land area on which the applicant plans to grow industrial hemp, showing the boundaries and dimensions of the growing area in acres or square feet;
  - 6) The applicable fee prescribed by Section 1200.80; and
  - 7) The varieties of industrial hemp that are intended for cultivation.
- b) No person who has been convicted of any controlled substances related felony in the 10 years prior to the date of application shall be eligible to obtain a license or registration.
- c) Within 30 days after receipt of a completed application and the associated fee, the Department will either issue a license or deny the application. Incomplete applications will be rejected and an additional application fee will be collected for corrected and/or new applications.
- d) A license or registration shall be good for a maximum of 3 calendar years from the date of issuance.
- e) Any changes to the licensee's cultivation application as outlined in the original application must be approved by the Department prior to implementation.
- f) All processors of industrial hemp shall register with the Department on a form provided by the Department, which shall include:
- 1) The name and address of the person or entity applying for the processor registration;
  - 2) The business type, such as a corporation, LLC, partnership, sole proprietor, etc.;
  - 3) The business name and address if different than the one submitted in response to subsection (g)(1);
  - 4) The nature of the processing by the registrant; and

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- 5) The applicable fee set forth in Section 1200.80.

**Section 1200.40 Reports**

- a) At least 30 days prior to harvest, to the best of the licensee's ability, each licensee shall file a Harvest Report, on a form provided by the Department, that includes:
  - 1) The expected harvest dates and locations of each variety of industrial hemp cultivated by the licensee.
  - 2) The licensee shall notify the Department if the harvest dates change in excess of 5 days.
- b) No later than February 1 of each year, each licensee shall submit an Industrial Hemp Cultivator Final Report to the Department that includes:
  - 1) Total acres or square feet of industrial hemp planted in the previous calendar year;
  - 2) A description of each variety planted and harvested in the previous calendar year;
  - 3) Total acres or square feet harvested in the previous calendar year; and
  - 4) Total yield in the appropriate measurement, such as tonnage, seeds per acre, or other measurement approved by the Department.

**Section 1200.50 Inspection and Sampling**

- a) All licensees shall be subject to inspections at the discretion of the Department to ensure compliance with the Act.
- b) The Department shall provide a minimum of 5 business days' notice to the licensee of the inspection. The notification shall inform the licensee of the scope and process by which the inspection will be conducted.
- c) Failure to comply with a properly noticed inspection shall result in the initiation of disciplinary proceedings pursuant to Section 1200.100.

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- d) Either the licensee or an agent of the licensee shall be present for the inspection and sampling and shall provide the inspector with unrestricted access to all industrial hemp plants, parts, seeds, and harvested material, including all buildings and other structures used for the cultivation and storage of industrial hemp and all documents pertaining to the licensee's industrial hemp cultivation and business.
- e) All industrial hemp plants are subject to sampling and testing to verify that the delta-9 THC concentration does not exceed 0.3% on a dry weight basis.
  - 1) Individual or composite samples of each variety of cannabis may be sampled from the licensee's land area, including indoor cultivation sites, at the Department's discretion.
  - 2) A representative sample will be taken by Department personnel or approved laboratory personnel.
  - 3) The sampled material shall be tested by an approved laboratory.
  - 4) Quantitative laboratory determination of the delta-9 THC concentration on a dry weight basis will be performed.
  - 5) A sample test result with a delta-9 THC concentration on a dry weight basis that exceeds 0.3% but is less than 0.7% may be retested at the expense of the licensee. A request for a retest by the licensee must be received by the Department within 3 days after initial receipt of the original test results by the licensee.
  - 6) All harvested industrial hemp receiving a sample test result with a delta-9 THC concentration on a dry weight basis that exceeds 0.3% and is not retested at the request of the licensee shall be destroyed.
  - 7) All harvested industrial hemp receiving both a sample test result and a sample retest result with delta-9 THC concentrations on a dry weight basis that exceeds 0.3% shall be destroyed.
  - 8) All harvested industrial hemp receiving a sample test result with a delta-9 THC concentration on a dry weight basis that equals or exceeds 0.7% shall be destroyed.

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- 9) All harvested industrial hemp awaiting test results shall be stored by the licensee or processor and shall not be processed or transported until test results are obtained and the industrial hemp is released by the Department.
- 10) Testing of industrial hemp will be completed by the Department or by a third-party laboratory approved by the Department pursuant to this Part.
- 11) Actual cost of testing shall be paid by the licensee.

**Section 1200.60 Laboratory Approval**

- a) No laboratory shall handle, test or analyze hemp unless approved by the Department in accordance with this Section. A list of approved laboratories will be made available by the Department on its website.
- b) No laboratory shall be approved to handle, test or analyze cannabis unless the laboratory:
  - 1) Is accredited to the ISO/IEX 17025 standard by a private non-profit laboratory accrediting organization;
  - 2) Is independent from all other persons involved in the hemp industry in Illinois, which shall mean that no person with a direct or indirect interest in the laboratory shall have a direct or indirect financial, management, or other interest in a cultivation license or processor registration;
  - 3) Has employed at least one person to oversee and be responsible for the laboratory testing who has earned, from a college or university accredited by a national or regional certifying authority, at least:
    - A) a master's level degree in chemical or biological sciences and a minimum of 2 years post-degree laboratory experience; or
    - B) a bachelor's degree in biological sciences and a minimum of 4 years post-degree laboratory experience.
- c) Each independent testing laboratory that claims to be accredited must provide the Department with a copy of the most recent annual inspection report granting accreditation and every annual report thereafter.

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**Section 1200.70 Testing Requirements**

- a) Industrial hemp sampled for testing may be transported to the approved laboratory by the Director, or one of his or her designees, or by approved laboratory personnel.
- b) The industrial hemp shall be tested using post-decarboxylation, or other similarly reliable methods, to detect delta-9 concentration levels of the sampled hemp.

**Section 1200.80 Fees**

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

- a) The application fee for an Industrial Hemp Cultivation License shall be \$100 for each noncontiguous land area and each indoor cultivation operation area.
- b) Upon approval of an application, the license fee for each noncontiguous land area and each indoor cultivation operation shall be \$1000 for a 3 year license; \$700 for a 2 year license; and \$375 for a 1 year license.
- c) The application fee for a processor registration shall be \$100 for each address operated by the processor.
- d) Upon approval of an application for registration, the registration fee for each registered address operated by a processor shall be \$1000 for a 3 year registration; \$700 for a 2 year registration; and \$375 for a 1 year registration.

**Section 1200.90 Restrictions on Sale and Transfer**

- a) A licensed person shall not sell or transfer, or permit the sale or transfer of, living plants or viable seeds to any person in the State of Illinois who does not hold a license or registration issued by the Department.
- b) A licensed person shall not sell or transfer, or permit the sale or transfer of, living plants or viable seeds outside the State of Illinois that is not authorized by a state agency under the laws of the destination state.

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- c) The Department shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of 0.3%) and other marketable hemp products to members of the general public, both within and outside the State of Illinois.

**Section 1200.100 Other Prohibited Activities**

- a) A licensed person shall not plant or grow hemp on any site not listed in the application.
- b) A licensed person shall not ship or transport, or allow to be shipped or transported, live hemp plants, cuttings for planting, or viable seeds from a variety that is currently designated by the Department as a prohibited variety or a variety of concern to any location outside the State of Illinois.
- c) A licensed person shall not ship or transport, or allow to be shipped or transported, any hemp product with a delta-9 THC concentration in excess of 0.3%.

**Section 1200.110 Transportation of Industrial Hemp**

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

**Section 1200.120 Violations**

- a) A licensee shall be subject to subsection (b) if the Department determines that the licensee has negligently violated the Act or this Part, including by negligently:
  - 1) Failing to provide a legal description of land on which the licensee produces hemp;

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- 2) Failing to obtain a license; or
  - 3) Producing *Cannabis sativa* L. with a delta-9 THC concentration of more than 0.3% on a dry weight basis.
- b) A hemp licensee described in subsection (a) shall comply with a plan established by the Department to correct the negligent violation, including:
- 1) a reasonable date by which the licensee shall correct the negligent violation; and
  - 2) A requirement that the licensee shall periodically report to the Department on the compliance of the licensee for a period of not less than 2 calendar years.
- c) A licensee that negligently violates the Act or this Part (see subsection (a)) shall not, as a result of that violation, be subject to any criminal enforcement action by any federal, State or local government.
- d) A licensee that negligently violates subsection (a) 3 times in a 5 year period shall be ineligible to produce hemp for a period of 5 years beginning on the date of the third violation.
- e) If the Department determines that a licensee has violated the Act or this Part with a culpable mental state greater than negligence, the Department shall immediately report the licensee to:
- 1) The Attorney General of the United States;
  - 2) The Attorney General of Illinois; and
  - 3) The Illinois State Police.

**Section 1200.130 Administrative Penalties**

- a) Any hearing conducted by the Department pursuant to the Act shall be conducted in accordance with the Department's rules applicable to formal administrative proceedings (8 Ill. Adm. Code 1.Subparts A and B). All such hearings shall be

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held in Springfield IL or such other location as mutually agreed to by the Department and the other party.

- b) Notwithstanding any other criminal penalties related to the unlawful possession of cannabis, the Department may revoke, suspend, place on probation or supervision, reprimand, issue cease and desist orders, refuse to issue or renew a license or registration, or take any other disciplinary or nondisciplinary action as the Department may deem proper with regard to a licensed or registered entity or person.
- c) The Department may impose fines, not to exceed \$10,000 for each violation, for any violations of the Act or this Part.