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ARKANSAS AGRICULTURE DEPARTMENT

ARKANSAS FORESTRY COMMISSION
ARKANSAS LIVESTOCK & POULTRY COMMISSION
ARKANSAS STATE PLANT BOARD



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SECRETARY OF AGRICULTURE

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August 17, 2018

Honorable Mark Martin
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

Enclosed are Transmittal Sheets and copies of two **Final Rules**, as listed below. The Rules were approved by the Plant Board June 21, 2018, and are to be considered **Final Rules**.

- 1) **Regulations on Soil Amendment**
- 2) **Regulations on the Industrial Hemp Research Program in Arkansas**

The regulations/rules were reviewed and approved by the Administrative Rules and Regulations Subcommittee of the Arkansas Legislative Council on August 14, 2018 and the Legislative Council on August 17, 2018.

If more information is needed, please contact me.

Sincerely,

Butch Calhoun, Director
Arkansas State Plant Board

BC:ll

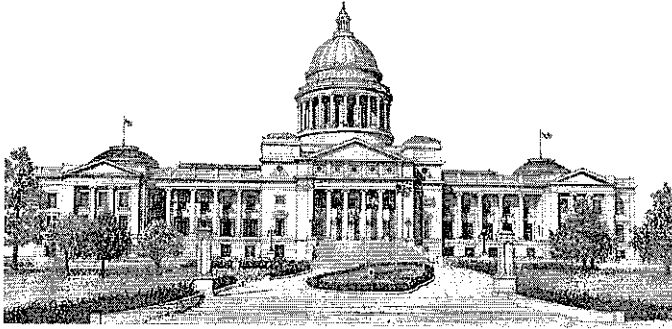
Enclosures



ARKANSAS REGISTER

Transmittal Sheet

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



Secretary of State

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For Office

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Effective Date _____ Code Number _____

Name of Agency Arkansas Agriculture Department/State Plant Board

Department State Plant Board/Seed Division

Contact Mary Smith E-mail mary.smith@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: REGULATIONS ON THE INDUSTRIAL HEMP RESEARCH PROGRAM IN ARKANSAS

Intended Effective Date
(Check One)

Date

<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published	<u>May 17 - 19, 2018</u>
<input checked="" type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment	<u>June 15, 2018</u>
<input type="checkbox"/> Other _____ (Must be more than 10 days after filing date.)	Reviewed by Legislative Council	<u>August 17, 2018</u>
	Adopted by State Agency	<u>June 21, 2018</u>

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

Linda Luebke linda.luebke@agriculture.arkansas.gov August 17, 2018
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.)

Butch Calhoun
Signature

501-225-1598 butch.calhoun@agriculture.arkansas.gov
Phone Number E-mail Address

Director
Title

August 17, 2018
Date

Regulations on the Industrial Hemp Research Program in Arkansas

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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Regulations on the Industrial Hemp Research Program in Arkansas

As approved and effective **August 2018**. Address communications to **State Plant Board, Industrial Hemp Program**. 1 Natural Resources Drive, Little Rock, Arkansas 72205.

THE REGULATIONS

The Industrial Hemp research program regulations were made by the 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 regulations

A.

(1) "**Applicant**" means a person, or a person who is authorized to sign for a business entity, who submits an application.

(2) "**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.

(3) "**Arkansas State Plant Board (ASPB)**" means an Agency of the AR Agriculture Department.

(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 and regulations 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) "**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 regulation.

(6) "**CBD**" means cannabidiol.

(7) "**DEA**" means the United States Drug Enforcement Administration.

(8) "**Decarboxylated**" 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.

(9) "**Delta-9-THC**" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis).

(10) "**Grower Licensing Agreement**" means a document executed by a person and ASPB 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 regulation.

(11) "**GPS**" means Global Positioning System.

(12) "**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.

(13) "**Industrial hemp**" means all parts and varieties of the plant *Cannabis sativa* L. and any part of such plant cultivated or possessed by a licensed grower, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis. (Adopted by federal law in the Controlled Substances Act, 21 U.S. C. & 801 et seq. "Industrial hemp" has the same meaning as in 7 U.S.C. sec. 5940 as it currently exists or as it may be subsequently amended;

(14) "**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.

(15) "**Law enforcement agency**" means the Arkansas State Police, DEA, or other federal, state, or local law enforcement agency or drug suppression unit.

(16) "**Licensed Grower**" means an individual or business entity possessing a license issued by ASPB under the authority of this chapter to grow, handle, cultivate, process, or market industrial hemp or industrial hemp products.

(17) "**Licensed Processor**" means a person in the state authorized by ASPB 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 regulations.

(18) "**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.

(19) "**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;

(20) "**Nonviable seed**" means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.

(21) "**Person**" includes any individual, partnership, corporation, company, society, or association.

(22) "**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.

(23) "**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.

(24) "**Plot**" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.

(25) "**ppm**" means parts per million.

(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 regulations; 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) "**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 regulations.

(28) "**Prohibited Variety**" means a variety or strain of cannabis excluded from the ASPB Industrial Hemp Research Program.

(29) "**Processing**" means converting an agricultural commodity into a marketable form.

(30) "**Processor Licensing Agreement**" means a document executed by a person and ASPB 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 this regulation.

(31) "**Program**" means a research pilot program conducted by ASPB in collaboration with one (1) or more licensees or universities to study methods of cultivating, processing, or marketing industrial hemp under the authority of 7 U.S.C. sec. 5940 as it currently exists or as it may be subsequently amended.

(32) "**Propagule**" means a plant or plant part that can be utilized to grow a new plant.

(33) "**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 this regulation; or

(c) the product is CBD that is approved as a prescription medication by the United States Food and Drug Administration.

(34) "**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.

(35) "**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.

(36) "**Seed source**" means the origin of the seed or propagules as determined by ASPB.

(37) "**Signing authority**" means an officer or agent of the organization with the written power to commit the legal entity to a binding agreement.

(38) "**University**" means an accredited institution of higher education located in Arkansas.

(39) "**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.

(40) "**Variety of Concern**" means any variety of hemp in ASPB's program that tests above 3000 parts per million (ppm) or 0.3000% decarboxylated 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 decarboxylated delta-9-THC concentration above 0.3 percent may be subject to law enforcement action.

(41) "**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 ASPB.

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 ASPB.

(a) No person who does not hold a license from the State Plant Board 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 State Plant Board 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 these regulations 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 1st through June 30th annually. Renewal applications will be due June 15th.

(4) Applications shall be handled and processed by the Arkansas State Plant Board and reviewed for approval or denial. 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) Licenses shall be valid for 12 months. A person interested in holding a Grower License or Processor/Handler License shall complete the appropriate ASPB Industrial Hemp Application Form annually. 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 A.C.A. 2-15-401 et seq., Arkansas Industrial Hemp 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 of the Arkansas State Plant Board.

(9) The following applicants shall not be granted a permit.

(a) Any applicants with any felony conviction in the prior 10 years or; or

(b) Any drug-related or controlled substance felony conviction at any time.

(10) Industrial hemp business licenses. Licensees must maintain all proper state, county and local business licenses and permits and comply with all applicable zoning regulations.

B. Application for Licenses

(1) **Growers License:** Growers in Arkansas who wish to cultivate industrial hemp shall submit to the Arkansas State Plant Board 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 regulations;
- (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 AR State Plant Board 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 Arkansas State Plant Board. 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 Arkansas State Plant Board;
- (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 Arkansas State Plant Board 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;
 - (1) It shall be the responsibility of the license holder to monitor and destroy volunteers.
 - (2) 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 regulations.
 - (1) All records shall be kept within the state of Arkansas and made available for inspection on request.

(2) An in-state agent should be maintained for receipt of records or receipt of services.

(o) Agreement to notify the Arkansas State Plant Board within one month if there are any changes or deviations; and

(p) Agreement to notify the Arkansas State Plant Board 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 ASPB Industrial Hemp Research Program until the conditionally approved applicant and the ASPB have executed a Grower Licensing Agreement. This will be done following the applicant's attendance at ASPB's mandatory orientation session (if scheduled). The Grower Licensing Agreement shall set forth the terms and conditions governing participation in the ASPB Industrial Hemp Program. The terms and conditions set forth in the Agreement shall include, at a minimum, the requirements listed in the Act (A.C.A. 2-15-401 et seq.) and in these regulations 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 location 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 the 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 regulations.

(1) All records shall be kept within the state of Arkansas and made available for inspection on request.

(2) An in-state agent should 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 ASPB Industrial Hemp Research Pilot Program until the conditionally approved applicant and the ASPB have executed a Processor/Handler Licensing Agreement. This will be done following the applicant's attendance at ASPB's mandatory orientation session, if scheduled. The Processor/Handler Licensing Agreement shall set forth the terms and conditions governing participation in the ASPB Industrial Hemp Program. The terms and conditions set forth in the Processor/Handler Licensing Agreement shall include, at a minimum, the requirements listed in the Act (A.C.A. 2-15-401 et seq.) and in these regulations for

Licensed Processors/Handlers and may include other requirements set as policy and published annually.

C. Criminal 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 Arkansas State Plant Board;
- (b) Submit payment for the background check fee directly to the Arkansas State Police or other law enforcement agency designated by ASPB;
- (c) Following completion of the background check, ensure delivery of the report to the Arkansas State Plant Board (ASPB) not more than fourteen (14) days following the date the application was received by ASPB.
- (d) The Arkansas State Plant Board 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 ASPB 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.

(1) A **Licensed Grower or Processor/Handler** shall not grow, process, or store industrial hemp in any structure that is used for residential purposes.

(2) 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 ASPB.

(3) 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.

(4) 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:

- (a) Failure to obtain an acceptable criminal background check
- (b) Failure to comply with an order from a representative of the Arkansas State Plant Board.

(5) A **Licensed Grower** shall not:

- (a) plant or grow any cannabis that is not industrial hemp.

- (b) plant or grow industrial hemp on any site not listed in the Grower Licensing Agreement.
 - (c) handle or store leaf or floral material from industrial hemp within any structure that is used for residential purposes.
 - (d) 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 Arkansas State Plant Board (ASPB). Industrial Hemp shall be physically segregated from other crops unless prior approval is obtained in writing from ASPB.
- (6) A **Licensed Grower** is required to post signage at the plot location. The signage shall include the following information:
- (a) The Statement, "Arkansas State Plant Board Industrial Hemp Research Pilot Program";
 - (b) License Holder's Name and License Number;
 - (c) The Arkansas State Plant Board Industrial Hemp Program's telephone number.

SECTION 4. ADMINISTRATIVE APPEAL

(From denial of application)

- A.** An applicant wishing to appeal the Arkansas State Plant Board'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 ASPB's notification letter or email.
- B.** An appealing applicant shall mail a hearing request letter to ASPB Industrial Hemp Research Pilot 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 an ASPB Industrial Hemp Program employee and at least one person who is not an ASPB Industrial Hemp 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 regulation.
- E.** The members of the administrative panel shall apply the same standards set forth in this regulation to determine if ASPB's action in denying the application was arbitrary or capricious.
- F.** Hearings on appeals shall be open to the public and occur at a time, date and location designated by the Plant Board Director.
- G.** 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.

H. An appealing applicant shall be allowed up to fifteen (15) minutes to present arguments for reversing the ASPB Industrial Hemp Research Pilot Program's denial of the application.

I. A representative of the ASPB Industrial Hemp Research Pilot Program shall be allowed up to fifteen (15) minutes to present arguments for affirming ASPB's denial of the application.

J. 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 regulations (Section 1 A. 3) or

(b) As allowed by ASPB's Industrial Hemp Pilot Program, seed or transplants produced lawfully under an industrial hemp pilot program within the United States provided that the seed or transplants have accompanying documentation of:

- (1) being produced by a licensed grower within the state of production, and
- (2) 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
- (3) the variety is listed as an approved variety published annually in ASPB's Industrial Hemp Pilot Program guidance policy.
- (4) 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 AR State Plant Board 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 ASPB Industrial Hemp 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 ASPB 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 AR State Plant Board, 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 regulations in ASPB's Circular 10: Regulations on the Sale of Planting Seed in Arkansas.

SECTION 6. Seed Acquisition

A. Seed acquisition from a source within Arkansas

(1) No ASPB pre-approval shall be required for a transfer of hemp seed or propagules of any variety listed on the ASPB Industrial Hemp Pilot Program'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 by the ASPB Industrial Hemp Pilot Program.

(3) Upon request from a representative of the ASPB Industrial Hemp Pilot Program, 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 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 ASPB Industrial Hemp Pilot Program.

(2) The ASPB Industrial Hemp Pilot Program shall not approve a Domestic Seed/Propagule Request 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 ASPB Industrial Hemp Pilot Program THC test results showing that floral material sampled from mature plants that produced the seed or propagule variety has a decarboxylated delta-9-THC content of not more than 0.30 percent on a dry weight

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 ASPB Industrial Hemp Pilot Program facility at 1 Natural Resources Drive, Little Rock, Arkansas 72205 or at a location designated by ASPB, for inventory and distribution.

(5) Upon request from a representative of the ASPB Industrial Hemp Pilot Program, 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 ASPB facility.

C. Seed acquisition from a source outside the United States.

(1) A person seeking to obtain seeds from an international source shall submit a complete International Seed Request form to the ASPB Industrial Hemp Pilot Program.

(a) If approved, the ASPB Industrial Hemp Pilot Program shall request the DEA Permit to Import under the ASPB's DEA registration.

(b) No person shall acquire seeds from a source outside the United States unless the ASPB Industrial Hemp Pilot Program first obtains a Permit to Import from the DEA.

(2) No person shall acquire propagules other than seeds from outside the United States.

(3) The ASPB Industrial Hemp Pilot Program 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 ASPB Industrial Hemp Pilot Program 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 ASPB Industrial Hemp Pilot Program documentation showing that mature plants that produced the seed variety have a floral material decarboxylated delta-9 THC content of not more than 0.30 percent on a dry weight basis.

(6) A person acquiring seeds from a source outside the United States shall arrange for the seeds to arrive at ASPB's facility at 1 Natural Resources Drive, Little Rock, Arkansas 72205, or at a location designated by ASPB, for inventory and distribution.

(7) Upon request from a representative of the ASPB Industrial Hemp Pilot Program, 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 ASPB's designated facility.

D. Seed 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 ASPB Industrial Hemp Pilot Program.

(2) The ASPB Industrial Hemp Pilot Program shall not permit hemp or cannabis seeds or propagules of wild, landrace, or unknown origin to be planted, cultivated, or replicated by any person without the ASPB Industrial Hemp Pilot Program first arranging

for replication and THC testing of mature plants grown from such seeds or propagules by ASPB 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 ASPB Industrial Hemp Pilot Program 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 ASPB Industrial Hemp Pilot Program 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 ASPB Industrial Hemp Pilot Program, 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 ASPB Industrial Hemp Pilot Program 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 ASPB Industrial Hemp Pilot Program, 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 ASPB Industrial Hemp Pilot Program. 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 ASPB and Law Enforcement Agencies.

(A) ASPB 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 ASPB 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.

SECTION 9. PESTICIDE USE

(A) A Licensed Grower who uses a pesticide on hemp must be certified to apply pesticides by the Arkansas State Plant Board (ASPB) pursuant to ASPB and EPA pesticide laws and regulations.

(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.

(E) The Arkansas State Plant Board shall have the authority to perform pesticide testing on a random basis or when representatives of the Arkansas State Plant Board have reason to believe that a pesticide may have been applied to hemp in violation of the product label.

(F) 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 Arkansas State Plant Board (ASPB) may collect samples of any industrial hemp (*Cannabis sativa* L.) material prior to harvest at any time.

(B) A Licensed Grower shall submit a complete and current Harvest/Destruction Report form to the ASPB Industrial Hemp Pilot Program at least 15 days (or the number of days established in ASPB's published guidance policy) prior to the intended harvest date or intended destruction of a failed crop.

(C) The ASPB Industrial Hemp Pilot Program's receipt of a Harvest/Destruction Report triggers a sample collection by ASPB.

(D) During the ASPB's scheduled sample collection, the grower or an authorized representative shall be present at the growing site.

(E) Representatives of the ASPB Industrial Hemp Pilot Program 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 ASPB Industrial Hemp Pilot Program, unless specifically authorized in writing by ASPB.

(G) Should the Licensed Grower fail to complete harvest within fifteen (15) days, ASPB 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 ASPB collecting the sample.

(H) Harvested materials from Varieties of Concern shall not be commingled with other harvests without prior written permission from the ASPB Industrial Hemp Pilot Program.

(I) Floral materials harvested for phytocannabinoid extraction shall not be moved outside the state or beyond a processor, nor commingled, nor extracted, until the ASPB Industrial Hemp Pilot Program 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 ASPB 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 Plant Board Industrial Hemp Research Pilot Program 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 ASPB and published annually as policy) prior to harvesting or destroying any hemp plants, a participant must submit to ASPB Hemp Staff a Harvest/Destruction Notification Form. ASPB Hemp Staff 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). ASPB Hemp Staff will collect samples from each plot or greenhouse, in accordance with ASPB'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. ASPB reserves the right to collect any number of samples at any time.

(2) **Licensed Processor/Handlers:** The Arkansas State Plant Board 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 food safety permits.

b) Industrial hemp for food for human consumption must be tested for non-approved pesticide or herbicide use. The licensee may be required to reimburse ASPB for the actual costs incurred by for conducting such tests.

(B) Representatives of the ASPB 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 Arkansas State Plant Board become the property of ASPB and are non-returnable. No compensation shall be owed by ASPB.

(C) Laboratory Testing:

ASPB will select samples for content 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 AR State Plant Board. Other AR State Plant Board approved labs may be used if authorized by ASPB. As soon as it is available, the results of the THC analysis shall be reported to the Industrial Hemp Program of the State Plant Board and the holder of the license.

(2) Samples with a THC level equal to or below 0.3% THC 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 THC level greater than 0.3% THC shall be reported by the Plant Board to the licensee and to the ASPB 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 State Plant Board (ASPB) Seed Certification Program, including certification by other seed agencies

recognized by AOSCA, and include a certifying tag of varietal purity issued by ASPB or another official certifying agency as defined in Section 1 of these regulations.

(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 ASPB.

(6) All samples become the property of the ASPB Industrial Hemp Pilot Program and are non-returnable. No compensation shall be owed by ASPB.

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 ASPB Industrial Hemp Pilot Program.

(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 7 U.S.C. § 5940 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 ASPB Industrial Hemp Pilot Program 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 (excluding THC in excess of 0.3%), and other marketable hemp products to members of the general public, both within and outside the state, provided that the marketable hemp product's decarboxylated delta-9-THC level is not more than 0.3 percent or as adopted by federal law in the Controlled Substances Act.

(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 decarboxylated delta-9-THC level is not more than 0.3 percent.

(E) The ASPB Industrial Hemp Pilot Program 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 with 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 regulations 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, or any other address not listed in the grower or processor's current Grower Licensing Agreement or Processor/Handler License Agreement;

(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 Arkansas Industrial Hemp Act (A.C.A. 2-15-401 et seq.) and in these regulations. Forms for these required reports will be provided by the ASPB Industrial Hemp Research Pilot Program. 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 Plant Board Industrial Hemp Pilot Program, 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 ASPB or participating Arkansas Universities; and

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

(2) Licensed Processors/Handlers shall report the total weight and type of industrial hemp processed.

(B) Participants in the Industrial Hemp pilot Program must submit a completed Production Report form. Grower & Processor/Handler License holders shall report annually to ASPB 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 regulations. 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) This section applies only to the license type "Research with Intent to Market".
- (B) Each application shall be accompanied by a nonrefundable fee of fifty dollars (\$50.00).
- (C) A license is issued for one year, for an annual fee of two hundred dollars (\$200.00).
- (D) For a renewal license, the same fee schedule will apply as in Paragraph (C) of this Rule.
- (E) 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.
- (F) 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.
- (G) The license holder shall be responsible for the cost of all inspection and sampling services.
- (H) The license holder shall be responsible for the cost of all laboratory analytical services.
- (I) Any applicant or licensee participating in the ASPB Seed Certification Program is responsible for all fees and regulations associated with the program.
- (J) The license holder shall be responsible for the cost of any other oversight required by the board. This may include site verification visits, pesticide residue testing, staff time, and program administration. A fee schedule will be established on an annual basis and published on the AR Agricultural Department website or be available on request.

SECTION 15. License Suspension or Revocation

(1) The Arkansas State Plant Board shall notify a Licensed Grower in writing that the Grower Licensing Agreement has been temporarily suspended if a representative of the Arkansas State Plant Board receives information supporting an allegation that a Licensed Grower has:

- (a) Engaged in conduct violating a provision of this regulation, the Arkansas Industrial Hemp Act (A.C.A. 2-15-401 et seq.), or the Grower Licensing Agreement;
- (b) Made a false statement to a representative of the Arkansas State Plant Board or a law enforcement agency;
- (c) Been found to be growing or in possession of cannabis with a measured decarboxylated delta-9-THC concentration at or above 30,000 ppm (3 percent); or
- (d) Failed to comply with an order from a representative of the Arkansas State Plant

Board or a law enforcement agency.

(2) A person whose Grower 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 Arkansas State Plant Board issued its notice of temporary suspension, except as authorized in writing by a representative of the Arkansas State Plant Board.

(3) As soon as possible after the notification of temporary suspension, a representative of the Arkansas State Plant Board shall inspect the Licensed Grower's premises and perform an inventory of all industrial hemp, and hemp products that are in the Licensed Grower's possession.

(4) The Arkansas State Plant Board 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 ASPB. Applications will be evaluated on a competitive basis (if appropriate) by an ASPB 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 regulations through omission or repetition, but shall be a supplement thereto.

(A) No person shall:

1. Sell, offer, expose, distribute or transport industrial hemp seed or transplants not produced or labeled in accordance with the provisions of the above rules and regulations or having a false or misleading labeling;

2. Sell, offer, expose, distribute or transport industrial hemp seed not labeled in accordance with the provisions listed in ASPB'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;

3. 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 and regulations of an officially recognized AOSCA seed-certifying agency or association;

- 4.** Fail to comply with sample collection and testing requirements prior to harvesting or destroying any hemp plants, in accordance with these regulations;
- 5.** Detach, alter, deface, or destroy any labeling or other required documentation specified in these rules and regulations, or alter or substitute seed or transplants in a manner that may defeat the purpose of these regulations;
- 6.** Disseminate any false or misleading advertisement concerning industrial hemp seed or propagating material in any manner or by any means;
- 7.** Hinder or obstruct in any way any authorized agent(s) of the State Plant Board in the performance of their duties;
- 8.** Fail to comply with all licensing and reporting requirements as outlined in these regulations or in the Arkansas Industrial Hemp Act (A.C.A. 2-15-401 et seq.);
- 9.** 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 State Plant Board or any authorized agent thereof;
- 10.** 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.
- 11.** 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 effect 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;
- 12.** Fail to comply, upon request of the Plant Board of any producer of industrial hemp seed (including hybrids), who wishes to offer his seed for sale in the state, to give the Plant Board a complete description of the characteristics of the variety or hybrid.
- 13.** Provide false, misleading, or incorrect information to ASPB 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 regulations or in the Arkansas Industrial Hemp Act (A.C.A. 2-

15-401 et seq.);

14. Plant, grow, store, transfer or process hemp on any site not listed in the Grower Licensing Agreement or Processor/Handler License Agreement;

15. 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 ASPB Industrial Hemp Pilot Program, 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.
- (B) 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.
- (C) 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.

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.