

Indiana Hemp Frequently Asked Questions

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Regulations, Rules, Laws and the 2018 Farm Bill

1. The 2018 Farm Bill AND SB 516 was signed into law by President Trump and Governor Holcomb, what are the next steps for Indiana?

Under the Indiana Industrial Hemp Act IC 15-15-13, administrative rules must be adopted. This is normally about a nine-month process. The administrative rules govern the processes of applying for a license, the fees charged, seed labeling and seed requirements for growers, background checks, a definition of “agricultural hemp seed”, “grower”, “handler”, “license applicant”, “variety”, , etc... Also, required information to apply for a license, definition of crop sites and other information pertinent to the actual processes involved in regulating hemp in Indiana. SB 516 also created the Indiana Hemp Advisory Committee to aid in setting up these Administrative Rules. This committee has met three times in 2019 to discuss and advise OISC on these rules

2. What progress has been made in matching up Indiana Law to the 2018 Farm Bill Requirements?

Senate Bill 516 passed and was signed into law by Governor Holcomb May 2, 2019. Here is a link to the new law: <http://iga.in.gov/legislative/2019/bills/senate/516#document-d6981537>

3. Hemp is legal now; can I plant it right away?

No, this signing of the law triggers certain steps that are listed below. Again, we expect a first crop for commercial production to be in 2021.

Upcoming Changes in Indiana with the 2018 Farm Bill:

- Marijuana production is not legal in the state of Indiana.
- If you are growing unlicensed hemp, you are a marijuana producer.
- Upon signature of the 2018 Farm Bill by the President, a letter from the Office of the Indiana State Chemist is forwarded to Governor Holcomb for consideration. - **COMPLETED**
- Parallel to this activity, the Indiana Legislature has passed SB 516 and Governor Holcomb has signed into law. - **COMPLETED**

- Administrative Rules must be developed and put into place; this process normally takes several months, setting Indiana up for a 2021 start date for commercial hemp production. At this point, administrative rules have been created to facilitate legal hemp production, and will include licensing, background checks, recording of sites, testing and fees. OISC has emergency rulemaking authority on hemp and near the end of 2019 emergency rules will be put in place. The USDA also has put out their interim final rules but as of December 18, 2019 they have extended the comment period until January 29, 2020. Once Indiana's plan is ready, a letter as well as Indiana's full plan and standard operating procedures are sent to the Secretary of the Department of Agriculture, Sonny Perdue, for program recognition under federal law.
- In 60 days, a response is given from the USDA to determine if the program is in compliance with the Farm Bill.
- A license to grow hemp is required, and hemp must test below 0.3% THC. In the absence of a license, any cannabis production regardless of THC level is considered marijuana.
- Marijuana production is still not legal in Indiana.

Due to the USDA plan not being final, and the Indiana plan not yet being approved, 2020 will be another research year in Indiana.

Create your business plan now. Get your contract in place. Identify any processes and processors needed to meet your buyer & specific variety or varieties they will accept. Start ordering seed for 2020.

4. Are regulations going to be the same in every state?

Similar but not the same. Just like traffic laws, alcohol sales laws and other agricultural laws are similar but different across state lines the same will be said of hemp. OISC is part of a Hemp States Regulators Monthly Call and several items are discussed each month. That call has moved states closer together in terms of proposed regulations and testing methods but there will still be some differences.

5. I want to sell Smokable hemp, can I do that?

Yes, for now. Smokable hemp is illegal under the new law, however, there is a temporary injunction against enforcing that part of the law. Also, there is a court case that is moving along that will help adjudicate this issue.

Hemp Licensing Requirements

1. If I grow hemp but did not secure a license, what are my risks?

An unlicensed hemp grow is considered marijuana and is subject to the Schedule 1 drug laws.

2. Will there be any minimum requirements for square footage or acreage involved in a hemp license?

Yes, that minimum acreage or square footage has not been determined yet. It is likely that there will not only be a minimum square footage but also a minimum plant density in that space. As an example, you cannot have a 2000 square foot space with only 20 plants, or a ten acre field on your application and only 25 plants.

3. What licenses will be offered once the legal parts are all in place?

We anticipate three types of licenses originally. Agricultural Hemp Seed Production License as a subset of

Grower, Handler, and Research. Research will go away one year after the USDA has administrative rules approved, leaving Grower and Handler as the two types of license allowed in Indiana.

4. How many applicants does OISC expect in the first couple of years?

Under the research application process we have seen well over 100 applicants. The 2018 Farm Bill is signed into law and the administrative rules are in place. Eventually, we expect up to several hundred applicants. We want to advise caution, as there are very few processors in state at this time to turn raw materials into finished goods.

5. Will licensing and background checks be required to grow or handle hemp?

Yes, it is yet to be determined the fees for licenses but the federal law and Indiana law will both still require regulation on this crop. Background checks require a 10-year clean record of a drug related felony or drug related misdemeanor to be the licensee.

6. How many hemp licenses will be given out?

In 2020, there will be a limit of 300 licenses. 2020 will be a research year again since the USDA final rules are not in place and were released as an interim final rule too late in the season to have everything in place for a commercial year. These three hundred licenses will be for active participants. Those who successfully secure a license to secure funding for processing will not count toward the limit of 300.

7. Will hemp cooperatives be allowed? If so, who will need the license?

We expect hemp cooperatives in Indiana. Licensing will be required from each entity involved in the cooperative. Each grower, handler (processor), or agricultural hemp seed producer, as well as the cooperative itself.

8. Can I have multiple fields under one Indiana Hemp Grower License?

Yes, each field will need to be listed on the application with exact latitude longitude GPS coordinates so that Office of Indiana State Chemist inspectors and Indiana State Police can find the fields. Remember, a field that is not listed on the application is considered marijuana and will be destroyed. Every grow site, drying barn, greenhouse, hoop house, processing site must be listed on your application. Growers and Handlers should think ahead and have the exact coordinates ready when they begin to fill out the application.

9. Will all grower or handler employees be required to pass a background check?

In short, no. The person or people responsible for the activity of the grower or handler will need to pass the background checks. Employees, under the direct supervision of the person responsible, will not have to go through that step.

10. Will business entities that are already licensed in another state require an Indiana license as well?

Yes, a license in another state or country will not automatically guarantee a license in Indiana. Potential licensees will need to go through the steps listed in this document and obtain an Indiana Hemp License to do business in Indiana. Those without a license will be considered marijuana producers.

11. How much longer will the Research License be an option?

For 2020, a research license will still be in place. The USDA, under the 2018 Farm Bill, has created but needs to finalize and have approved its Administrative Rules. Within one year of that passage the research license option will go away.

12. I am a farmer and companies have been contacting me to grow hemp for them, what should I know?

First, **if you grow hemp for a company, have a strong contract that protects all involved.** Know your rights and responsibilities under that contract. If the crop fails, are you responsible to provide the equal amount of hemp from another source? Are you “off the hook” if the crop produces less and are you “stuck with” extra product if the crop produces more than the contract?

If a current licensee has hired you, make sure you have seen the license, have a copy of the license and your property is listed on the licensee’s application. If a licensee has hired you as an employee, you do not need a license of your own; **HOWEVER, if you are sharing in the crop and profits you do need your own license.** *This gets into some potentially tricky situations. If you are doing the work, using your equipment on your ground or ground you have leased, OISC considers you the grower, not an employee and you need a license. Every grower needs his own license.*

13. Several out of state hemp companies are wanting me to grow hemp for them and have contacted me. Why is this happening? In addition, what do I need to know?

First, many in the hemp industry believe the “I” States of Indiana, Illinois and Iowa will be areas that produce some of the best hemp crops. Where corn grows well, hemp grows well so many Indiana farmers will be contacted. Second, do your research on the out of state company. They must be licensed in Indiana before you can grow hemp with them. Moreover, based on the answer to Question 12 in this section, you need to know if you need a license or not. Not all companies contacting Indiana farmers are licensed, in fact, we could go so far to say that most are not. Be careful, do not be “unequally yoked” with someone who is not following the law.

14. How will the 2020 licensing application process work?

You will fill out an online application, no mailed or handwritten applications will be accepted. Exact coordinates of each and every property, field, grow site, greenhouse, hoop house, processing barn, etc, must be entered, along with the exact square footage or acres that will be involved in the hemp production will be required. A detailed research proposal, your source of seed or clones, all legal attestation statements must be electronically signed at every necessary spot. If the entire application is not completed it will be denied. Second, if a qualified university researcher/advisor is not directly working with you on your project your application will be denied. Finally, if everything is in order and the qualified university researcher is on board it can take up to five weeks to process the application, the background check and printing/ mailing the license. All information you put into the application will be verified before you are approved for a license in 2020.

15. Will fees be charged in 2020 to grow/process/handle hemp?

No, the Indiana State Law 15-15-13 requires the Office of Indiana State Chemist to levy fees in order to offset costs, however since it is a research year those fees will not be assessed.

16. When can I apply to get my 2020 hemp license?

It is anticipated that that will be in January of 2020. Most likely the week of January 6, 2020.

17. I've heard that there will be a waiting list for hemp licenses for 2020, is this true?

It is unlikely there will be a waiting list. It is possible that OISC will have more applicants that can be handled under a research year and therefore after 300 there will be no new licenses.

18. I've heard there will be a maximum number of hemp licenses handed out in 2020? Is that true?

Yes. This was not part of the original plans, however, with the USDA rules being late it has forced us into a research year. That being said, we have to limit licenses to 300 active licenses. It is a requirement that you have a production contract, a letter of intent to buy your crop or be the processor yourself in order to apply for a license. This is a crop that can lose you money very quickly if you are not prepared for all possibilities.

19. I am a seed or clone supplier. Do I need to have an Indiana Hemp License? What other documents do I need to complete and what licenses/permits do I need?

Suppliers and growers/handlers all need an Indiana Hemp License. For seed companies your seed could be put under a Stop Sale Order if you do not have an Indiana Seed Permit. For clones, you are required to have an Indiana Hemp License. Those documents can be found on our websites listed below. Be proactive, have your licenses and permit prior to shipping, transporting, growing or processing any hemp or your product/crop will be marijuana under Indiana law.

20. I've heard I can work with Purdue Extension Educators on my research, what are the details I need to know?

While it is not required that the Purdue Extension researcher have their Certified Crop Advisor (CCA) license it is strongly encouraged. **Purdue Extension will be the final arbiter of which of their Educators will be allowed to participate.** Whoever is advising should be able to competently advise on Ag production practices.

Buying/Selling Hemp Seed, Hemp Seed Suppliers, Selling Hemp

1. I am a hemp seed seller, what are my responsibilities under the law?

As per the document posted on our website about testing and labeling your seed, you are also required to keep a sample of every lot of seed that you sell for a period of one year after you sell the last of that lot. You are required to keep detailed records of every transaction for a period of two years (24 months). This detailed information should include the date of receipt of seed, all invoices coming in and going out, COA's of parentage crop, bill of lading, full information of the person you sold the seed to and when/where it was delivered, along with lot number, full original variety name. Also, hemp is an agricultural crop so you shall get the seed re-tested for germination every 15 months. It will be result in a stop sale if seed is out of date on the label or if the seed does not have a complete label as described in the seed testing and labeling document.

2. Will OISC sell hemp seed?

No, Seed will be sourced through seed sellers, of which at the appropriate time a list of potential seed sellers will be posted on the OISC Hemp website. The Indiana State Seed Lab, part of OISC will test seed lots for quality assurance. Weed seeds, noxious weed seeds, purity and germination rates will be checked on sampled seed lots. Many hemp varieties have what would normally be called low germination rates compared to other crops. Ranging from the 25% range up to 85%. Know this germination rate prior to seeding so you know the seeding rate needed. Also, hemp does not hold its germination rate from one year to the next as well as many agricultural crops. If you plan to carry over seed, get it tested again for germination and store the seed in cool, or cold dry storage.

3. Will Indiana require the purchase of Certified Seed only?

No, Certified Seed is a protection for the seed buyer but will not be required under either the USDA rules or Indiana rules. Indiana Crop Improvement Association in Lafayette, IN is the Seed Certifying Agency in Indiana.

4. If I grow a crop of hemp, where will I sell it?

Good question, as of this time there are few processors in state. We advise caution as a market should be contracted prior to growing hemp. Steps should be taken to determine the market you will pursue (CBD, fiber, etc) and identify the varieties best suited to that market. Then, find a buyer and contract the number of acres and harvested material of the specific variety or varieties.

5. Where can I buy hemp seed?

Several hemp seed suppliers are in business in Canada, Colorado, Oregon, North Dakota, Kentucky and other states. We anticipate a move by some Indiana companies into growing certified hemp seed and selling certified hemp seed in the upcoming years, but that industry is not in place currently. The Office of Indiana State Chemist will list possible seed suppliers on our hemp website at the appropriate time as a requirement of the new SB 516 Law. Ask for seed lab reports, Certificate of Analysis of parentage crop, etc to confirm you are buying seed from a compliant crop.

6. Are Indiana seed companies getting involved in hemp seed? I just heard about out of state suppliers.

At this point, the seed suppliers are primarily hemp seed suppliers. Several out of state suppliers are the primary suppliers in this market but we anticipate that will change as time goes on and instate options will be available.

7. What does the term Certified Seed mean?

Certified Seed is seed produced from a crop that has been inspected for trueness to variety (TTV), allowable limits on weeds, allowable set back distances from other hemp fields where pollen could travel and other stringent requirements. In the case of hemp grown for seed the setback limits are three miles. Indiana Crop Improvement Association (ICIA) is the organization that oversees the certified seed program in the state. AOSCA – Association of Official Seed Certifying Agencies - has created hemp certification standards and ICIA has reviewed those standards. We anticipate Indiana will be involved in the production of certified hemp seed in the future.

8. If I sell hemp seed in Indiana are there other requirements?

Yes, if you sell agricultural (hemp), vegetable or lawn seed in Indiana you are already required to hold an Indiana Seed Permit with the Office of Indiana State Chemist (OISC). This permit allows you to sell seed with your own seed tag (called label in the law). Without this permit, your seed will be put on stop sale order by OISC until the permit is applied for and approved. The permit does not cost money, however a semiannual distribution report is required and there are poundage fees due twice annually. **A link to the seed permit application can be found at:** <https://www.oisc.purdue.edu/seed/forms.html>.

9. I am a hemp seed supplier and see that seed labels are required but have no idea how to label my seed. Is this required in other states? How do I know what information needs to go on a seed label?

States are coming up to speed on hemp seed labeling. When hemp was only a research crop seed control officials in many states were lenient when enforcing seed labeling laws. Now that the Farm Bill and state laws are making the crop commercial most if not all states will require full labeling on all hemp seed. AASCO – Association of American Seed Control Officials is an organization of state seed leaders and has determined that hemp seed should be fully labeled. A form describing the information that goes on a seed label can be found in Section 6 of the OISC hemp website.

Soil Types, Planting, Fertilizer & Pesticides

1. When should we expect to plant our first crop of hemp for commercial purposes?

Expectations are good for a 2020 crop. Currently we are still under the research component of the law until the Indiana law is updated/changed and administrative rules are adopted in Indiana. Currently, there is a shortage of quality hemp seed. Plan ahead, and find your seed source for the 2020 season along with having a business plan in place and a marketing contract to know where you are selling your crop.

2. I've heard you don't have to use fertilizer or much of it on hemp, is that true?

No, hemp is best grown with a fertilizer program similar to corn, maybe not as high in nitrogen, phosphate, and potash levels but similar. Hemp likes to be fed and an unfertilized crop will be a poor crop and a likely money loser.

3. Does my farm have to be organic to produce hemp?

No. It is expected that a portion of the hemp production will be grown on organic farms, but that is not currently required in the proposed bill language or in the draft administrative rules. Currently there are no pesticides labeled for use on hemp so growers need to be aware of pests, disease, insect and weed control issues. This includes biologicals, which are also not labeled for hemp and therefore are not allowable as a fungicide or insecticide or seed treatment on hemp.

4. What soil types does hemp grow in best?

Anecdotal evidence would state that hemp grows best in silt loam or sandy loam soils. Heavy clay soils may not be the best place for production acres. Again, this is anecdotal in nature. Time will tell. One thing that is known is that hemp does not like wet soils.

5. How many acres will be the minimum on outdoor grows - or square feet on indoor grows?

This has not been determined yet. However, it is being considered that a minimum may be different for CBD production than for fiber or hemp seed oil production.

6. My hemp crop was weedy with disease and insects, what can I use on it to control pests?

There is currently nothing that can be used to control weeds, insects or disease in hemp. A few states have come up with a list, but those products either have very low if any efficacy or are not labeled for hemp use. It is required to do multiple studies by the pesticide chemical companies in order to get a hemp crop label approved and those studies simply have not been done yet. It normally takes a few years to get EPA approval of chemicals on a new crop. Also, with a relatively small number of acres of hemp, there is not great incentive for those chemical companies to complete those studies, so it may take several years before any pesticide is legal.

CBD

1. I've heard that my CBD crop can't be close to a pollenating hemp field. Will OISC let me know where my neighbors are growing a pollenating hemp crop, such as for seed, fiber, grain, etc.

In short, no. Based on the new hemp law grower information may be kept confidential. Like any other agricultural crop in Indiana it is the grower's responsibility to let his neighbors know if he is growing a sensitive crop and work out a solution. We recommend working with the hemp industry leaders to work out a solution. This is a very real problem, but one where OISC does not have the solution. Sometimes staggered planting dates or other cultural practices can alleviate this situation.

2. I want to sell CBD lotions, tinctures, creams, at farmers markets. Can I do this?

This is out of our hands, as OISC only deals with the material until it becomes a retailable product.

Testing Crops, Hot Fields, Ditchweed & Wild Cannabis

1. I'm in Northwest Indiana, can I just harvest the ditch weed or wild cannabis?

No, there will be minimum acreage requirements and ditch weed is specifically excluded. Any harvesting of ditch weed will be considered marijuana and is illegal.

2. What happens if my crop tests higher than 0.3% THC dry weight?

The report of a higher THC analysis will go to the Indiana State Police. Crops higher than 0.3% Total THC are considered marijuana and a process of destruction or diversion will be put into place using administrative rules and the new Indiana law.

3. I've heard that some fields of fiber are "going hot". What does that mean and how can I avoid this on my farm?

Known genetics, known genetics, known genetics! The variety that is going hot was not from known genetics that are proven in this area to produce a compliant crop. Hot means above 0.3% total THC on dry

weight.

4. My hemp field went hot, what do I do now?

This is being worked out currently between Indiana State Police and OISC. CBD, Grain and Seed crops that go hot will have to be destroyed and not removed from the field (plowed under). Fiber crops are allowed for a potential diversion program in the Indiana law, however, the USDA rules forbid this. That is to be worked out yet. At what level of total THC is too hot and will require total destruction, and what level can the crop be immediately terminated and allowed to ret for a period of time to diminish the THC level before fiber processing? That is currently being discussed if it will be allowable at all.

5. How is OISC sampling and testing for THC? Is this consistent among all states?

OISC is sampling in fields on a random basis. OISC does not certify a hemp crop, but rather uses what is called surveillance testing to pull those random samples per variety. Those samples within that variety are blended to create one aggregate sample. That sample is dried as per federal and state law definition and then tested using a gas chromatography machine to get Total THC. This Total THC combines THC and THC-A. Any test that does not combine these two or at least list these two and allow for adding them together is not a viable test in Indiana. It is not currently where EVERY state is testing this way but the situation is rapidly moving this way. So far, only a few states that have a hemp program are not testing this way. This is also the way the USDA rules and regulations require testing. Sampling methods can be different from state to state at this time, but again they are moving toward a consistent method.

6. I hear some different thoughts around THC testing? Why the difference?

In most cases it is the difference between a commercial lab result and a regulatory lab result. Since laws and regulations are just coming into play, there is confusion among commercial labs as to how to show THC levels in their tests. OISC is in the process of vetting labs that will follow the regulatory testing methods and report a Total THC level. This should avoid confusion moving forward. Also, industry has some people who are spreading misinformation to their advantage. If you need to get the final word, go the state regulators and look on the OISC Hemp website for updated information.

Transporting Hemp Crops

1. Can I transport my hemp crop from my farm to a processor or across state lines to a processor?

Yes, if you are currently moving the crop from one research licensed entity to another. As the crop becomes fully commercial you will be allowed to transport the crop to a processor and across state lines, however, please remember that it is best management practice to accompany the crop with your license number, the Certificate of Analysis (COA) showing total THC below 0.3%, intended use and intended destination. This information gives the police force a complete picture of your crop and make enforcement actions unlikely.

Residential/Personal Growing

1. Can I just grow and process this product at home? I have a medical condition and want to play with the crop.

No. Residential growing and processing will not be allowed. This is currently a research crop/moving into being a commercial crop and will not be allowed for residential areas. Batch size is important in

considering this crop. One local processor has stated that a batch of less than 10,000 lbs. is not very useful (CBD based plant material).

Miscellaneous

1. I've heard hemp can be expensive to produce, is that true?

Yes, it costs well more than corn to produce a good crop of hemp. Without a contracted market for your crop we advise to not buy seed or plant a crop. Markets will develop over time. Don't expect this species to save the farm. It may be financially lucrative for some people who are well capitalized, have an early market for their crop and can buy quality seed to get it planted but for most this will be a rotation option to diversify the farm.

2. Seed varieties and labeling has been discussed in depth from the Office of Indiana State Chemist and Seed Commissioner. Why?

Hemp seed and hemp seed suppliers are quite a bit behind the rest of the seed industry in labeling and varietal naming conventions. According to the Federal Seed Act and Indiana State Law, it is illegal to "just change the name of a variety". There is no provision for changing a name of an existing variety. Also, one year of crossbreeding does not likely create a new variety. In corn this takes seven years! In addition, a breeder must have permission from the variety owner to crossbreed with that variety. Variety names cannot be changed on clones either.

Additional Information:

- **OISC Hemp Website:** <https://www.oisc.purdue.edu/hemp/index.html>
- **Purdue Hemp Website:** <https://purduehemp.org/>
- **Indiana State Law:** <http://iga.in.gov/legislative/laws/2019/ic/titles/015>
- **How to Test and Label Hemp Seed:** https://www.oisc.purdue.edu/seed/pdf/how_to_test_and_label_hemp_seed.pdf