

# Insights

## 2021 Hemp License Application Now Available Online

January 19, 2021

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Earlier this month, the Office of the Indiana State Chemist ("OISC") began accepting applications for licenses to commercially grow and process hemp using its new online licensing software (the "Application"). The new Application is live following approval of the Indiana State Hemp Plan (the "Plan"), which was granted by the United States Department of Agriculture ("USDA") on October 22, 2020. As discussed in our **previous alert**, the Plan's approval means commercial hemp growers no longer need to work with a qualified university researcher. Instead, prospective growers and handlers may move forward with commercial hemp operations for the 2021 grow season after completing the Application and obtaining approval from the OISC.

The Application is available on the OISC's website and is accessible **here**. This alert outlines the Application process, along with information required to successfully complete the Application.

### Applicant Information

The Application requires the disclosure of basic contact information about the individual or business entity applicant. Business applicants should be prepared to provide the following basic information:

- Company name (both legal name, as reported to the USDA, and any d/b/a);
- IRS assigned Employer Identification Number (or "tax ID");
- Primary business contact name;
- Legal mailing address;
- Phone number;
- Email address; and
- Company physical address (if different than Legal Mailing Address).

Individual applicants must provide their full legal name, mailing address, telephone number, and email address.

### License Type

The Application is used to apply for both the "Grower" and "Handler" licenses. Cooperative Laboratory applicants must provide a federal Drug Enforcement Administration (DEA) registration number. Applicants applying for a license as a Certified Crop Advisor (CCA), to perform crop sampling, must provide a CCA number.

### Key Participants

The Application requires applicants to disclose "Key Participants" that will operate under the license. All individual applicants are "Key Participants" and must submit to a federal background check, which must be obtained through the Federal Bureau of Investigation (FBI) Identity History Summary Check, the results of which must be uploaded and submitted into the Application. This process involves fingerprinting and submitting a request to the FBI, so

plan ahead, as it can take time to receive your results.

Business applicants must upload and submit background checks for each individual considered a Key Participant. For businesses, a "Key Participant" is an employee working in a licensed business with multiple employees within the business who:

- is in a supervisory role with the hemp grow site, the hemp lab, or hemp processing site (e.g. a person who is the supervisor responsible for transit of crop, for crop production (seed purchase, planting, sale of harvested crop), receipt of crop in a processing facility);
- oversees workers who perform duties for which workers are in contact with hemp; or
- is otherwise deemed necessary to be subjected to this provision by the business entity.

Businesses must provide certain identifying information for each Key Participant and must submit background check results, as referenced above. Anyone who has ever been convicted of a drug-related felony or, in the previous ten years, a drug-related misdemeanor is ineligible for a license.

### **Directory**

Applicants are required to fill out additional contact information under the "Directory" portion of the Application, which can be marked either confidential or non-confidential. If the applicant selects "non-confidential" the applicant's information will be posted on the OISC website as a licensed business or person or handler of the agricultural hemp seed. Information from the initial Applicant Information portion of the application can be used in this part of the application.

### **Sites**

The Application requires applicants to disclose each growing, drying, and processing site to be used under the license. In addition to disclosing particular locations, the applicant must attest that the crops listed in the Application will be processed by the applicant personally or will be sold pursuant to a buyer's agreement or a letter of intent.

Applicants also must attest that they have received and read the "THC Results by Variety" document and understand that results may be used to determine what variety of seeds have a history of exceeding 0.3% of THC in Indiana. A link to the document is included in the Application. Applicants are also required to indicate they have read and agree to the minimal growing space requirements.

Applicants must identify, and disclose the location of, each growing, drying, and processing site to be operated under a license. The Application includes an interactive map to designate the points of latitude and longitude for the site. Applicants must designate the site as either an indoor or outdoor facility and report the size of the facility in order to demonstrate compliance with the applicable minimal growing space requirements. Finally, applicants must specify the variety of the seed and the purpose of growing (seed breeding, seed oil, cannabinoids, etc.).

### **Sources**

As indicated in the Application, sources of hemp are "clone suppliers, seed companies, or greenhouses" from which the applicant has purchased the seed. Applicants that are processors must list the sources from which they buy material, including growing cooperatives, individuals, or out of state sources. The Application requires disclosure of the business name, state or country, city, zip code, phone number, and website.

### **Affirmations**

The applicant must affirmatively agree to comply with all parts of the law required to obtain a license, including but not limited to: 1) allowing designated authorities access to growing sites; 2) reimbursing the Seed Commissioner for the cost of testing a grower's crop; and 3) filing all necessary harvest and distribution reports at the end of the growing season.

### **Pay and Submit**



Application fees are \$750 for either handler or grower licenses (or \$1500 for both). The fee is nonrefundable whether the license is issued or not. Payment can be made with a credit or debit card. Payment by a cashier's check or money order may delay the application process by four to five weeks.

If you have questions about the 2021 grow season application process or any other legal issues related to the production and sale of hemp and legal CBD products, please contact **Kendall A. Schnurpel**.

*Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have. In addition, marijuana remains a federally illegal Class I drug. All activities related to marijuana are currently illegal under the federal laws of the United States and nothing contained on this alert is intended to assist in any way with violation of applicable law.*