

GENERAL GOVERNMENT

Department of Agriculture

Office of Agricultural Marketing

(New Administrative Regulation)

302 KAR 50:030 - POLICIES AND PROCEDURES FOR PROCESSORS AND HANDLERS

RELATES TO: KRS 260.850-260.869, 7 U.S.C. § 5940.

STATUTORY AUTHORITY: KRS 260.862.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)(a) confers on the Department authority to promulgate administrative regulations to prescribe rules for any industrial hemp research pilot program in the Commonwealth of Kentucky. KRS 260.862(1)(c) confers on the Department authority to license persons who wish to participate in an industrial hemp research pilot program by cultivating, handling, processing, or marketing industrial hemp. This administrative regulation sets forth rules and procedures for licensing persons who wish to process and handle industrial hemp as a participant in the Department's industrial hemp research pilot program. The rules and procedures for licensing persons who wish to grow industrial hemp are set forth in 302 KAR 50:020. The procedures for affiliated universities and colleges are set forth in 302 KAR 50:040.

Section 1. Definitions.

- (1) “Applicant” means a person, or a person who is authorized to sign for a business entity, who submits an application.
- (2) “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.
- (3) “CBD” means cannabidiol.
- (4) “Commissioner” means the Commissioner of the Department of Agriculture.
- (5) “Certified seed” means seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of a state, territory, or possession to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified.
- (6) “Commonwealth” means the Commonwealth of Kentucky.
- (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) “Department” means the Kentucky Department of Agriculture.
- (11) “Grower Licensing Agreement” means a document executed by a person and the Department authorizing the person to grow, handle, and store hemp at one or more specified locations in the Commonwealth under the terms set forth in the document, KRS 260.850 - 260.863, and 302 KAR 50:020.
- (12) “GPS” means Global Positioning System.
- (13) “Handling” means possessing or storing hemp for any period of time on premises owned, operated, or controlled by a person licensed to grow or process hemp. Handling also includes possessing or storing hemp in a vehicle for any period of time other than during its actual transport from the premises of a person who is licensed by the Department to the premises of another person who is licensed or approved by the Department.
- (14) “Hemp” or “industrial hemp” means the cannabis plant and any part of such plant, whether growing or not, with a decarboxylated delta-9 THC concentration of not more than 0.3 percent on a dry weight basis.

- (15) “Hemp product” or “industrial hemp product” means a product derived from, or made by processing, hemp plants or plant parts.
- (16) “Law enforcement agency” means the Kentucky State Police, DEA, or other federal, state, or local law enforcement agency, or drug suppression unit.
- (17) “Licensed Grower” means a person authorized in the Commonwealth by the Department to grow, handle, store, and market hemp under the terms set forth in a Grower Licensing Agreement, KRS 260.850 - 260.859, and 302 KAR 50:020.
- (18) “Licensed Processor” means a person in the Commonwealth authorized by the Department to process, handle, store, and market hemp under the terms set forth in a Processor Licensing Agreement, KRS 260.850 - 260.859, and this regulation.
- (19) “Location ID” means the unique identifier established by the applicant for each unique set of GPS coordinates where hemp will be grown, handled, stored, or processed, which may include a field name or building name.
- (20) “Nonviable seed” means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.
- (21) “Person” means an individual or business entity.
- (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) “Plot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.
- (24) “ppm” means parts per million.
- (25) “Post-Harvest Sample” means a sample taken from the harvested hemp material from a particular plot’s harvest in accordance with the procedures as defined in 302 KAR 50:050; 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 hemp materials from another plot.
- (26) “Pre-Harvest Sample” means a composite, representative portion from plants in a hemp plot collected in accordance with the procedures as defined in 302 KAR 50:050.
- (27) “Prohibited Variety” means a variety or strain of cannabis excluded from the Department’s program.
- (28) “Processing” means converting an agricultural commodity into a marketable form.

- (29) “Processor Licensing Agreement” means a document executed by a person and the Department authorizing the person to process, handle, and store hemp at one or more specified locations in the Commonwealth under the terms set forth in the document, KRS 260.850 - 260.869, and this regulation.
- (30) “Program” means the Department’s Industrial Hemp Research Pilot Program.
- (31) “Propagule” means a plant or plant part that can be utilized to grow a new plant.
- (32) “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 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.
- (33) “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.
- (34) “Seed source” means the origin of the seed or propagules as determined by the Department.
- (35) “Signing authority” means an officer or agent of the organization with the written power to commit the legal entity to a binding agreement.
- (36) “UK DRS” means the Division of Regulatory Services at the University of Kentucky College of Agriculture, Food, and Environment.
- (37) “University” means an accredited institution of higher learning located in the Commonwealth.
- (38) “Variety” means a subdivision of a species, uniform, and stable; distinct in the sense that the variety can be differentiated by one (1) or more identifiable morphological, physiological, other characteristics from all other publically known varieties, or other characteristics from all other publicly known varieties; uniform in the sense that the 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.

- (39) “Variety of Concern” means any variety of hemp in the Department’s program that tests above 3000 ppm or 0.3000 percent decarboxylated delta-9-THC in one (1) or more pre-harvest samples. 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.
- (40) “Volunteer hemp plant” means any cannabis plant which grows of its own accord from seeds or roots in the year(s) following an intentionally planted cannabis crop. Volunteer hemp plants are not intentionally planted.

Section 2. Who must apply for a processor/ handler licensing agreement.

- (1) Any person who wishes to engage in the processing or handling of hemp that does not fall within the definition of a “publicly marketable hemp product” at any location in the Commonwealth shall apply for a Processor/Handler Licensing Agreement from the Department.
- (2) No person who does not hold a license from the Department shall grow, cultivate, handle, store, or process hemp or other cannabis at any location within the Commonwealth.
- (3) No person under the age of eighteen (18) years of age shall apply for or hold a Processor/Handler License.

Section 3. Application for processor/handler licensing agreement -- deadlines and fees.

- (1) A person interested in holding a Processor/Handler License shall complete a Processor/Handler License Application form.
- (2) Completed Processor/Handler License Application forms shall be postmarked or received by the Department by the end of the application period specified in the application. Completed Processor/Handler License Application forms shall be delivered to KDA Industrial Hemp Research Pilot Program, 111 Corporate Drive, Frankfort, Kentucky 40601.
- (3) The Department shall deny any Processor/Handler License Application that fails to meet the deadline set forth in the application.
- (4) The Department shall require each applicant to pay a processor/handler application fee in the amount specified in 302 KAR 50:060.

- (5) Application fees shall not cover or include the cost of criminal background checks. Applicants and license holders must pay criminal background check fees directly to the Kentucky State Police or other law enforcement agency designated by the Department.
- (6) The Department may deny any Processor/Handler License Application that is received without the application fee specified in 302 KAR 50:060.

Section 4. Application for processor/handler licensing agreement -- required components.

- (1) The Processor/Handler License Application form shall require applicants to submit, at a minimum, the following information and documents:
 - (a) Full name, Kentucky 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 Kentucky 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 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.
- (2) The Department may deny any Processor/Handler License Application that is missing required information.

Section 5. Criminal background check.

- (1) Each Licensed 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 Kentucky State Police or other law enforcement agency designated by the Department;

- (b) Submit payment for the background check fee directly to the Kentucky State Police or other law enforcement agency designated by the Department;
 - (c) Following completion of the background check, ensure delivery of the report to the Department not more than fourteen (14) days following the date the application was received by the Department.
- (3) The Department shall not accept a report from a criminal background check that occurred prior to October 1 of the application year.
 - (4) Failure to submit the background check by the deadline stated in subsection (2)(c) shall be cause for denial of application.
 - (5) Substitution of a signing authority shall require approval from the Department and the submission of a current criminal background check.

Section 6. Application for Processor/Handler Licensing Agreement -- criteria and procedure for evaluation.

- (1) The Department shall apply the following criteria in evaluating applications for a Processor/Handler Licensing Agreement:
 - (a) In accordance with Section 4, the applicant submitted a complete application with all required components and attachments.
 - (b) For applicants who have been program participants previously, the applicant complied with the responsibility to submit any reports required by the Department.
 - (c) All involved business entities are registered and in good standing with the Kentucky Secretary of State.
 - (d) The applicant's processing sites, handling sites, and storage sites, are located in the Commonwealth of Kentucky.
 - (e) -The criminal background check report indicates that, within ten (10) years from the date when the background check was issued, the applicant has:
 - (i) no felony convictions; and
 - (ii) no drug-related misdemeanor convictions or violations.
 - (f) The research plan is compliant with state and federal law.
 - (g) The applicant's planned activities require licensure to remain compliant with state law and KDA policy.
 - (h) The applicant has a hemp acquisition plan.

- (i) The applicant has a marketing plan that is compliant with state and federal law.
 - (j) The applicant has adequate facilities, or plans to acquire adequate facilities sufficiently soon enough, to complete their research plan.
 - (k) In the past, including those times when the applicant was not a participant in the Department's Program, the applicant demonstrated a willingness to comply with the Department's rules, instructions from Department staff, and instructions from representatives of Kentucky State Police and other law enforcement agencies.
 - (l) The applicant is not delinquent in making any required reports or payments to the Department in connection with the applicant's participation in the Program or other programs within the Department.
 - (m) The applicant does not have any unpaid fines or civil penalties owed to the Department.
- (2) The Department shall conditionally approve an application for a Processor/Handler Licensing Agreement when the application satisfies the criteria set forth in this regulation.
 - (3) The Department shall notify applicants by letter or email whether the application has been denied or conditionally approved. No person shall be a participant in the Department's Program until the applicant and the Department have executed a Processor/Handler Licensing Agreement following the applicant's attendance at the Department's mandatory orientation session.

Section 7. Land use restrictions for licensed processors/handlers.

- (1) A Licensed Processor/Handler shall not process or store leaf or floral material from hemp or other cannabis in or adjacent to any structure that is used for residential purposes.
- (2) A Licensed Processor/Handler shall not process hemp or other cannabis in a site that is located within 1,000 feet of a school or a public recreational area.
- (3) A Licensed Processor/Handler shall not apply to process, handle, or store hemp on any property which is not owned or completely controlled by the applicant or licensed processor.
- (4) A Licensed Processor/Handler shall not process, handle, or store 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, or
- (b) Failure to comply with an order from a representative of the Department.

Section 8. Administrative appeal from denial of application.

- (1) An applicant wishing to appeal the Department's denial or partial denial of an application shall submit a written request for a hearing postmarked within fifteen (15) days of the date of the Department's notification letter or email.
- (2) An appealing applicant shall mail a hearing request letter to KDA Industrial Hemp Research Pilot Program, 111 Corporate Drive, Frankfort, Kentucky 40601.
- (3) Appeals shall be heard by a three-person administrative panel whose members shall be designated by the Commissioner. The panel shall include at least one person who is a Department employee and at least one person who is not a Department employee and not involved or invested in any hemp research projects in Kentucky.
- (4) 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.
- (5) The members of the administrative panel shall apply the same standards set forth in this regulation to determine if the Department's action in denying the application was arbitrary or capricious.
- (6) Hearings on appeals shall be open to the public and occur at a time and date and location designated by the Commissioner.
- (7) 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.
- (8) An appealing applicant shall be allowed up to fifteen (15) minutes to present arguments for reversing the Department's denial of the application.
- (9) A representative of the Department shall be allowed up to fifteen (15) minutes to present arguments for affirming the Department's denial of the application.
- (10) The three members of the administrative panel shall rule on the appeal by a majority vote.

Section 9. Processor/Handler licensing agreements.

- (1) An applicant shall not be a participant in the Department's Program until the conditionally approved applicant and the Department have executed a Processor/Handler Licensing Agreement following the applicant's attendance at the Department's mandatory orientation session.
- (2) The Processor/Handler Licensing Agreement shall set forth the terms and conditions governing participation in the Department's program.
- (3) The terms and conditions set forth in the Processor/Handler Licensing Agreement shall include, at a minimum, the following requirements for Licensed Processors/Handlers:
 - (a) Acknowledgement that Licensed Processors/Handlers are acting as agents of the Department and must comply with instructions from representatives of the Department and law enforcement agencies;
 - (b) Agreement to pay a licensing fee in the amount specified in 302 KAR 50:060;
 - (c) Consent to entry onto, and inspection of, all premises where hemp or other cannabis materials are located, or licensed to be located, by representatives of the Department and law enforcement agencies, with or without cause, with or without advance notice;
 - (d) Consent to forfeiture and destruction, without compensation, of:
 - (i) material found to have a measured decarboxylated delta-9-THC content in excess of 0.3 percent on a dry weight basis;
 - (ii) material located in an area that is not licensed by the Department; and
 - (iii) material not properly accounted for in required reporting to the Department;
 - (e) Acknowledgement that no hemp shall be processed, handled, or stored in any location other than the location listed in the Processor/Handler Licensing Agreement;
 - (f) Acknowledgement that Licensed Processors/Handlers shall comply with restrictions set forth by the Department limiting the movement of hemp plants and plant parts;
 - (g) Acknowledgment that the risk of financial or other loss is borne solely by the Licensed Processor/Handler;
 - (h) Agreement that any time the hemp is in transit, a copy of the Processor/Handler's Licensing Agreement shall be available for inspection upon the request of a representative of the Department or a law enforcement agency;

- (i) Agreement to immediately produce a copy of the Processor/Handler Licensing Agreement for inspection upon request from a representative of the Department or a law enforcement agency; and
 - (m) Agreement to submit reports required by the Department on or before the deadlines set by the Department.
 - (n) Agreement to notify the Department of any interaction with law enforcement immediately by phone and follow-up in writing within three (3) days of the occurrence.
 - (o) Agreement to notify the Department of any theft of cannabis materials.
- (4) Failure to agree or comply with terms and conditions set forth in the Processor/Handler Licensing Agreement or this regulation shall constitute grounds for appropriate Departmental action, up to and including termination of the license and expulsion from the Department's Program.
- (5) A person who has been expelled from the Program is not eligible to reapply to the program for a period of five (5) years from the date of expulsion.
- (6) Failure to agree and sign the Processor/Handler Licensing Agreement will terminate conditional approval and no licensing agreement shall be executed.
- (7) A multi-year Licensed Processor/Handler shall:
- (a) submit to the Department an annual criminal background check for the signing authority of record;
 - (b) Attend a mandatory, annual Program orientation session hosted by the Department;
 - (c) Pay annual fees in the amount specified in 302 KAR 50:060;
 - (d) Update all registered addresses, location IDs, and GPS coordinates with the Department; and
 - (e) Agree to comply with the Department's Program policies.

Section 10. Mandatory orientation session.

- (1) Conditionally approved applicants and multi-year Licensed Processors/Handlers shall attend an annual mandatory orientation session at a location designated by the Department.
- (2) The Department shall require in-person attendance.
 - (a) The Department shall not permit any person to attend a mandatory orientation session telephonically or by video.
 - (b) The Department shall not allow any person to attend in lieu of the conditionally approved applicant or Licensed Processor/Handler.

Section 11. Processor/Handler Licensing Fee.

- (1) The Processor/Handler Licensing Fee for processing one or more fiber harvests is required in the amount specified in 302 KAR 50:060.
- (2) The Licensing Fee for processing one or more grain harvests is required in the amount specified in 302 KAR 50:060.
- (3) The Licensing Fee for processing floral material (for example, CBD) is required in the amount specified in 302 KAR 50:060.
- (4) A Processor/Handler that processes more than one crop type (for example, fiber, grain and CBD) shall pay the Licensing Fee that is required for each crop type that is applicable.
- (5) A Handler that does not engage in processing (for example, a seed cleaner, or laboratory) is subject to a Licensing Fee in the amount specified in 302 KAR 50:060.
- (6) The Processor/Handler Licensing Fee shall be paid annually in full prior to the execution of the Processor/Handler Licensing Agreement with a check or money order payable to the Kentucky State Treasurer.

Section 12. Seed acquisition from a source within the Commonwealth.

- (1) No Department pre-approval shall be required for a transfer of hemp seed or propagules of any variety listed on the Department's published Summary of Varieties list, excluding Prohibited Varieties, between Kentucky Licensed Growers and/or Licensed Processors/Handlers within the Commonwealth of Kentucky.

- (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 the Commonwealth without first verifying that the person is licensed by the Department.
- (3) A Licensed Grower or Licensed Processor/Handler must obtain written approval from the Department to change the name of any variety in the Department's program.
- (4) Upon request from a representative of the Department, a Licensed Grower or Licensed Processor/Handler shall provide a distribution list showing locations where and to whom hemp seeds or propagules were distributed.

Section 13. Seed acquisition from a source in a U.S. territory, tribal land, or state other than the Commonwealth of Kentucky.

- (1) No person shall acquire seeds or propagules from a source in a U.S. territory, tribal land, or state other than the Commonwealth of Kentucky without first:
 - (a) Submitting a complete Domestic Seed/Propagule Request form and all required attachments, and
 - (b) Obtaining written approval of the Domestic Seed/Propagule Request from a representative of the Department.
- (2) The Department shall not approve a Domestic Seed/Propagule Request unless the Licensed Processor/Handler affirms in writing that the requested seed acquisition plan will not infringe on the intellectual property rights of any person.
- (3) A person submitting a Domestic Seed/Propagule Request form shall submit to the Department THC test results showing that floral material sampled from mature plants grown from that 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 the Commonwealth shall arrange for the seeds or propagules to arrive at the Department's facility at 105 Corporate Drive, Frankfort, Kentucky 40601, for inventory and distribution.
- (5) Upon request from a representative of the Department, a Licensed Processor/Handler shall provide a distribution list showing locations where and to whom the hemp seeds were distributed following inventory at the Department's facility.

Section 14. 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 Department.
 - (a) If approved, the Department shall request the DEA Permit to Import under the Department's DEA registration.
 - (b) No person shall acquire seeds from a source outside the United States unless the Department 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 Department shall not approve an International Seed Request form for any purpose other than seeds for planting in Kentucky. All Licensed Growers intending to plant the requested seed must be listed on the request form.
- (4) The Department shall not approve an International Seed Request form unless the Licensed Processor affirms in writing that the Licensed Processor's planned activities will not infringe on the intellectual property rights of any person.
- (5) A person submitting an International Seed Request form shall submit to the Department documentation showing that mature plants grown from that 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 or propagules from a source outside the United States shall arrange for the seeds or propagules to arrive at the Department's facility at 105 Corporate Drive, Frankfort, Kentucky 40601, for inventory and distribution.
- (7) Upon request from a representative of the Department, a Licensed Processor/Handler shall provide a distribution list showing locations where and to whom the imported hemp seeds were distributed following inventory at the Department's facility.

Section 15. Seeds of wild, landrace, or unknown origin.

- (1) No person shall acquire or grow hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the Department.
- (2) The Department 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 Department first arranging for replication and THC testing of mature plants grown from such seeds or propagules by the Department or its designee.

- (3) Any Licensed Grower or Licensed Processor found to have saved seed, propagules, or cuttings, or cultivated seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without permission from the Department may be subject to suspension or revocation of their license and forfeiture without compensation of their materials.

Section 16. Site access for representatives of the Department and law enforcement agencies.

- (1) The Department shall provide information about approved growing, handling, processing, and storage site locations to representatives of the Kentucky State Police, DEA, and other law enforcement agencies whose representatives request registered site location information, including GPS coordinates.
- (2) Licensed Processors/Handlers shall have no reasonable expectation of privacy with respect to premises where hemp or other cannabis seeds, plants, or materials are located and any premises listed in the Processor Licensing Agreement.
- (3) A Licensed Processor/Handler, whether present or not, shall permit a representative of the Department or a law enforcement agency to enter into premises where hemp or other cannabis seeds, plants, or materials are located and any premises listed in the Processor Licensing Agreement, with or without cause, and with or without advance notice.

Section 17. Collection and retention of cannabis samples.

- (1) The Department shall have the authority to collect and retain samples of hemp or other cannabis, and products derived from all hemp or cannabis in the possession of a Licensed Processor/Handler.
- (2) All samples collected by the Department become the property of the Department and are non-returnable. No compensation shall be owed by the Department.
- (3) The material to be collected for sampling will be determined by the Department inspector.

Section 18. Restrictions on sale or transfer.

- (1) A 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 Commonwealth who does not hold a license issued by the Department.
- (2) A 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 Commonwealth (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 Processor/Handler is responsible for insuring that such sale or transfer is lawful in other states.
- (3) The Department shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of 0.3 percent), and other marketable hemp products to members of the general public, both within and outside the Commonwealth, provided that the product's decarboxylated delta-9-THC level is not more than 0.3 percent.
- (4) A Licensed Processor/Handler selling or transferring, or permitting the sale or transfer, of floral or plant extracts (including CBD), shall conduct and retain testing data or results for at least three (3) years demonstrating that the product's decarboxylated delta-9-THC level is not more than 0.3 percent.
- (5) The Department shall permit a Licensed Processor/Handler to transfer up to one (1) pound of hemp material per transfer to testing laboratories, both within and outside the Commonwealth, for the purpose of measuring THC, CBD or other phytocannabinoid profile levels. It is the responsibility of the Licensed Processor/Handler to ensure compliance with laws with other states.
- (6) Licensed Processors/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.
- (7) A 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 in 302 KAR 50:070.

Section 19. Other prohibited activities.

- (1) A Licensed Processor/Handler shall not process or store hemp on any site not listed in the Processor/Handler Licensing Agreement.
- (2) A Licensed Processor/Handler shall not 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 on the Licensed Processor's/Handler's current Processor/Handler Licensing Agreement or within another research program.
- (3) A Licensed Processor/Handler shall not allow unsupervised public access to hemp plots, including, but not limited to, activities such as a hemp maze.
- (4) No person shall possess live hemp or other cannabis plants without a Grower Licensing Agreement.

Section 20. Required reports.

- (1) A Licensed Processor/Handler shall submit a completed Production Report annually.
- (2) A Licensed Processor's/Handler's failure to submit an accurate and complete report that is required by the Department on or before the deadline specified by the Department shall constitute grounds for the Department to terminate the Processor/Handler Licensing Agreement and deny future applications for licensure.

Section 21. Information submitted to Department subject to open records act.

- (1) Except as provided in subsection (2), information and documents generated or obtained by the Department in connection with the program shall be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 - 61.884.
- (2) Personally identifiable information including physical address, mailing address, driver's license numbers, background checks, GPS coordinates, telephone, and email addresses shall be shielded by the Department to the maximum extent permitted by law.

Section 22. Immediate license revocation.

- (1) The Department shall immediately revoke a license, without an opportunity for a hearing, if the licensed person pleads guilty to, or is convicted of, any felony or drug-related misdemeanor or violation.
- (2) The Department shall immediately revoke a license, without an opportunity for a hearing, if the licensed person or his or her agent admits to having:
 - (a) Violated any provision of KRS 260.850 to 260.869 or an administrative regulation promulgated under the authority of KRS 260.850 to 260.869;
 - (b) Made any false statement to the Department or its representative; or
 - (c) Failed to comply with any instruction or order from the Department, a representative of the Kentucky State Police, or any law enforcement officer.

Section 23. Temporary license suspension procedures.

- (1) The Department shall notify a Licensed Processor/Handler in writing that the Processor/Handler Licensing Agreement has been temporarily suspended if a representative of the Department receives information supporting an allegation that a Licensed Processor/Handler has:
 - (a) Engaged in conduct violating a provision of this regulation, KRS 260.850 - 260.869, or the Processor Licensing Agreement;
 - (b) Made a false statement to a representative of the Department or a law enforcement agency;
 - (c) Been found to be 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 Department or a law enforcement agency.
- (2) A person whose Processor/Handler Licensing Agreement has been temporarily suspended shall not harvest, process, or remove cannabis from the premises where hemp or other cannabis was located at the time when the Department issued its notice of temporary suspension, except as authorized in writing by a representative of the Department.
- (3) As soon as possible after the notification of temporary suspension, a representative of the Department shall inspect the Licensed Processor/Handler's premises and perform an inventory of all cannabis, hemp, and hemp products that are in the Licensed Processor/Handler's possession.

- (4) The Department shall schedule a license revocation hearing for a date as soon as practicable after the notification of temporary suspension, but in any event not later than sixty (60) days following the notification of temporary suspension.

Section 24. License revocation hearings and consequences of revocation.

- (1) The Department shall notify a person whose Processor/Handler Licensing Agreement has been temporarily suspended of the date when the person's license revocation hearing will occur at a time and place designated by the Commissioner.
- (2) License revocation hearings shall be adjudicated by a three-person administrative panel whose members shall be designated by the Commissioner. The panel shall include at least one person who is a Department employee and at least one person who is not a Department employee and not involved or invested in any Kentucky hemp projects.
- (3) License revocation hearings shall be open to the public.
- (4) A person whose Processor/Handler Licensing Agreement has been temporarily suspended shall appear in person at the assigned hearing time. Failure to appear on time shall constitute a waiver of the person's right to present information and arguments against revoking the Processor/Handler Licensing Agreement.
- (5) A representative of the Department shall be allowed up to fifteen (15) minutes to present information and arguments for revoking the Processor/Handler Licensing Agreement.
- (6) A person whose Processor/Handler Licensing Agreement has been temporarily suspended shall be allowed up to fifteen (15) minutes to present information and arguments against revoking the Processor/Handler Licensing Agreement.
- (7) The three members of the administrative panel shall rule on the question of revocation by a majority vote.
- (8) If a majority of the three members of the administrative panel find that it is more likely than not that a Licensed Processor/Handler has committed any of the acts listed in Section 23(1) of this regulation or violated any provision of the Processor/Handler Licensing Agreement, then the Processor/Handler Licensing Agreement shall be revoked effective immediately.
- (9) If a majority of the members of the administrative panel vote against revoking the Processor/Handler Licensing Agreement, the Department shall lift the temporary suspension within twenty-four (24) hours of the vote.

- (10) If a majority of the members of the administrative panel vote in favor of revoking the Processor/Handler Licensing Agreement, then a representative of the Department or a law enforcement agency shall have authority to destroy or confiscate all cannabis, hemp, and hemp products that are in the person's possession.
- (11) A person whose property is destroyed or confiscated by a representative of the Department or a law enforcement agency shall be owed no compensation or indemnity for the value of the cannabis, hemp, or hemp products that were destroyed or confiscated.
- (12) A person whose Processor/Handler Licensing Agreement has been revoked shall be barred from participation in the hemp research pilot program in any capacity for a minimum period of five (5) years.

Section 25. Monetary civil penalties.

- (1) If a representative of the Department receives information supporting a finding that it is more likely than not that a person has engaged in conduct violating a provision of this regulation, KRS 260.850 - 260.869, or the Processor/Handler Licensing Agreement, then the Department shall assess a monetary civil penalty not to exceed \$2,500 per violation.
- (2) A person wishing to appeal the Department's assessment of a monetary civil penalty shall submit a written request for a hearing within fifteen (15) days of the notification date.
- (3) A person wishing to appeal the Department's assessment of a monetary civil penalty shall mail a hearing request letter to KDA Industrial Hemp Research Pilot Program, 111 Corporate Drive, Frankfort, Kentucky 40601.
- (4) Appeals shall be heard by a three-person administrative panel whose members shall be designated by the Commissioner. The administrative panel shall include at least one person who is a Department employee and at least one person who is not a Department employee and not involved or invested in any Kentucky hemp projects.
- (5) The members of the administrative panel shall determine if the Department's action in assessing the monetary civil penalty was arbitrary or capricious.
- (6) Hearings on the appeal shall be open to the public and occur at a time, date, and location designated by the Commissioner.

- (7) An appealing person shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.
- (8) An appealing person shall be allowed up to fifteen (15) minutes to present arguments for reversing the assessed monetary civil penalty.
- (9) A representative of the Department shall be allowed up to fifteen (15) minutes to present arguments for affirming the assessed monetary civil penalty.
- (10) The three members of the administrative panel shall rule on the appeal by a majority vote.
- (11) A majority of the three members of the administrative panel may affirm the assessed monetary civil penalty, affirm and increase or decrease the assessed monetary civil penalty, or reverse the assessed monetary civil penalty.
- (12) The Department shall have the authority to pursue unpaid monetary civil penalties by filing a civil cause of action in the Franklin Circuit Court.

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