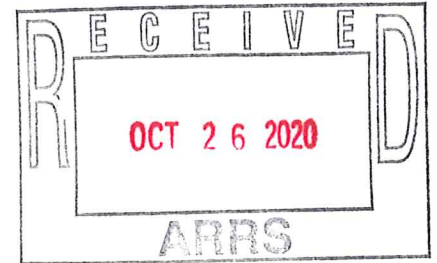




ANDREW G. BESHEAR
GOVERNOR

DEPARTMENT OF VETERANS AFFAIRS
Office of the Commissioner
1111 Louisville Road, Suite B
Frankfort, Kentucky 40601-6123
Phone (502) 564-9203
Fax (502) 564-9240
www.veterans.ky.gov



KEITH L. JACKSON
LIEUTENANT COLONEL (RET)
COMMISSIONER

October 26, 2020

To the Regs Compiler

Dear Regs Compiler:

Enclosed are PDF copies of the amendments proposed by the Administrative Regulations Committee staff and concurred in by my agency.

This includes staff amendments to the following regulations:

- 17 KAR 1:040, Application Requirements for Tuition Waivers
- 17 KAR 4:040, Indigent Veteran's Burial Program
- 17 KAR 3:050, Drug Testing Procedures for KDVA State Veterans Nursing Homes
- 17 KAR 5:020, Kentucky Medal for Freedom
- 17 KAR 4:030, Veterans Service Organizations Burial Honors Program

If you require anything further, please let me know.

Dennis W. Shepherd
Kentucky Department of Veterans Affairs
General Counsel



An Equal Opportunity Employer

Staff-suggested Amendment

Version 10/26/2020 12:39 p.m.

GOVERNOR'S OFFICE

Kentucky Department of Veterans' Affairs

17 KAR 1:040. Application requirements for tuition waiver programs related to veterans.

Page 2

Section 2(1)

Line 4

After "(1) An", insert "applicant".

Delete "application".

Page 2

Section 2(2)

Line 7

After "section, an", insert "applicant".

Delete "application".

Page 2

Section 3(1)

Line 13

After "(1) An", insert "applicant".

Delete "application".

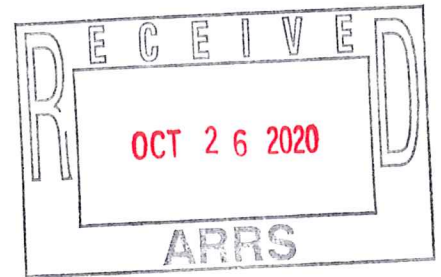
Page 3

Section 5(1)(c)

Lines 11 and 12

After "TW 2, May 2007", insert " : ".

Delete "; and".



ANDREW G. BESHEAR
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Dennis W. Shepherd
Kentucky Department of Veterans Affairs
General Counsel



An Equal Opportunity Employer

Staff-suggested Amendment

Version 10/26/2020 12:42 p.m.

GOVERNOR'S OFFICE

Kentucky Department of Veterans' Affairs

17 KAR 3:050. Drug testing procedures at Kentucky Department of Veterans' Affairs state veterans' nursing homes.

Page 2

Section 1(3)

Line 3

After "Veterans Affairs", insert "¿".

Page 2

Section 1(11)

Line 17

After "being engaged in", insert "¿".

Page 6

Section 4(3)(e)

Line 13

After "authority within one", insert "(1)".

Page 6

Section 4(3)(e)2.

Line 16

After "or completion of", insert "¿".

Page 7

Section 5(2)(b)

Line 19

After "that position;", insert "or".

Delete "and".

Page 9

Section 6(3)

Line 14

After "other drugs, it", insert "shall".

Delete "must".

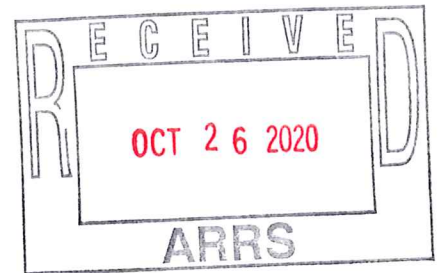
Page 14

Section 10(4)

Line 9

After "related to employee", insert ", ".

Delete "or".



ANDREW G. BESHEAR
GOVERNOR

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- 17 KAR 4:030, Veterans Service Organizations Burial Honors Program

If you require anything further, please let me know.

Dennis W. Shepherd
Kentucky Department of Veterans Affairs
General Counsel



An Equal Opportunity Employer

Staff-suggested Amendment

Version 10/26/20 12:44 p.m.

GOVERNOR'S OFFICE

Kentucky Department of Veterans' Affairs

17 KAR 4:030. Veterans' Service Organization Burial Honor Guard Program.

Page 1

Section 1(2)(a)1.b.

Line 17

After "dishonorable conditions," insert "that is".

Delete "i.e.".

Page 2

Section 2(2)(b)

Line 19

After "live bugler", delete "or ceremonial bugler".

Page 3

Section 2(2)(c)2.

After "ceremonial bugler," insert "thirty-five (35) dollars".

Delete "\$35".

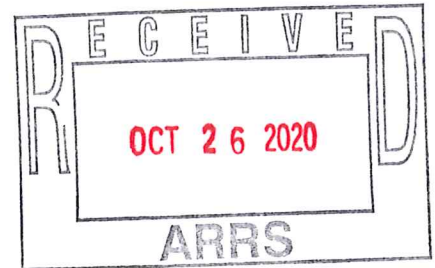
Page 3

Section 2(2)(d)

Line 5

After "song "Taps""", insert "¿".

Delete "¿".



ANDREW G. BESHEAR
GOVERNOR

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- 17 KAR 4:030, Veterans Service Organizations Burial Honors Program

If you require anything further, please let me know.

Dennis W. Shepherd
Kentucky Department of Veterans Affairs
General Counsel



An Equal Opportunity Employer

Staff-suggested Amendment

Version 10/26/2020 12:46 p.m.

GOVERNOR'S OFFICE

Kentucky Department of Veterans' Affairs

17 KAR 4:040. Indigent Veteran's Burial Program.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Line 7

After "KRS 40.357(1)", insert "requires".

Delete "directs".

Page 1

Section 1

Lines 14 and 15

After "private or public, the", insert "deceased".

Delete "following requirements".

After "shall", delete "be met".

Page 1

Section 1(1)

Lines 16 and 17

After "(1)", delete "The deceased shall".

Capitalize "be".

After "discharge records;", delete "and who".

Page 1

Section 1(2)

Line 18

After "(2)", delete "The deceased shall".

Capitalize "have".

After "died in Kentucky", insert "¿".

Delete ".".

Page 1

Section 1(3)

Line 19

After "(3)", delete "The deceased shall".

Capitalize "have".

Page 2

Section 1(3)(c)

Line 5

After "public source", insert "."

Delete ",".

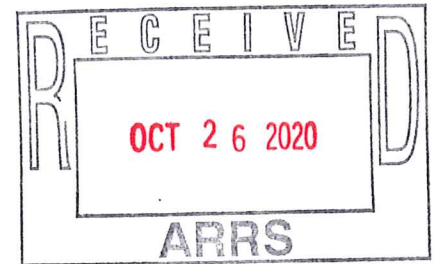
Page 2

Section 2

Line 13

After "reimbursement authorized", insert "shall be".

Delete "is".



ANDREW G. BESHEAR
GOVERNOR

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October 26, 2020

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- 17 KAR 4:030, Veterans Service Organizations Burial Honors Program

If you require anything further, please let me know.

Dennis W. Shepherd
Kentucky Department of Veterans Affairs
General Counsel



An Equal Opportunity Employer

Staff-suggested Amendment

Version 10/26/2020 12:48 p.m.

GOVERNOR'S OFFICE

Kentucky Department of Veterans' Affairs

17 KAR 5:020. Kentucky Medal for Freedom.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Line 9

After "eligible recipients and", insert the following:

requires the Kentucky Department of Veterans Affairs (KDVA)

After "Freedom of honor roll", insert the following:

and to promulgate administrative regulations to carry out the provisions of this section

Page 1

Section 1(1)

Line 12

After "person, eighteen", insert "(18)".

Page 1

Section 1(2)

Lines 14 and 15

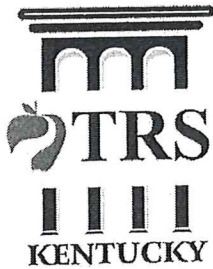
After "Medal for Freedom", insert "shall be presented".

Page 2

Section 3(1)

Line 17

After "panel of three", insert "(3)".

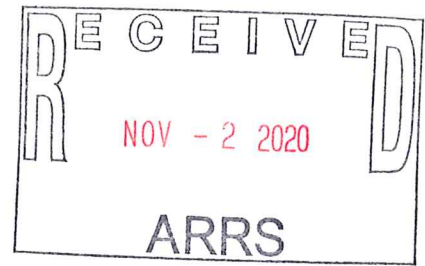


TEACHERS' RETIREMENT SYSTEM
of the State of Kentucky

GARY L. HARBIN, CPA
Executive Secretary

ROBERT B. BARNES, JD
Deputy Executive Secretary
Operations and General Counsel

J. ERIC WAMPLER, JD
Deputy Executive Secretary
Finance and Administration



2 November 2020

Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
029 Capital Annex
702 Capital Avenue
Frankfort, Kentucky 40601

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 102 KAR 1:340, Teachers' Retirement System proposes the attached agency amendments to 102 KAR 1:340.

Sincerely,

Electronically signed by
Robert B. Barnes
Deputy Executive Secretary Operations
& General Counsel

Agency Amendment

Teachers' Retirement System

102 KAR 1:340. Calculation of final average salary if there is a corresponding change in position or in length of employment during any of the final three (3) years immediately prior to retirement.

Page 1

Line 4

After "salary", delete the following:

"if there is a corresponding change in position or in length of employment during any of the final three (3) years immediately prior to retirement."

Page 1

Line 16

After "for", insert ":(1)"

Page 1

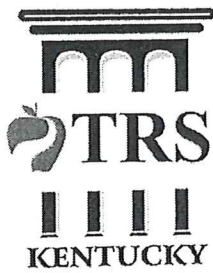
Line 17

After "employment", insert "for any of the final three (3) years immediately prior to retirement; and (2) measuring the increase in compensation for those final three (3) years."

Page 5

Line 5

Insert "Section 6. The measurement of the limitation under KRS 161.220(9)(b) shall be applied so that the combined increase in salary for each of the last three (3) full years of salary prior to retirement shall not exceed the total permissible, percentage increase received by other members of the employer for the same three (3) year period."

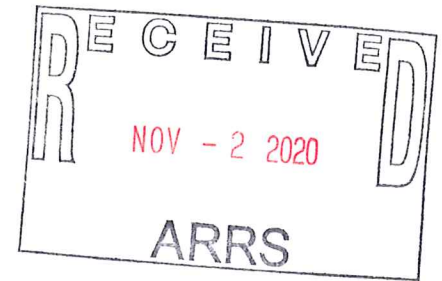


TEACHERS' RETIREMENT SYSTEM
of the State of Kentucky

GARY L. HARBIN, CPA
Executive Secretary

ROBERT B. BARNES, JD
*Deputy Executive Secretary
Operations and General Counsel*

J. ERIC WAMPLER, JD
*Deputy Executive Secretary
Finance and Administration*



2 November 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capital Annex
Frankfort, Kentucky 40601

RE: 102 KAR 1:340. Calculation of final average salary if there is a corresponding change in position or in length of employment during any of the three (3) years immediately prior to retirement.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 102 KAR 1:340, the Teachers' Retirement System proposes the attached amendment to 102 KAR 1:340.

Sincerely,

Electronically signed by
Robert B. Barnes
Deputy Executive Secretary Operations
& General Counsel

Staff-suggested Amendment

**Version 10/20/2020 4:30 p.m.
FINANCE AND ADMINISTRATION CABINET
TEACHERS' RETIREMENT SYSTEM**

102 KAR 1:340. Calculation of final average salary if there is a corresponding change in position or in length of employment during any of the final three (3) years immediately prior to retirement.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Line 9

After "NECESSITY, FUNCTION", insert "I".

Page 2

Section 1(1)

Line 4

After "taught, grant writing", insert "I".

Page 2

Section 1(3)(a)

Line 11

After "part-time employment", insert "I".

Page 4

Section 3(1)(d)

Line 3

After "For purposes of", insert the following:

paragraphs (b) and (c) of this subsection

Delete the following:

subsections b and c of this section

Page 4

Section 4

Line 10

After "Section 4.", insert "(1)".

Ryan F. Quarles
Commissioner



Corporate Drive
Complex
Frankfort, KY 40601
(502) 573-0282

Kentucky Department of Agriculture

November 5, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 302 KAR 50:021 Policies and procedures for hemp growers
302 KAR 50:031 Policies and procedures for hemp processors and handlers
302 KAR 50:045 Department's reports to USDA; records retention for three years
302 KAR 50:056 Sampling and THC testing; post-testing actions; disposal of noncompliant harvests

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 50:021, 302 KAR 50:031, 302 KAR 50:045, and 302 KAR 50:056 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 50:021, 302 KAR 50:031, 302 KAR 50:045, and 302 KAR 50:056.

Sincerely,

<Electronically signed this day>

Clint Quarles
Staff Attorney
Kentucky Department of Agriculture
107 Corporate Drive
Frankfort, KY 40601



DEPARTMENT OF AGRICULTURE
Office of the Consumer and Environmental Protection

302 KAR 50:021. Procedures and policies ~~[and procedures]~~ for hemp growers.

RELATES TO: KRS ~~61.870 – 61.844~~, Chapter 217B, 260.850-260.869, 7 U.S.C. 1639p, 5940, 21 U.S.C. Chapter 9

STATUTORY AUTHORITY: KRS 260.862~~[- 7 U.S.C. 1639p]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)~~[(a)]~~ authorizes the department to promulgate administrative regulations for a Hemp Licensing Program in the Commonwealth of Kentucky. KRS 260.862(1)~~(a)~~~~[(e)]~~ authorizes the department to license persons who wish to participate in a Hemp Licensing Program by cultivating, handling, processing, or marketing hemp. This administrative regulation establishes procedures and requirements for licensing persons who wish to grow or cultivate hemp as a participant in the department's Hemp Licensing Program.

Section 1. Definitions.

(1) "Agent" means a person who is employed by or working under contract for a license holder, and who does not have any ownership interest in the hemp.

(2) "Applicant" means a person~~[- or a person who is authorized to sign for a business entity]~~ who submits an application on his or her behalf or on behalf of a business entity to participate in the Hemp Licensing Program.

(3) "Broker" means to engage or participate in the marketing of hemp by acting as an intermediary or negotiator between prospective buyers and sellers.

(4) "Cannabis":

(a) Means the plant that, depending on its THC concentration level, is ~~[defined as]~~ either "hemp" or "marijuana." Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis or subspecies thereof. Cannabis includes all parts of the plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts; and

(b) Does not mean[include] a "publicly marketable hemp product," as defined by Section 1(37) of this administrative regulation.

(5) "CBD" means cannabidiol.

(6) "Commissioner" is defined by KRS 260.850(1).

(7) "Commonwealth" means the Commonwealth of Kentucky.

(8) "Conviction":

(a) Means an adjudication or finding of guilt, including[- it also includes] a plea of guilty or nolo contendere; and

(b) Does not mean[- If] a conviction [is] subsequently overturned on appeal, pardoned, or expunged~~[- then it is not considered a conviction]~~.

(9) "Corrective action plan" **means[is]** a document **established[set forth]** by the department for a licensee to correct a negligent violation of, or non-compliance with, KRS 260.850-260.869 or **a requirement of 302 KAR Chapter 50[an administrative regulation promulgated under the authority of those statutes]**.

(10) "Culpable mental state greater than negligence" means to act intentionally, knowingly, willfully, or with criminal negligence.

(11) "Decarboxylation" means the completion of the chemical reaction that converts the delta-9 THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven-tenths (87.7) percent of delta-9 THC-acid.

(12) "delta-9-THC" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis). For compliance purposes, all delta-9-THC concentrations **are[must be]** measured post- decarboxylation (result commonly referred to as total THC).

(13) "Department" or "KDA" is defined by KRS 260.850(3).

(14) "Geospatial location" means a location designated through a GPS or other global system of navigational satellites used to determine the precise ground position of a place or object.

(15) "GPS" means Global Positioning System.

(16) "Handling" is defined by KRS 260.850(4).

(17) "Hemp" or "industrial hemp" is defined by KRS 260.850(5).

(18) "Hemp Grower License" means a document issued by the department authorizing the person to grow, handle, market, and store hemp in the Commonwealth under the terms established in the document, KRS 260.850 through 260.863, and this administrative regulation.

(19) "Hemp Processor/Handler License" means a document issued by the department authorizing the person to process, handle, market, and store hemp in the Commonwealth under the terms established in the document, KRS 260.850 through 260.869, and 302 KAR 50:031.

(20) "Hemp product" or "industrial hemp product" is defined by KRS 260.850(6).

(21) "Key participant":

(a) Means a person who has a direct or indirect financial interest in the entity producing hemp, such as an owner or a partner in a partnership **and includes[. "Key participants" include, without limitation,]** an entity's chief executive officer, chief operating officer, and chief financial officer; **and**

(b) Does not mean[. "Key participants" do not include] farm managers, field managers, or shift managers.

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

(23) "Licensed grower" means a person authorized in the Commonwealth by the department to grow, handle, store, and market hemp under the terms established in a hemp grower license, KRS 260.850 through 260.859[.], and this administrative regulation.

(24) "Licensed processor" means a person in the Commonwealth authorized by the department to process, handle, store, and market hemp under the terms established in a hemp processor/handler license KRS 260.850 through 260.859, and 302 KAR 50:031.

(25) "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 can include a field name or building name.

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

(27) "Negligence" means failure to exercise the level of care that a reasonably prudent person would exercise in complying with an administrative regulation, rule, or instruction.

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

(29) "Person" means an individual or business entity.

(30) "Pesticide" means any substance or mixture of substances intended to:

(a) Prevent, destroy, control, repel, attract, or mitigate any pest;

(b) Be used as a plant regulator, defoliant, or desiccant; or

(c) Be used as a spray adjuvant, once ~~[they have been]~~ mixed with a U.S. Environmental Protection Agency registered product.

(31) "Post-harvest sample" means a sample taken from the harvested hemp from a particular lot's harvest in accordance with the procedures as established in 302 KAR 50:056. The entire lot's harvest is in the same form (for example, intact-plant, flowers, ground materials~~[-etc.]~~), homogeneous, and not mixed with non-hemp materials or hemp from another lot.

(32) "Pre-harvest sample" means a composite, representative portion from living plants in a hemp lot collected in accordance with the procedures as established in 302 KAR 50:056.

(33) "Prohibited variety" means a variety or strain of cannabis excluded from the Kentucky Hemp Licensing Program.

(34) "Processing" is defined by KRS 260.850(9).

(35) "Program" means the department's Hemp Licensing Program.

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

(37) "Publicly marketable hemp product" means a hemp product that meets one (1) or more of the following descriptions:

(a) The product:

1. Does not include any living hemp plants, viable seeds, leaf materials, floral materials, or delta-9-THC content above zero and three-tenths (0.3) percent; and

2. 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 delta-9-THC above zero and three-tenths (0.3) percent);

(b) The product is CBD that was derived from "hemp," as defined by subsection (17) of this section~~[this administrative regulation]~~; or

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

(38) "Secondary pre-harvest sample" means a pre-harvest sample that is taken:

(a) In a given plot after the first pre-harvest sample is taken; and

(b) On a different day than the initial pre-harvest sample.

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

(40) "Strain" means a group of hemp with presumed common ancestry and identified physiological distinctions. A strain does not meet the uniformity, stability, or distinction requirements to be considered a variety.

(41) "University" means an accredited institution of higher learning located in the Commonwealth.

(42) "Variety" means a subdivision of a species that is:

(a) Uniform, in ~~[the sense]~~ that the variations in essential and distinctive characteristics are describable;

(b) Stable, in ~~[the sense]~~ that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and

(c) 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.

(43) "Variety of concern" means any variety of hemp that tests above 0.3000 percent delta9-THC in one (1) or more pre-harvest samples. A hemp variety designated as a "variety of concern" could be subject to restrictions and additional testing.

(44) "Volunteer cannabis plant" means any cannabis plant that:

(a) Grows of its own accord from seeds or roots in the years following an intentionally planted cannabis crop; and

(b) Is not intentionally planted.

Section 2. Grower License Application.

(1) Any person who wishes to grow hemp at any location in the Commonwealth shall submit to the department a completed Hemp Grower License Application, or annual license renewal, incorporated by reference as part of the **Hemp** Grower Licensing Application Packet in 302 KAR 50:080.

(2) Existing grower license holders shall annually complete the department's requirements for license renewal by March 15.

(3) A person who does not hold a license from the department shall not:

(a) Grow, cultivate, handle, or process; or

(b) Broker, store, or market hemp or other cannabis that does not fall within the definition of a "publicly marketable hemp product" at any location within the Commonwealth.

(4) A person under the age of eighteen (18) years of age shall not apply for or hold a grower license.

(5) Completed Hemp Grower License Applications ~~shall~~**[must]** be received by the department by the end of the application period established in the application.

(6) Completed Hemp Grower License Application forms shall be delivered to KDA Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(7) The department shall deny any Hemp Grower License Application that fails to meet the deadline established in the application.

(8) Each applicant shall pay a grower application fee in the amount established in 302 KAR 50:060.

(9) Application fees shall not cover or include the cost of the criminal background checks required by KRS 260.862(2)(d) and Section 3 of this administrative regulation. Applicants and license holders shall pay criminal background check fees ~~[in the manner directed by the department]~~.

(10) The department shall deny any Hemp Grower License Application that is received without the application fee established in 302 KAR 50:060.

(11) With the Hemp Grower License Application form, the applicant shall submit, at a minimum:

(a) If the applicant is an individual, the individual's full name, residential address, telephone number, and email address (if available);

(b) If the applicant is a business entity, ~~the following information~~:

~~1.(i)~~ the entity's name, Employer Identification Number, business location address in Kentucky, and principal business location;

~~2.(ii)~~ for the individual who will have signing authority on the entity's behalf, his or her full name, title within the entity, business address, telephone number, and email address (if available); and

~~3.(iii)~~ for each key participant, his or her full name, title within the entity, business address, telephone number, and email address (if available);

(c) The proposed acreage or greenhouse or indoor square footage to be planted;

(d) Street address, location ID, and GPS coordinates for each field, greenhouse, building, or site where hemp will be grown, handled, or stored;

(e) Maps depicting each site where hemp will be grown, handled, or stored, with appropriate designations for field boundaries, and Location IDs corresponding to the GPS coordinates; and

(f) Agreement to all terms and conditions established in the hemp grower application.

(12) Any Grower License Application that is missing required information shall be subject to denial.

(13) The terms and conditions established in the hemp grower application shall include for a licensed grower, at a minimum, ~~the following requirements for licensed growers~~:

(a) Acknowledgement~~Acknowledge~~ that licensed growers shall comply with all requirements established~~administrative regulations~~ in 302 KAR 50;

(b) Agreement~~Agree~~ to pay a licensing fee in the amount established in 302 KAR 50:060;

(c) Acknowledgement~~Acknowledge~~ that licensed growers shall comply with instructions from representatives of the department and law enforcement agencies;

(d) A consent to entry onto, and inspection of, all premises where hemp or other cannabis plants or materials are located, or licensed to be located, by representatives of the department and law enforcement agencies, with or without cause and with or without advance notice;

(e) A consent to forfeiture and destruction, without compensation, of:

1. Material found to have a measured delta-9-THC content in excess of zero and three-tenths (0.3) percent on a dry weight basis;

2. Plants located in an area that is not licensed by the department; and

3. Plants not accounted for in required reporting to the department;

(f) Agreement~~Agree~~ to apply for licensing of all growing, handling, and storage locations, including GPS coordinates, and receive department approval for those locations prior to having hemp on those premises;

(g) Acknowledgement~~Acknowledge~~ that licensed growers shall submit:

1. A Site Modification Request, incorporated by reference in 302 KAR 50:080;

2. Form, The appropriate fees based on the requested changes; and

~~3.[-and obtain]~~ Prior written approval from a representative of the department before implementing any change to the licensed sites stated in the hemp grower license~~[-]~~ and an acknowledgement that growing site changes shall be subject to a site modification surcharge in the amount established in 302 KAR 50:060 for a new set of GPS coordinates;

(h) Acknowledgement~~[Acknowledge]~~ that anyone applying pesticides to hemp shall hold a pesticide license and apply pesticides in accordance with Section ~~16~~~~[18]~~ of this administrative regulation;

(i) Acknowledgement~~[Acknowledge]~~ that the risk of financial or other loss shall be borne solely by the licensed grower;

(j) Acknowledgement~~[Acknowledge]~~ that licensed growers shall comply with restrictions established by the department limiting the movement of hemp plants and plant parts;

(k) Agreement~~[Agree]~~ that any time hemp is in transit, a copy of the hemp grower license shall be available for inspection upon the request of a representative of the department or a law enforcement agency;

(l) Agreement~~[Agree]~~ that, upon request from a representative of the department or a law enforcement agency, a licensed grower shall immediately produce a copy of his or her hemp grower license for inspection;

(m) Agreement~~[Agree]~~ to submit Field Planting Reports ~~and~~~~[-]~~ Harvest Reports incorporated by reference in 302 KAR 50:080, and other reports required by the department to which the grower has agreed, on or before the deadlines established in this administrative regulation;

(n) Agreement~~[Agree]~~ to scout and monitor unlicensed fields for volunteer cannabis plants and to destroy those volunteer cannabis plants for three (3) years past the last date of planting reported to the department;

(o) Agreement~~[Agree]~~ not to employ or rent land to cultivate hemp from any person whose employment~~[who]~~ was terminated or denied admission to the Hemp Licensing Program for~~[one (1) or both of the following reasons]~~:

1. Failure to obtain an acceptable criminal background check;~~[or]~~
2. Failure to comply with an order from a representative of the department; or

3. Both; and

(p) Agreement~~[Agree]~~ to abide by all land use restrictions for licensed growers established~~[set forth]~~ in Section 5 of this administrative regulation~~[these regulations]~~.

Section 3. Criminal Background Check.

(1) Each licensed grower,~~[or]~~ applicant, or key participant within an entity that is a grower or applicant, shall undergo and pay for an annual criminal background check as required by KRS 260.862(2)(d).

(2) A licensed grower,~~[or]~~ applicant, or key participant within an entity that is a grower or applicant, shall, following completion of the background check, ensure delivery of the report to the department with the licensing application or renewal.

(3) The department shall not accept a report from a criminal background check that occurred more than sixty (60) days prior to the date of the application.

(4) Failure to submit the background check with the application shall be grounds for license denial.

(5) Substitution of a signing authority shall require approval from the department and the submission of a current criminal background check on the substitute signing authority.

Section 4. Application for Hemp Grower License; Criteria and Procedure for Evaluation.

(1) The department shall apply the criteria established in paragraphs (a) through (l) of this subsection in evaluating an application for the grower license.

(a) In accordance with Section 2 of this administrative regulation, the applicant shall submit a complete application with all required components and attachments.

(b) For an applicant who has been a Hemp Licensing Program participant previously, the applicant shall comply with the responsibility to submit:

1. Field Planting Report and Greenhouse/Indoor Planting Report, incorporated by reference in 302 KAR 50:080;

2. Harvest Report, incorporated by reference in 302 KAR 50:080;

3. Any other reports deemed necessary by the department to which the applicant has agreed.

(c) The applicant's growing sites, handling sites, and storage sites shall be located in the Commonwealth of Kentucky.

(d) The applicant's primary residence shall be located in Commonwealth of Kentucky or within **fifty (50)** miles of at least one **(1)** of the applicant's Kentucky growing sites.

(e) The applicant shall affirm that the applicant resides at the primary residence listed on the Grower License Application form from May 1 to September 30.

(f) The criminal background check report indicates that, within ten (10) years from the date when the background check was issued, the applicant shall not have:

1. A felony conviction; or

2. A drug-related misdemeanor conviction or violation.

(g) **A** person who has been convicted of any felony or any drug-related misdemeanor or violation in the previous ten (10) years from the date of application shall **not** be eligible to obtain a license. **;** ~~provided, however, that~~

1. A person who was growing hemp lawfully with a license, registration, or authorization under a pilot program authorized by Section 7606 of the Agricultural Act of 2014 (7 U.S.C. 5940) shall be eligible to obtain a license. **;** ~~and~~

2. A person who was lawfully growing hemp ~~[under the 2014 Farm Bill]~~ before December 20, 2018 and was convicted prior to December 20, 2018 shall be eligible to obtain a license.

(h) ~~[In the past,]~~ Including those times when the applicant was not a participant in the department's Hemp Licensing Program, the applicant shall have 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.

(i) The applicant shall not be delinquent in making any required reports or payments to the department in connection with the applicant's participation in the Hemp Licensing Program or other programs within the department.

(j) The applicant shall not have any unpaid fees, fines, or civil penalties owed to the department.

(k) The applicant shall not have and shall not make any false statements or representations to a representative of the department or a law enforcement agency. Any person who materially fal-

sifies any information contained in an application shall be ineligible to obtain a license from the department.

(1) The applicant's proposed growing sites shall comply with the land use restrictions **established[set forth]** in Section 5 of this administrative regulation. Denial of all proposed growing sites shall constitute grounds for denial of the application.

(2) The department shall conditionally approve an application for a hemp grower license if the application **complies with[satisfies the criteria established in]** this administrative regulation.

(3) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved. A person shall not be a participant in the Hemp Licensing Program until the applicant has received a hemp grower license from the department.

(4) Applicants shall pay licensing fees prior to receiving a hemp grower license.

(5) Applicants shall complete a mandatory orientation session at a location designated by the department. The department shall not allow any person to complete orientation in lieu of the applicant.

Section 5. Land Use Restrictions for Licensed Growers.

(1) A licensed grower shall not plant or grow any cannabis that is not hemp.

(2) A licensed grower shall not plant or grow hemp or other cannabis on any site not licensed.

(3) A licensed grower shall not grow hemp or other cannabis in or within 100 feet of any structure that is used for residential purposes without first obtaining written permission from the department.

(4) A licensed grower shall not handle or store leaf or floral material from hemp or other cannabis in or adjacent to any structure that is used for residential purposes.

(5) Hemp shall be physically segregated from other crops unless prior approval is obtained in writing from the department.

(6) A licensed grower shall plant a minimum of 1,000 plants in each growing site unless prior approval is received in writing from the department.

(7) A licensed grower shall plant a minimum of one-quarter (0.25) acre in each outdoor growing site unless prior approval is received in writing from the department.

(8) Except as **established[provided]** in subsection **[5](9)** of this **section[administrative regulation]**, a licensed grower shall not grow hemp or other cannabis in any outdoor field that is located within 1,000 feet of a school or a public recreational area.

(9) Notwithstanding the prohibition in subsection **[5](8)** of this **section[administrative regulation]**, hemp may be grown within 1,000 feet of a school, **if[provided that]:**

(a) The applicant has been designated by a school district superintendent; ~~and~~

(b) The applicant is a vocational agriculture instructor, agriculture teacher, or other qualified person who is employed by a school district; and

(c) The school district's board has voted to approve the applicant's proposal.

(10) An applicant or licensed grower shall not include any property on his or her application or Site Modification Request, incorporated by reference in 302 KAR 50:080, to grow, cultivate, or store hemp that is not owned or completely controlled by the applicant or licensed grower, as

evidenced by a written lease or other document that shall be provided to the department upon request.

(11) A licensed grower shall not grow, handle, or store hemp or other cannabis on property owned by, leased from, or previously submitted in a license application by any person who is ineligible or whose employment[was] terminated, or denied admission to the Hemp Licensing Program for [one (1) 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; or

(c) Both.

(12) Licensed growers with plots of one (1) acre or less shall[are required to] post signage at the plot location. The signage shall include the [following information]:

(a) Agency title[The statement], "Kentucky Department of Agriculture Hemp Licensing Program";

(b) License holder's name;

(c) License holder's license number; and

(d) [The] Department's telephone number.

Section 6. 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 Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(3) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any hemp 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 established in this administrative regulation.

(5) The members of the administrative panel shall apply the same standards established in this administrative 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) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

Section 7. Hemp Grower Licenses.

(1) An applicant shall not be a participant in the Hemp Licensing Program until the department has issued a hemp grower license following the applicant's completion of the department's mandatory orientation session and payment of licensing fees.

(2) The grower license application shall establish the terms and conditions, pursuant to KRS Chapter 260 and 302 KAR Chapter 50, governing participation in the Hemp Licensing Program.

(3) Failure to agree or comply with terms and conditions established in the hemp grower license application or this administrative regulation shall constitute grounds for appropriate departmental action, up to and including termination of the grower license and expulsion from the Hemp Licensing Program.

(4) A Hemp Grower License shall[will] remain in force as long as the license holder meets annual renewal requirements by March 15 of each year.

(5) A Hemp Grower License may be terminated by the license holder or the department upon thirty (30) days prior written notice.

(6) A Hemp Grower License authorizes the license holder to grow hemp; handle his or her own hemp, including ~~[such activities as]~~ drying, grinding, separating foliage from stem, storing, and packaging; and market his or her own hemp. A Hemp Grower License shall[does] not authorize the grower to process hemp, handle other person's hemp, or market another person's hemp.

(7) The department shall issue grower's license numbers in accordance with this format: "21_0001" through "21_9999."

Section 8. Licensing Fees; Secondary Pre-Harvest Sample Fees.

(1) Licensing fee.

(a) The conditionally approved applicant or license holder shall pay a licensing fee prior to the issuance of a new license or an annual license renewal.

(b) The licensing fee for each growing address shall be in the amount established in 302 KAR 50:060.

(2) Secondary Pre-Harvest Sample fee.

(a) If a licensed grower fails to complete the harvest within fifteen (15) days after the department collects the pre-harvest sample, the licensed grower shall submit a new Harvest Report and may be required to pay a secondary pre-harvest sample fee.

(b) If four (4) or more samples are taken from the same address, then the licensed grower shall be required to pay a secondary pre-harvest sample fee for each sample taken from that address in excess of three (3) samples.

(c) The secondary Pre-Harvest sample fee shall be paid to the department within fifteen (15) days of invoice by the department. The secondary pre-harvest sample fee shall be as established in 302 KAR 50:060.

(d) The licensed grower shall pay the secondary pre-harvest sample fee within fifteen (15) days of invoice.

(e) The licensed grower shall not harvest the remaining crop until the department collects a secondary pre-harvest sample if one (1) is required as established in paragraph (a) or (b) of this subsection.

Section 9. Site Modifications and Site Modification Surcharge Fees.

(1) A licensed grower who elects to grow hemp in a new growing location or store or handle

at a site other than the sites specified by the GPS coordinates listed on the hemp grower license, shall submit a Site Modification Request, incorporated by reference in 302 KAR 50:080, and obtain written approval from a representative of the department, prior to planting or storing at the proposed location.

(2) Any request for a new growing location shall comply with the land use restrictions established in Section 5 of this administrative regulation.

(4) The department shall charge a site modification surcharge fee for each new Location ID, (specifically, a GPS coordinate for each new individual field or greenhouse or indoor structure) where hemp will be grown. The amount of the site modification surcharge fee shall be as established in 302 KAR 50:060.

(5) The department shall not approve a site modification request for a new growing location until the department has received the site modification surcharge fee.

(6) The department shall not assess a site modification surcharge for changes to storage only locations.

Section 10. Seed and Propagule Acquisition.

(1) A license holder intending to acquire seeds or propagules first shall determine whether or not the variety or strain intended for purchase is listed on the department's current Summary of Varieties List, **which is in the application packet incorporated by reference in 302 KAR 50:080.**

(a) If the variety or strain is listed on the Summary of Varieties List, no pre-approval from the department **shall be[is]** required.

(b) If the variety or strain is not listed on the Summary of Varieties List, the license holder shall submit a New Hemp Variety or Strain Request Form along with a certificate of analysis for that strain or variety, showing that mature plants grown from that seed variety or strain have a floral material delta-9-THC (~~**[must be]**~~ measured post-decarboxylation, also referred to as total THC) content of not more than 0.300% on a dry weight basis from an independent third-party laboratory.

(2) A license holder who develops a new hemp variety or strain shall submit the New Hemp Variety or Strain Request form, prior to its use in crop production.

(3) The department shall not approve a New Hemp Variety or Strain Request unless the licensed grower affirms in writing that the requested seed acquisition plan does not infringe on the intellectual property rights of any person and that the seed or propagule source is a current legal hemp operation.

(4) The department shall not approve a New Hemp Variety or Strain Request if a representative of the department has information supporting a belief that the variety or strain will produce plants with delta-9-THC (~~**[must be]**~~ measured post-decarboxylation, also referred to as total THC) content of more than 0.300% on a dry weight basis.

(5) A license holder shall not buy, sell, possess, or transfer seeds or propagules of any variety or strain designated as a Prohibited Variety on the department's published Summary of Varieties list.

(6) Upon request from a representative of the department, a licensed grower or licensed processor shall provide a distribution list showing locations where and to whom the hemp seeds or propagules were distributed.

(7) Any person engaging in the distribution of hemp seeds shall adhere to the applicable Kentucky seed laws (KRS 250.010 ~~through~~~~[to KRS]~~ 250.990) and administrative regulations (12 KAR 1:116 ~~through~~~~[to 12 KAR]~~ 1:175).

(8) Any person who intends to move transplants or other living plants to a location outside Kentucky ~~shall~~~~[must]~~ obtain a Class A Nursery License from the Kentucky Office of the State Entomologist.

Section 11. Seeds of Wild, Landrace, or Unknown Origin.

(1) A person shall not 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 the 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 advance written permission from the department shall be subject to suspension or revocation of his or her license and forfeiture without compensation of his or her materials.

Section 12. Planting Reports to USDA's Farm Service Agency (FSA).

(1) Prior to the submission of Planting Reports, a licensed grower shall report hemp crop acreage to USDA's Farm Service Agency (FSA) including, at a minimum, the~~following information~~:

(a) Street address and, to the extent practicable, geospatial location for each lot or greenhouse where hemp will be produced;~~;~~

(b) Acreage (or square footage, in the case of a greenhouse or other indoor growing facility) dedicated to the growing of each variety or strain of hemp; and

(c) ~~The~~ Grower's name and license number.

(2) The department shall collect and retain, for a period of at least three (3) calendar years, location ID information for every site or location where the department has approved hemp to be grown.

Section 13. Planting Reports for Outdoor Plantings.

(1) A licensed grower shall submit to the department a complete and current Field Planting Report, within fifteen (15) days after every planting, including complete replanting, of seeds or propagules in an outdoor location.

(2) Each Field Planting Report shall identify the:

(a) Correct variety or strain name;

(b) Address and Field location ID as listed on the hemp grower's license;

(c) Lot number provided by the USDA FSA Office; and

(d) Amount planted and the primary intended use of the harvest.

(3) A licensed grower who does not plant hemp in an approved outdoor site listed in the hemp grower license shall submit a Field Planting Report, on or before July 31, stating that hemp has not been planted and will not be planted at that site.

Section 14. Planting Reports for Indoor Plantings.

(1) A licensed grower shall submit to the department a complete and current Greenhouse/Indoor Planting Report within fifteen (15) days after establishing plants at an indoor location.

(2) Each Greenhouse/Indoor Planting Report shall identify the:

(a) Correct variety or strain name;

(b) Address and Greenhouse or indoor growing location ID as listed in the hemp grower license;

(c) Lot number provided by the USDA FSA Office; and

(d) Amount planted and the primary intended use of the harvest or of the hemp plants.

(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, **which are in the application packet incorporated by reference in 302 KAR 50:080**, for each location ID to the department. Greenhouse/Indoor Planting Reports shall be due no later than March 31, June 30, September 30, and December 31.

Section 15. Site Access for Representatives of the Department and Law Enforcement Agencies.

(1) The department shall provide information about approved growing, handling, and storage site locations to representatives of the Kentucky State Police, USDA, DEA, and other law enforcement agencies whose representatives request licensed site information, including GPS coordinates.

(2) Licensed growers 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 hemp grower license.

(3) A licensed grower, 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 hemp grower's license, with or without cause and with or without advanced notice.

Section 16. Pesticide Use.

(1) A licensed grower who uses a pesticide on hemp shall first be certified to apply pesticides by the department pursuant to KRS Chapter 217B.

(2) A licensed grower who is certified to apply pesticides by the department pursuant to KRS Chapter 217B shall not use, or be eligible to use, a Category 10 license to apply pesticides to hemp in violation of the product label.

(3) A licensed grower shall not use any pesticide in violation of the product label.

(4) 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.

(5) The department may perform pesticide testing on a random basis or if representatives of the department have reason to believe that a pesticide may have been applied to hemp in violation of the product label.

(6) Hemp seeds, plants, and materials bearing pesticide residue in violation of the label shall be subject to forfeiture or destruction without compensation.

~~[(7) The department shall publish a guidance document titled "Kentucky Hemp and Pesticides" on its Web site to provide guidance about pesticide use on hemp.]~~

Section 17. Responsibility of a Licensed Grower Regarding Harvest of Hemp Plots.

(1) The department may inspect a Licensed Grower's premise~~[,]~~ or collect samples of any hemp or other cannabis material, at any time.

(2) The grower shall not harvest hemp plants from a lot without the department first collecting samples from that lot.

(3) **At least** fifteen (15) days prior to the anticipated harvest of hemp plants, the grower shall submit to the department a completed and current ~~[""]~~Harvest Report~~[""]~~ form identifying the intended date of harvest (or date of destruction, in the case of a failed crop).

(4) The department's receipt of a Harvest Report shall trigger a sample collection by a representative of the department in accordance with the procedures **established[set forth]** in 302 KAR **50:056[50:055]**.

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

(6) Representatives of the department shall be provided with complete and unrestricted access to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants~~[,]~~ and all locations listed in the hemp grower's license.

(7) The licensed grower shall harvest the crop not more than fifteen (15) days following the date of sample collection by the department, unless specifically authorized in writing by the department.

(8) If the licensed grower fails to complete a harvest within fifteen (15) days following the date of sample collection, then the licensed grower shall submit a new Harvest Report and may be required to pay a secondary pre-harvest sample fee in the amount established in 302 KAR 50:060.

(9) Floral materials shall not be moved outside the Commonwealth, nor moved beyond a processor, nor commingled, nor extracted, until the department releases the material in writing.

(10) Harvested materials from one (1) lot shall not be commingled with other harvested lots without prior written permission from the department.

(11) A licensed grower who fails to submit a Harvest Report shall be subject to revocation of his or her license.

(12) A licensed grower who proceeds to harvest a crop without first obtaining authorization from the department shall be subject to revocation of his or her license.

Section 18. Collection of Samples; THC Testing; Post-Testing Actions.

(1) The department shall collect hemp samples for THC testing in accordance with the procedures **established[set forth]** in 302 KAR **50:056[50:055]**.

(2) The designated laboratory shall receive, prepare, and release hemp samples in accordance with the procedures **established[set forth]** in 302 KAR **50:056[50:055]**.

(3) The designated laboratory shall measure delta-9-THC concentration of each hemp sample (postdecarboxylation, often referred to as total THC) in accordance with the procedures **established[set forth]** in 302 KAR 50:056.

(4) The department shall undertake post-testing actions in accordance with the procedures established in 302 KAR 50:056.

(5) All samples shall become the property of the department and shall not be returnable. Compensation shall not be owed by the department.

(6) If the designated laboratory is not able to provide THC testing services required by the department, the department may identify and contract with a third party lab to perform THC testing services.

(7) The department may collect samples of hemp or other cannabis material at any time.

Section 19. Restrictions on Sale or Transfer.

(1) A licensed grower shall not sell or transfer, or **allow[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 grower shall not sell or transfer, or **allow[permit]** the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person outside the Commonwealth who is not authorized to possess such materials under the laws of that jurisdiction.

(3) The department shall **allow[permit]** the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of zero and three-tenths (0.3) percent) and other marketable hemp products to members of the general public, both within and outside the Commonwealth, if the marketable hemp product's decarboxylated delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(4) A licensed grower 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 delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(5) A licensed grower shall not sell or transfer floral extracts containing a decarboxylated delta-9 THC concentration in excess of zero and three-tenths (0.3) percent.

(6) Licensed growers shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, 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 grower shall not knowingly permit hemp to be sold to or used by any person in the Commonwealth, who is involved in the manufacture of an item named on the prohibited products list established in 302 KAR 50:070.

(8) A person shall not ship, **[or]** transport, or allow to be shipped or transported, any hemp product with a decarboxylated delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

Section 20. Other Prohibited Activities.

(1) A licensed grower shall not allow another person, other than an agent of the licensed grower, to grow, handle, or store hemp under their license in lieu of obtaining a separate hemp grower license.

(2) A license holder shall not make, manufacture, or distribute in the Commonwealth any of the prohibited products listed in 302 KAR 50:070.

Section 21. Information Submitted to the Department Subject to Open Records Act, **KRS 61.870 Through 61.844.**

(1) Except as established in subsection (2) of this section, information and documents generated or obtained by the department shall be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 through 61.884.

(2) Personally identifiable information including physical address, mailing address, driver's license numbers, background checks, GPS coordinates, telephone numbers, and email addresses~~[,]~~ shall be shielded from disclosure to the maximum extent permitted by law~~[- provided, however], except that~~ the department shall provide this information to law enforcement agencies and other regulatory agencies upon request.

Section 22. Violations Requiring Temporary License Suspension Procedures.

(1) The department shall notify a licensed grower in writing that the Hemp Grower License has been temporarily suspended if a representative of the department receives information supporting an allegation that a licensed grower has:

(a) Plead guilty to, or is convicted of, any felony or drug-related misdemeanor or violation, in accordance with KRS 260.864~~[-]~~

(b) Engaged in conduct violating a provision of KRS 260.850 through 260.869, 302 KAR Chapter 50, or the hemp grower license with a culpable mental state greater than negligence;

(c) Made a false statement to a representative of the department or a law enforcement agency with a culpable mental state greater than negligence;

(d) Been found to be growing or in possession of cannabis with a measured delta-9-THC concentration above **zero and three-tenths (0.3)**~~[0.3]~~ percent with a culpable mental state greater than negligence; or

(e) Failed to comply with an order from a representative of the department or a law enforcement agency with a culpable mental state greater than negligence.

(2) 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.

(3) A person whose Hemp Grower License 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.

(4) As soon as possible after the notification of temporary suspension, a representative of the department shall inspect the licensed grower's premises and perform an inventory of all cannabis, hemp, and hemp products that are in the licensed grower's possession.

Section 23. License Revocation Hearings and Consequences of Revocation.

(1) The department shall notify a person whose Hemp Grower License 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 (3) person administrative panel in accordance with KRS 260.864.

(3) License revocation hearings shall be open to the public.

(4) A person whose Hemp Grower License has been temporarily suspended shall appear in person at the assigned hearing time. **Barring unexpected events, such as inclement weather,** failure to appear on time shall constitute a waiver of the person's right to present information and arguments against revoking the hemp grower license.

(5) A representative of the department shall be allowed an opportunity to present information and arguments for revoking the hemp grower license.

(6) A person whose hemp grower license has been temporarily suspended shall be allowed an opportunity to present information and arguments against revoking the hemp grower license.

(7) The three (3) members of the administrative panel shall rule on the question of revocation by a majority vote.

(8) If a majority of the three (3) members of the administrative panel find that it is more likely than not that a licensed grower has committed any of the acts listed in **subsection (1) of this section**~~[Section 23(1) of this administrative regulation]~~, then the hemp grower license shall be revoked effective immediately.

(9) If a majority of the members of the administrative panel vote against revoking the hemp grower license, 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 hemp grower license, 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) The department shall immediately report any person whose license has been revoked on the grounds that he or she violated a provision of KRS 260.850 through 260.869, 302 KAR Chapter 50, or violated the grower license with a culpable mental state greater than negligence, to an appropriate law enforcement agency.

(13) A person whose grower license has been revoked shall not be eligible for licensure for a period of five (5) years from the date of the most recent violation.

Section 24. 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 KRS 260.850 through 260.869, 302 KAR Chapter 50, or the hemp grower license application, 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 Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(4) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The administrative panel shall include at least one (1) person who is a department employee and at least one (1) 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. **Barring unexpected events, such as inclement weather,** failure to appear on time shall constitute grounds for dismissal of the appeal.

(8) An appealing person shall be allowed an opportunity to present arguments for reversing the assessed monetary civil penalty.

(9) A representative of the department shall be allowed an opportunity to present arguments for affirming the assessed monetary civil penalty.

(10) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

(11) A majority of the three (3) 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.

Section 25. Licensing for Representatives of Universities and Colleges.

(1) Except as **established[provided]** in this section~~[of this administrative regulation]~~, faculty members, administrators, and staff members of an institution of higher education shall be subject to **all requirements[each of the sections]** of this administrative regulation.

(2) **An[No]** institution of higher education shall **not allow[permit or authorize]** its faculty, administration~~[;]~~ or staff members, or any sponsored student~~[;]~~ to be in possession of, or conduct academic research involving, living hemp plants, leaf material, floral material, or viable seeds of hemp without first completing and submitting a Hemp License Application.

(3) An authorized faculty, administrator, or staff member of an eligible institution of higher education who wishes to be in possession of, or conduct an academic research project involving~~[;]~~ living hemp plants, leaf material, floral material, or viable seeds of hemp shall complete and submit a Hemp License Application.

(4) If a university applicant's research plan includes growing hemp, then a Hemp Grower License **shall[will]** be issued by the department.

(5) If a university applicant's research plan does not include growing hemp, then a Hemp Processor/Handler License **shall[will]** be issued by the department. An authorized faculty, adminis-

trator, or staff member of an eligible institution of higher education who wishes to be in possession of, or conduct an academic research project involving, leaf material or floral material from hemp shall complete and submit a Processor/Handler License Application.

(6) The department shall accept applications from an authorized faculty, administrator, or staff member of an eligible institution of higher education at any time of the year.

(7) The department shall not collect fees for licenses issued to a faculty member, administrator, or staff member of an institution of higher education if the project is for research only ~~and[(that is,] not intended for commerce[)]~~.

(8) Sampling and testing of hemp grown under the authority of this section shall be conducted by the department if the harvested material is intended for commerce.

(9) ~~An[As used in this section, "] eligible institution of higher education~~ **shall[" means an institution of higher education that is]:**

(a) ~~Be[Is]~~ accredited by, and in good standing with, a regional or national higher education accreditation agency;

(b) ~~Confer[Confers]~~ academic degrees at the associate, bachelor, master, or doctoral level; and

(c) ~~Have[Has]~~ a principal campus or office that is located at a site within the Commonwealth of Kentucky.

Section 26. Record Keeping Requirements; Three (3) Year Retention Period.

(1) For at least three (3) years, license holders shall maintain and make available for inspection by the department during reasonable business hours, **records regarding:**

(a) ~~[Records regarding]~~ Acquisition of hemp plants;

(b) ~~[Records regarding]~~ Production and handling of hemp plants;

(c) ~~[Records regarding]~~ A storage of hemp plants; and

(d) ~~[Records regarding]~~ Disposal of all cannabis plants that do not meet the definition ~~for[of]~~ "hemp".

(2) The department shall have access to any premises where hemp plants ~~could[may]~~ be held during reasonable business hours.

(3) All reports and records required to be submitted to the department as part of participation in the program in this part, which include confidential data or business information, ~~such as[including but not limited to]~~ information constituting a trade secret or disclosing a trade position, financial condition, or business operations of the particular licensee or their customers, shall be received by, and at all times kept in the custody and control of, one (1) or more employees of the department or their representatives. Confidential data or business information may be shared with applicable federal, state, or local law enforcement agencies or their designees in compliance with applicable law.

Section 27. Corrective Action Plans for Negligent Violations.

(1) If the department determines that a grower committed a negligent violation of any provision within KRS Chapter 260.850 to 260.869[,] or **302 KAR Chapter 50[any administrative regulation promulgated under the authority of those statutes]**, then the department shall devise and implement a corrective action plan for the grower.

(2) Corrective action plans ~~shall~~**[will]** remain in place for at least two (2) years and include, at a minimum~~[- the following]~~:

- (a) The date by which the grower shall correct each negligent violation;
- (b) Steps to correct each negligent violation; and
- (c) A description of the procedures to demonstrate compliance.

(3) A grower who commits a negligent violation shall not, as a result of that violation, be subject to any criminal enforcement action by any government.

(4) If a subsequent violation occurs while a corrective action plan is in place, a new corrective action plan ~~shall~~**[must]** be submitted with a heightened level of quality control, staff training, and quantifiable action measures.

(5) A grower who commits three negligent violations within a five (5) year period shall have his or her license revoked and be ineligible to obtain a license for a period of five (5) years beginning on the date of the third violation. A violation that occurred prior to January 1, 2021 shall not count toward the three (3) violations referred to in this subsection.

Section 28. Mandatory Reports to Law Enforcement Agencies for Violations with a Culpable Mental State Greater than Negligence.

(1) In addition to being subject to the license suspension, license revocation, and monetary civil penalty procedures established in ~~this administrative regulation~~**[302 KAR 50:021]** and 302 KAR 50:031, a person who is found by the department to have violated any statute or administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence shall be subject to the reporting requirements established in this section.

(2) The department shall immediately report a person who is found by the department to have violated any statute or administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence to the~~following law enforcement agencies~~:

- (a) ~~The~~**[The]** Attorney General of the United States;
- (b) ~~The~~**[The]** Commissioner of the Kentucky State Police; and
- (c) ~~The~~**[The]** Commander of the Kentucky State Police's Cannabis Suppression Branch.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

Ryan F. Quarles
Commissioner



Corporate Drive
Complex
Frankfort, KY 40601
(502) 573-0282

Kentucky Department of Agriculture

November 5, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 302 KAR 50:021 Policies and procedures for hemp growers
302 KAR 50:031 Policies and procedures for hemp processors and handlers
302 KAR 50:045 Department's reports to USDA; records retention for three years
302 KAR 50:056 Sampling and THC testing; post-testing actions; disposal of noncompliant harvests

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 50:021, 302 KAR 50:031, 302 KAR 50:045, and 302 KAR 50:056 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 50:021, 302 KAR 50:031, 302 KAR 50:045, and 302 KAR 50:056.

Sincerely,

<Electronically signed this day>

Clint Quarles
Staff Attorney
Kentucky Department of Agriculture
107 Corporate Drive
Frankfort, KY 40601



DEPARTMENT OF AGRICULTURE
Office of the Consumer and Environmental Protection

302 KAR 50:031. Procedures and policies ~~[and procedures]~~ for hemp processors and handlers.

RELATES TO: KRS ~~61.870 - 61.844~~, 260.850-260.869, 7 U.S.C. 1739p, 21 U.S.C. Chapter 9

STATUTORY AUTHORITY: KRS 260.862; 7 U.S.C. 1739p

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)~~[(a)]~~ authorizes the department to promulgate administrative regulations for a Hemp Licensing Program in the Commonwealth of Kentucky. KRS 260.862(1)~~(a)~~~~[(e)]~~ authorizes the department to license persons who wish to participate in a Hemp Licensing Program by cultivating, handling, processing, or marketing hemp. This administrative regulation establishes procedures and requirements for licensing persons who wish to process or handle hemp as a participant in the department's Hemp Licensing Program.

Section 1. Definitions.

(1) "Agent" means a person who is employed by or working under contract for a license holder, and who does not have any ownership interest in the hemp.

(2) "Applicant" means a person~~[-, or a person who is authorized to sign for a business entity,]~~ who submits an application on his or her behalf or on behalf of a business entity to participate in the Hemp Licensing Program.

(3) "Brokering" means engaging or participating in the marketing of industrial hemp by acting as an intermediary or negotiator between prospective buyers and sellers

(4) "Cannabis":

(a) Means the plant that, depending on its THC concentration level, is defined as either "hemp" or "marijuana." Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis or subspecies thereof. Cannabis includes all parts of the plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts; and

(b) Does not mean[include] a "publicly marketable hemp product," as defined by subsection (31) of this section[this administrative regulation].

(5) "CBD" means cannabidiol.

(6) "Commissioner" is defined by KRS 260.850(1).

(7) "Commonwealth" means the Commonwealth of Kentucky.

(8) "Conviction":

(a) Means an adjudication or finding of guilt, including[-; it also includes] a plea of guilty or nolo contendere; and

(b) Does not mean[-If] a conviction [is] subsequently overturned on appeal, pardoned, or expunged~~[-, then it is not considered a conviction]~~.

(9) "Corrective action plan" **means[is]** a document **established[set forth]** by the department for a licensee to correct a negligent violation of, or non-compliance with, KRS 260.850 - 260.869 or **a requirement of 302 KAR Chapter 50[an administrative regulation promulgated under the authority of those statutes]**.

(10) "Culpable mental state greater than negligence" means to act intentionally, knowingly, willfully, or with criminal negligence.

(11) "Decarboxylation" means the completion of the chemical reaction that converts delta-9 THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of delta-9 THC-acid.

(12) "delta-9-THC" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis). For compliance purposes, all delta-9-THC concentrations **are[must be]** measured post- decarboxylation (result commonly referred to as total THC).

(13) "Department" or "KDA" is defined by KRS 260.850**(3)**.

(14) "GPS" means Global Positioning System.

(15) "Handling" is defined by KRS 260.850**(4)**.

(16) "Hemp" or "industrial hemp" is defined by KRS 260.850**(5)**.

(16) "Hemp Grower License" means a document issued by the department authorizing the person to grow, handle, and store hemp in the Commonwealth under the terms established in the document, KRS 260.850 through 260.863, and this administrative regulation.

(17) "Hemp Processor/Handler License" means a document issued by the department authorizing the person to process, handle, market, and store hemp in the Commonwealth under the terms established in the document, KRS 260.850 through 260.869, and **this administrative regulation[302 KAR 50:030]**.

(18) "Hemp product" or "industrial hemp product" is defined by KRS 260.850**(6)**.

(19) "Key participant":

(a) Means a person who has a direct or indirect financial interest in the entity producing hemp, such as an owner or a partner in a partnership **and includes[- "Key participants" include, without limitation,]** an entity's chief executive officer, chief operating officer, and chief financial officer; **and**

(b) Does not mean[- "Key participants" do not include] facility managers or shift managers.

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

(21) "Licensed grower" means a person authorized in the commonwealth by the department to grow, handle, store, and market hemp under the terms established in a hemp grower license, KRS 260.850 through 260.859, and 302 KAR 50:021.

(22) "Licensed processor" means a person in the Commonwealth authorized by the department to process, handle, store, and market hemp under the terms established in a hemp processor/handler license, KRS 260.850 through 260.859, and this administrative regulation.

(23) "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 can include a field name or building name.

(24) "Negligence" means failure to exercise the level of care that a reasonably prudent person would exercise in complying with an administrative regulation, rule, or instruction.

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

(26) "Person" means an individual or business entity.

(27) "Prohibited variety" means a variety or strain of cannabis excluded from the Kentucky Hemp Licensing Program.

(28) "Processing" is defined by KRS 260.850(9).

(29) "Program" means the department's Hemp Licensing Program.

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

(31) "Publicly marketable hemp product" means a hemp product that meets one (1) or more of the following descriptions:

(a) The product:

1.[(i)] Does not include any living hemp plants, viable seeds, leaf materials, floral materials, or delta-9-THC content above zero and three-tenths (0.3) percent; and

2.[(ii)] 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 delta-9 THC above zero and three-tenths (0.3) percent);

(b) The product is CBD that was derived from "hemp", as defined by **subsection (16) of this section**~~[this administrative regulation]~~; or

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

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

(33) "Strain" means a group of hemp with presumed common ancestry and identified physiological distinctions. A strain does not meet the uniformity, stability, or distinction requirements to be considered a variety.

(34) "Variety" means a subdivision of a species that is:

(a) Uniform, in ~~[the sense]~~ that the variations in essential and distinctive characteristics are describable;

(b) Stable, in ~~[the sense]~~ that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and

(c) 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.

(35) "Variety of concern" means any variety of hemp that tests above 0.3000 percent delta 9-THC in one (1) or more pre-harvest samples. A hemp variety designated as a "variety of concern" could be subject to restrictions and additional testing.

Section 2. Processor or Handler License Application.

(1) Any person who wishes to engage in the processing, handling, brokering, or marketing of hemp that does not fall within the definition of a "publicly marketable hemp product" at any location in the Commonwealth shall submit to the department a complete Processor/Handler Li-

license Application, or annual license renewal, incorporated by reference as part of the Processor/Handler License Application Packet in 302 KAR 50:080.

(2) Existing processor or handler license holders shall complete the department's requirements for license renewal by December 31.

(3) Any person who does not hold a grower license from the department shall not ~~grow~~, cultivate, or handle living hemp plants or other cannabis.

(4) Any person who does not hold a processor/handler license from the department shall not process, handle, broker, or market hemp or other cannabis that does not fall within the definition of a "publicly marketable hemp product" at any location within the commonwealth.

(5) A person under the age of eighteen (18) years of age shall not apply for or hold a processor or handler license.

(6) Application deadlines.

(a) Completed Processor/Handler License Application forms shall be postmarked or received by the department by the end of the application period established in the application.

(b) Completed Processor/Handler License Application forms shall be delivered to KDA Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(c) The department shall deny any Processor/Handler License Application that is not received by the deadline established in the application.

(7) The department shall require each applicant to pay a processor or handler application fee in the amount established in 302 KAR 50:060.

(8) Application fees shall not cover or include the cost of the criminal background checks required by KRS 260.862(2)(d) and Section 3 of this administrative regulation. Applicants and license holders shall pay criminal background check fees directly to the Kentucky State Police or other law enforcement agency **~~designated in the manner directed by the department~~**.

(9) The department shall deny any Processor/Handler License Application that is received without the application fee established in 302 KAR 50:060.

(10) With the Hemp Processor/Handler License Application form the applicant shall submit, at a minimum:

(a) If the applicant is an individual, the individual's full name, residential address, telephone number, and email address (if available); or

(b) If the applicant is a business entity **~~the following information~~**:

1. The entity's name, Employer Identification Number, business location address in Kentucky, and principal business location; and

2. For the individual who will have signing authority on the entity's behalf, his or her full name, title within the entity, business address, telephone number, and email address (if available) ~~;~~

(c) Complete and accurate responses to each request for information on the application form; **and**

(d) Maps and the street address, location ID, and GPS coordinates for each building or site where hemp will be processed, handled, or stored.

(11) Any Processor/Handler License Application that is missing required information shall be subject to denial.

Section 3. Criminal Background Check.

(1) Each licensed processor/handler or applicant shall undergo and pay for an annual criminal background check as required by KRS 260.862(2)(d).

(2) A licensed processor/handler or applicant, or key participant within an entity that is a processor/handler or applicant, shall, following completion of the background check, ensure delivery of the report to the department with the application or renewal.

(3) The department shall not accept a report from a criminal background check that occurred more than ~~sixty (60)~~**[60]** days prior to the date of the application.

(4) Failure to submit the background check with the application shall be grounds for license denial.

(5) Substitution of a signing authority shall require approval from the department and the submission of a current criminal background check on the substitute signing authority.

Section 4. Application for Processor or Handler Licensing; Criteria and Procedure for Evaluation.

(1) The department shall apply the criteria established in paragraphs (a) through (l) of this subsection in evaluating applications for a processor/handler license.~~;~~**[;]**

(a) In accordance with Section 2 of this administrative regulation, the applicant shall submit a complete application with all required components and attachments.

(b) An applicant who has been a program participant previously, the applicant shall comply with the responsibility to submit any reports required by 302 KAR Chapter 50.

(c) All involved business entities shall be registered and in good standing with the Kentucky Secretary of State.

(d) The applicant's processing sites, handling sites, and storage sites, shall be 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 shall not have:

1. A felony conviction; or
2. A drug-related misdemeanor conviction or violation.

(f) The applicant's planned activities shall remain compliant with state law~~and KDA policy~~**[and KDA policy]**.

(g) The applicant shall have adequate facilities~~;~~**[;]** or plans to acquire adequate facilities sufficiently ~~soon enough,~~**[;]** to complete the planned activities.

(h) ~~[In the past,]~~ Including those times ~~[when]~~**[when]** the applicant was not a participant in the Hemp Licensing Program, the applicant shall have 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.

(i) The applicant shall not be delinquent in making any required reports or payments to the department in connection with the applicant's participation in the Hemp Licensing Program or other programs within the department.

(j) The applicant shall not have any unpaid fees, fines, or civil penalties owed to the department.

(k) The applicant shall not have made and shall not make any false statements or representations to a representative of the department or a law enforcement agency.

(1) The applicant's proposed sites shall comply with the land use restrictions **established[set forth]** in Section 5 of this administrative regulation. Denial of all proposed processing and handling sites shall constitute grounds for denial of the application.

(2) The department shall conditionally approve an application for a processor/handler license if the application satisfies the criteria established in this administrative regulation.

(3) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved. A person shall not be a participant in the Hemp Licensing Program until the applicant has received a hemp processor/handler license from the department.

(4) Applicants shall pay licensing fees prior to receiving a processor/handler license.

(5) Applicants shall complete a mandatory orientation session at a location to be determined by the department. The department shall not allow any person to complete orientation in lieu of the applicant.

Section 5. Land Use Restrictions for Licensed Processors or Handlers.

(1) A licensed processor or 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 without first obtaining written permission from the department.

(2) A licensed processor or handler shall not apply to process, handle, or store hemp on any property that is not owned or completely controlled by the applicant or licensed processor.

(3) A licensed processor or handler shall not process, handle, or store hemp on property owned by, leased from, or previously submitted in an application by any person who is ineligible or was terminated or denied admission to the Hemp Licensing Program for **[one (1) 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; or

(c) Both.

Section 6. 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 **appellant[appealing applicant]** shall mail a hearing request letter to KDA Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(3) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any hemp 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 established in this administrative regulation.

(5) The members of the administrative panel shall apply the same standards **established[set forth]** in this **administrative** 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 **appellant**~~[appealing]~~ applicant shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.

(9) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

Section 7. Hemp Processor or Handler Licenses.

(1) An applicant shall not be a participant in the Hemp Licensing Program until the department has issued a processor/handler license following the applicant's completion of the department's mandatory orientation session and payment of licensing fees.

(2) The processor/handler license application shall establish the terms and conditions governing participation in the Hemp Licensing Program.

(3) Failure to agree or comply with terms and conditions established in the processor/handler license application or this administrative regulation shall constitute grounds for appropriate departmental action, up to and including termination of the license and expulsion from the Hemp Licensing Program.

(4) Annual renewal of a processor/handler license shall require the license holder to:

(a) Submit to the department an annual criminal background check for the signing authority of record;

(b) Complete a mandatory, annual program orientation session hosted by the department;

(c) Pay annual fees in the amount established in 302 KAR 50:060;

(d) Update all licensed addresses, location IDs, and GPS coordinates with the department; and

(e) Agree to comply with the policies **established**~~[set forth]~~ in 302 KAR Chapter 50.

(5) A processor/handler license **shall**~~[will]~~ remain in force as long as the license holder meets the annual renewal requirements by December 31 of each year.

(6) A processor/handler license may be terminated by the license holder or the department upon thirty (30) days prior written notice.

(7) The department shall issue processor/handler's license numbers in accordance with this format: "P_0001" through "P_9999."

Section 8. Processor or Handler Licensing Fee.

(1) The licensing fee for processing harvested hemp fiber shall be the amount established in 302 KAR 50:060.

(2) The licensing fee for processing harvested hemp grain shall be the amount established in 302 KAR 50:060.

(3) The licensing fee for processing hemp floral material (for example, CBD extraction) shall be the amount established in 302 KAR 50:060.

(4) A licensed processor or handler that processes more than one (1) harvest component (for example, fiber, grain, and floral material) shall pay the licensing fee that is required for each harvested component that is applicable.

(5) A handler that does not engage in processing (for example, a seed cleaner, laboratory or dryer) shall be subject to a licensing fee in the amount established in 302 KAR 50:060.

(6) The licensed processor or handler fee shall be paid annually in full prior to the issuance or renewal of the processor/handler license.

Section 9. Seed and Propagule Acquisition.

(1) A license holder intending to acquire seeds or propagules first shall determine whether or not the variety or strain intended for purchase is listed on the department's current Summary of Varieties List.

(a) If the variety or strain is listed on the Summary of Varieties List, ~~a[no]~~ pre-approval from the department ~~shall not be[is]~~ required.

(b) If the variety or strain is not listed on the Summary of Varieties List, the license holder shall submit a New Hemp Variety or Strain Request Form along with a certificate of analysis for that strain or variety, showing that mature plants grown from that seed variety or strain have a floral material delta-9-THC (~~[must-be]~~ measured post-decarboxylation, also referred to as total THC) content of not more than 0.300% on a dry weight basis from an independent third-party laboratory.

(2) A license holder who develops a new hemp variety or strain shall submit the New Hemp Variety or Strain Request form, prior to its use in crop production.

(3) The department shall not approve a New Hemp Variety or Strain Request unless the licensed grower affirms in writing that the requested seed acquisition plan shall not infringe on the intellectual property rights of any person~~[,]~~ and the seed or propagule source is a current legal hemp operation.

(4) The department shall not approve a New Hemp Variety or Strain Request if a representative of the department has information supporting a belief that the variety or strain will produce plants with delta-9-THC (~~[must-be]~~ measured post-decarboxylation, also referred to as total THC) content of more than 0.300% on a dry weight basis.

(5) A license holder shall not buy, sell, possess, or transfer seeds or propagules of any variety or strain designated as a prohibited variety on the department's published summary of varieties list.

(6) Upon request from a representative of the department, a licensed grower or licensed processor shall provide a distribution list showing locations where and to whom the hemp seeds or propagules were distributed.

(7) Any person engaging in the distribution of hemp seeds shall adhere to all applicable Kentucky seed laws (KRS 250.010 ~~through[to-KRS]~~ 250.990) and regulations (12 KAR 1:116 ~~through[to-12-KAR]~~ 1:175).

(8) Any person who intends to move transplants or other living plants to a location outside Kentucky ~~shall[must]~~ obtain a Class A Nursery License from the Kentucky Office of the State Entomologist.

Section 10. Seeds of Wild, Landrace, or Unknown Origin.

(1) A person shall not 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 the seeds or propagules by the department or its designee.

(3) Any licensed grower or licensed processor or handler 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 shall be subject to suspension or revocation of their license and forfeiture without compensation of their materials.

Section 11. 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 licensed site location information, including GPS coordinates.

(2) Licensed processors or 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 or handler license.

(3) A licensed processor or 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 or handler license, with or without cause, and with or without advance notice.

Section 12. Collection and Retention of Cannabis Samples.

(1) The department ~~may~~**[shall have the authority to]** collect, test, and retain samples of hemp or other cannabis, and substances derived from hemp or cannabis in the possession of a licensed processor or handler.

(2) All samples collected by the department shall become the property of the department and shall be nonreturnable. Compensation shall not be owed by the department.

(3) The material to be collected for sampling shall be determined by the department inspector.

Section 13. Restrictions on Sale or Transfer.

(1) A licensed processor or handler shall not sell, ~~[or]~~transfer, or ~~allow~~**[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 or handler shall not sell, ~~[or]~~transfer, or ~~allow~~**[permit]** the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person outside the Commonwealth who is not authorized to possess ~~[such]~~materials under the laws of that jurisdiction.

(3) The department shall permit the sale or transfer of stripped stalks, fiber, dried roots, non-viable seeds, seed oils, cannabinoid extracts (excluding THC in excess of zero and ~~three-tenths~~**[threetenths]** (0.3) percent), and other marketable hemp products to members of the general public, both within and outside the Commonwealth, if the marketable hemp product's decarboxylated delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(4) A licensed processor or handler selling, ~~or~~ transferring, or allowing~~permitting~~ the sale or transfer~~ing~~ of floral or plant extracts (including CBD), shall conduct and retain testing data reflecting the decarboxylated delta-9 THC level for at least three (3) years.

(5) A licensed processor or handler shall not sell or transfer floral extracts containing a decarboxylated delta-9 THC concentration in excess of zero and three-tenths (0.3) percent except that pursuant to KRS 260.8635, a licensed processor, or a person acting as a representative of a licensed processor, may move or transport hemp extract material having a delta-9 tetrahydrocannabinol concentration in excess of three-tenths of one percent (0.3%) from one (1) licensed processing location in the Commonwealth to another licensed processing location in the Commonwealth, if~~provided that~~:

(a) The hemp extract material shall move directly from one (1) licensed processing location to another; and

(b) The licensed processor shall provide written notice to the department of the planned movement at least twenty-four (24) hours in advance by submitting to the department a completed Hemp Concentrate Transport Notification Form.

(6) A licensed processor or handler shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all other applicable local, state, and federal laws and regulations relating to product development, product manufacturing, consumer safety, and public health.

(7) Any person making human-consumable products, or substances that will be used to make human-consumable products, shall be Good Manufacturing Practices-compliant and permitted by the Department of Public Health within the Cabinet for Health and Family Services.

(8) Any person packaging a product prior to sale shall comply with the Uniform Packaging and Labeling Regulations as established~~prescribed~~ in 302 KAR 75:130.

(9) A licensed processor or handler shall not knowingly permit hemp to be sold to or used by any person in the Commonwealth who is involved in the manufacture of an item named on the prohibited products list established in 302 KAR 50:070.

(10) A person shall not ship, ~~or~~ transport, or allow to be shipped or transported, any hemp product with a decarboxylated delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

Section 14. Other Requirements.

(1) A licensed processor or handler shall not process or store hemp on any site not listed in the processor/handler license.

(2) A person shall not convert a substance that was extracted or derived from hemp or other cannabis into a Schedule I controlled substance.

(3) A license holder shall not make, manufacture, or distribute any of the prohibited products listed in 302 KAR 50:070.

(4) A person shall not possess living hemp or other cannabis plants without a hemp grower license.

(5) A licensed processor or handler shall not allow another person, other than an agent of the licensed processor or handler, to process, handle~~handler~~ or store hemp under their license in lieu of obtaining a separate hemp processor/handler license.

(6) Processors using hazardous materials or flammable solvents (for example, ethanol) shall comply with the requirements of the State Fire Marshal.

(7) Any person owning or operating an analytical laboratory offering third-party testing services shall report post-decarboxylated delta-9 THC on a 100% dry weight basis.

(8) Any person owning or operating an analytical laboratory offering third-party testing services shall participate in the University of Kentucky's Hemp Proficiency Testing Program.

Section 15. Information Submitted to Department Subject to Open Records Act, **KRS 61.870 Through 61.844.**

(1) Except as **established[provided]** in subsection (2) of this section, information and documents generated or obtained by the department shall be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 through 61.884.

(2) Personally identifiable information including physical address, mailing address, driver's license numbers, background checks, GPS coordinates, telephone numbers, and email addresses shall be shielded from disclosure to the maximum extent permitted by law. ~~[; provided, however,]~~ The department shall provide this information to law enforcement agencies and other regulatory agencies upon request.

Section 16. Violations Requiring Temporary License Suspension Procedures.

(1) The department shall notify a licensed processor/handler in writing that the Processor/Handler License has been temporarily suspended if a representative of the department receives information supporting an allegation that a licensed processor/handler has:

(a) Plead guilty to, or is convicted of, any felony or drug-related misdemeanor or violation in accordance with KRS 260.864; ~~[;]~~

(b) Engaged in conduct violating a provision of KRS 260.850 through 260.869, 302 KAR Chapter 50, or the processor/handler license with a culpable mental state greater than negligence;

(c) Made a false statement to a representative of the department or a law enforcement agency with a culpable mental state greater than negligence;

(d) Been found to be in possession of cannabis with a measured delta-9-THC concentration above **zero and three tenths (0.3)[0.3]** percent with a culpable mental state greater than negligence;

(e) Been found to be growing hemp or cannabis without a hemp grower license with a culpable mental state greater than negligence; or

(f) Failed to comply with an order from a representative of the department or a law enforcement agency with a culpable mental state greater than negligence.

(2) 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.

(3) A person whose processor/handler license has been temporarily suspended shall not 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.

(4) 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 substances that are in the licensed processor/handler's possession.

Section 17. License Revocation Hearings and Consequences of Revocation.

(1) The department shall notify a person whose processor/handler license 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 (3) person administrative panel in accordance with KRS 260.864.

(3) License revocation hearings shall be open to the public.

(4) A person whose processor/handler license 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 license.

(5) A representative of the department shall be allowed an opportunity to present information and arguments for revoking the processor/handler license.

(6) A person whose processor/handler license has been temporarily suspended shall be allowed an opportunity to present information and arguments against revoking the processor/handler license.

(7) The three (3) members of the administrative panel shall rule on the question of revocation by a majority vote.

(8) If a majority of the three (3) members of the administrative panel find that it is more likely than not that a licensed processor or handler has committed any of the acts listed in Section ~~16(1)~~~~[17(1)]~~ of this administrative regulation then the processor/handler license shall be revoked effective immediately.

(9) If a majority of the members of the administrative panel vote against revoking the processor/handler license, 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 license, then a representative of the department or a law enforcement agency shall have authority to destroy or confiscate all cannabis, hemp, and hemp substances 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) The department shall immediately report any person whose license has been revoked on the grounds that he or she violated a provision of KRS 260.850 through 260.869, 302 KAR Chapter 50, or the processor/handler license with a culpable mental state greater than negligence, to an appropriate law enforcement agency.

(13) A person whose processor/handler license has been revoked shall not be eligible for licensure for a period of five (5) years from the date of the most recent violation.

Section 18. 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 KRS 260.850 through 260.869, 302 KAR Chapter 50, or the processor or handler license application, then the

department shall assess a monetary civil penalty **based on the severity of the violation and** 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 Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(4) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The administrative panel shall include at least one (1) person who is a department employee and at least one (1) 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 **appellant**~~[appealing person]~~ shall be allowed an opportunity to present arguments for reversing the assessed monetary civil penalty.

(9) A representative of the department shall be allowed an opportunity to present arguments for affirming the assessed monetary civil penalty.

(10) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

(11) A majority of the three (3) 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.

Section 19. Licensing for Representatives of Universities and Colleges.

(1) Except as **established**~~[provided]~~ in this section~~[of this administrative regulation]~~, faculty members, administrators, and staff members of an institution of higher education shall be subject to **all requirements**~~[each]~~ of ~~[the sections of]~~ this administrative regulation.

(2) **An**~~[No]~~ institution of higher education shall **not allow**~~[permit]~~ or authorize its faculty, administration, or staff members, or any sponsored student, to be in possession of, or conduct academic research involving living hemp plants, leaf material, floral material, or viable seeds of hemp without first completing and submitting a Hemp License Application.

(3) An authorized faculty, administrator, or staff member of an eligible institution of higher education who wishes to be in possession of, or conduct an academic research project involving living hemp plants, leaf material, floral material, or viable seeds of hemp shall complete and submit a Hemp License Application.

(4) If a university applicant's research plan includes growing hemp, then a Hemp Grower License **shall**~~[will]~~ be issued.

(5) If a university applicant's research plan does not include growing hemp, then a Hemp Processor/Handler License **shall[will]** be issued.

(6) The department shall accept applications from an authorized faculty, administrator, or staff member of an eligible institution of higher education at any time of the year.

(7) The department shall not collect fees for licenses issued to a faculty member, administrator, or staff member of an institution of higher education if the project is for research only **and[that is, not intended for commerce]**.

(8) Sampling and testing of hemp processed or handled under the authority of this section shall be conducted by the department if the harvested material is intended for commerce.

(9) ~~An[As used in this section, "]~~ eligible institution of higher education **shall[" means an institution of higher education that is:]**

(a) **Be[Is]** accredited by, and in good standing with, a regional or national higher education accreditation agency;

(b) **Confer[Confers]** academic degrees at the associate, bachelor, master, or doctoral level; and

(c) **Have[Has]** a principal campus or office that is located at a site within the Commonwealth of Kentucky.

Section 20. Corrective Action Plans for Negligent Violations.

(1) If the department determines that a processor or handler committed a negligent violation of any provision within KRS Chapter 260.850 **through[to]** 260.869[;], or **302 KAR Chapter 50[any administrative regulation promulgated under the authority of those statutes]**, then the department shall devise and implement a corrective action plan for the processor or handler.

(2) Corrective action plans **shall[will]** remain in place for at least two (2) years and include, at a minimum[~~, the following~~]:

(a) The date by which the processor or handler shall correct each negligent violation;

(b) Steps to correct each negligent violation; and

(c) A description of the procedures to demonstrate compliance.

(3) A processor or handler who commits a negligent violation shall not, as a result of that violation, be subject to any criminal enforcement action by any government.

(4) If a subsequent violation occurs while a corrective action plan is in place, a new corrective action plan **shall[must]** be submitted with a heightened level of quality control, staff training, and quantifiable action measures.

(5) A processor or handler who commits three (3) negligent violations within a five (5) year period shall have his or her license revoked and be ineligible to obtain a license for a period of five (5) years beginning on the date of the third violation. A violation that occurred prior to January 1, 2021 shall not count toward the three (3) violations referred to in this subsection.

Section 21. Mandatory Reports to Law Enforcement Agencies for Violations with a Culpable Mental State Greater than Negligence.

(1) In addition to being subject to the license suspension, license revocation, and monetary civil penalty procedures established in 302 KAR 50:021 and **this administrative regulation[302 KAR 50:031]**, a person who is found by the department to have violated **a requirement of KRS Chapter 260 or 302 KAR Chapter 50[any statute or administrative regulation governing**

~~**that person's participation in the hemp program]**~~ with a culpable mental state greater than negligence shall be subject to the reporting requirements established in this section.

(2) The department shall immediately report a person who is found by the department to have violated any statute or administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence to the commander of the Kentucky State Police's Cannabis Suppression Branch.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

Ryan F. Quarles
Commissioner



Corporate Drive
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Frankfort, KY 40601
(502) 573-0282

Kentucky Department of Agriculture

November 5, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 302 KAR 50:021 Policies and procedures for hemp growers
302 KAR 50:031 Policies and procedures for hemp processors and handlers
302 KAR 50:045 Department's reports to USDA; records retention for three years
302 KAR 50:056 Sampling and THC testing; post-testing actions; disposal of noncompliant harvests

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 50:021, 302 KAR 50:031, 302 KAR 50:045, and 302 KAR 50:056 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 50:021, 302 KAR 50:031, 302 KAR 50:045, and 302 KAR 50:056.

Sincerely,

<Electronically signed this day>

Clint Quarles
Staff Attorney
Kentucky Department of Agriculture
107 Corporate Drive
Frankfort, KY 40601



DEPARTMENT OF AGRICULTURE
Office of the Consumer and Environmental Protection

302 KAR 50:045. Department's reports to USDA; records retention for three (3) years.

RELATES TO: KRS Chapter 217B, 260.850-260.869, 7 U.S.C. 1739p

STATUTORY AUTHORITY: KRS 260.862, 7 U.S.C. 1739p

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)~~[(a)]~~ authorizes the department to promulgate administrative regulations for a Hemp Licensing Program in the Commonwealth of Kentucky. KRS 260.862(1)~~(a)~~~~[(e)]~~ authorizes the department to license persons who wish to participate in a Hemp Licensing Program by cultivating, handling, processing, or marketing hemp. This administrative regulation establishes~~defines~~ certain departmental reporting and record-retention duties.

Section 1. Definitions.

- (1) "Department" or "KDA" is defined by KRS 260.850~~(3)~~.
- (2) "GPS" means Global Positioning System.
- (3) "Hemp" or "industrial hemp" is defined by KRS 260.850~~(5)~~.
- (4) "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 can include a field name or building name.

Section 2. Record Keeping Requirements; Three (3) Year Retention Period. For at least three (3) years, license holders shall retain and make available for inspection by the department (or USDA inspectors, auditors, or their representatives) during reasonable business hours, records regarding:

- (1) ~~[Records regarding]~~ Acquisition of hemp plants;
- (2) ~~[Records regarding]~~ Production and handling of hemp plants;
- (3) ~~[Records regarding]~~ Storage of hemp plants; and
- (4) ~~[Records regarding]~~ Disposal of all cannabis plants that do not meet the definition for "hemp"~~[of hemp]~~.

Section 3. Monthly Producer Reports. (1) On or before the first day of each month, the department shall submit a Monthly Producer Report to USDA providing the contact information, and current status, of each license that has been issued by the department.

(2) If the first day of the month falls on a weekend or a holiday, then the department shall submit its Monthly Producer Report on or before the first business day following the first day of the month.

(3) The department shall submit its Monthly Producer Report in a digital format that is compatible with USDA's information sharing system~~[whenever possible]~~, or on USDA Form AMS-23.

(4) The department's Monthly Producer Reports shall include~~[the following information]~~.

~~(a)[(1)]~~ For each new grower who is an individual, ~~[the Monthly Producer Report shall include]~~ the full name of the individual, the license number, the business address, the telephone number, ~~[and]~~ the email address (if available),~~;~~~~]~~ and the status of each grower's license, the period covered by the report, and an indication that there were no changes during the current reporting cycle, if applicable;~~;~~~~]~~

~~(b)[(2)]~~ For each new grower that is an entity, ~~[the Monthly Producer Report shall include]~~ the full name of the entity;~~;~~~~]~~ the license number;~~;~~~~]~~ the principal business location address;~~;~~~~]~~ ~~[and]~~ the full name, title, and email address (if available) for each employee for whom the entity is required to submit a criminal history record report; ~~[and]~~ the status of each grower's license, the period covered by the report;~~;~~~~]~~ and an indication that there were no changes during the current reporting cycle, if applicable; ~~and~~~~;~~~~]~~

~~(c)[(3)]~~ For each grower that was included in a previous report;~~;~~~~]~~ and whose reported information has changed, ~~[the Monthly Producer Report shall include]~~ the previously reported information,~~;~~~~]~~ ~~[and]~~ the new information,~~;~~~~]~~ and the status of each grower's license, the period covered by the report, and an indication that there were no changes during the current reporting cycle, if applicable.

Section 4. Monthly Disposal Reports. **(1)** On or before the first day of each month, the department shall submit a Monthly Disposal Report to USDA providing notice to USDA of any occurrence of non-conforming plants or plant material.

(2) If the first day of the month falls on a weekend or a holiday, then the department shall submit its Monthly Disposal Report on or before the first business day following the first day of the month.

(3) The department shall submit its Monthly Producer Report in a digital format that is compatible with USDA's information sharing system ~~[whenever possible]~~ or on USDA Form AMS-24.

(4) The department's Monthly Disposal Reports shall include the ~~[following information]~~:

~~(a)[(1) The]~~ Grower's name, address, and license number;

~~(b)[(2) The]~~ Location ID number and GPS coordinates for the lot that was subject to disposal;

~~(c)[(3) The]~~ Date of the disposal;~~;~~~~]~~

~~(d)[(4) The]~~ Name of the KDA employee who supervised the disposal; and

~~(e)[(5) The]~~ Total acreage.

Section 5. Annual Reports. On or before December 15 of each year, the department shall submit an Annual Report to USDA.

(1) The department shall submit its Annual Report in a digital format that is compatible with USDA's information sharing system ~~[whenever possible]~~ or on USDA Form AMS-25.

(2) The department's Annual Reports shall include the ~~total acreage~~ ~~[following information]~~:

~~(a)[(1) the total acreage]~~ Planted;

~~(b)[(2) the total acreage]~~ Disposed; and

~~(c)[(3) the total]~~ Harvested ~~[acreage]~~.

Section 6. Laboratory Test Results Reports. The department shall ensure that the designated testing laboratory's Laboratory Test Results Reports are submitted to USDA in a digital format

that is compatible with USDA's information sharing system ~~[whenever possible]~~ or on USDA Form AMS-22. The Laboratory Test Results Reports shall include ~~[the following information]~~:

- (1) The grower's license number, name, and business address;
- (2) The Location ID number for the lot from which the sample was collected;
- (3) The laboratory's name and DEA registration number;
- (4) The date of the test and date of the report;
- (5) Whether **or not** the test was a retest; and
- (6) The test result.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

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Commissioner



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Kentucky Department of Agriculture

November 5, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 302 KAR 50:021 Policies and procedures for hemp growers
302 KAR 50:031 Policies and procedures for hemp processors and handlers
302 KAR 50:045 Department's reports to USDA; records retention for three years
302 KAR 50:056 Sampling and THC testing; post-testing actions; disposal of noncompliant harvests

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 302 KAR 50:021, 302 KAR 50:031, 302 KAR 50:045, and 302 KAR 50:056 the Kentucky Department of Agriculture proposes the attached amendments to 302 KAR 50:021, 302 KAR 50:031, 302 KAR 50:045, and 302 KAR 50:056.

Sincerely,

<Electronically signed this day>

Clint Quarles
Staff Attorney
Kentucky Department of Agriculture
107 Corporate Drive
Frankfort, KY 40601



DEPARTMENT OF AGRICULTURE
Office of the Consumer and Environmental Protection

302 KAR 50:056. Sampling and THC testing; disposal of noncompliant harvests; post-testing actions/; ~~disposal of noncompliant harvests~~].

RELATES TO: KRS Chapter 217B, 260.850-260.869, 7 U.S.C. 1739p

STATUTORY AUTHORITY: KRS 260.862, 7 U.S.C. 1739p

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)~~[(a)]~~ authorizes the department to promulgate administrative regulations for a Hemp Licensing Program in the Commonwealth of Kentucky. KRS 260.862(1)~~(a)~~~~[(e)]~~ authorizes the department to license persons who wish to participate in a Hemp Licensing Program by cultivating, handling, processing, or marketing hemp. This administrative regulation establishes procedures and requirements for sampling and THC testing, and establishes procedures for the movement or disposal of hemp following the completion of THC testing.

Section 1. Definitions.

(1) "Acceptable Hemp THC Level" means the sum of the statewide Measurement of Uncertainty plus the 0.300% limit established[set forth] in federal law, 7 U.S.C., and KRS Chapter 260[state-law].

(2) "Cannabis":

(a) Means the plant that, depending on its THC concentration level, is defined as either "hemp" or "marijuana." Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis or subspecies thereof. Cannabis includes all parts of the plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts; and

(b) Does not mean[include] a "publicly marketable hemp product," as defined by 30s KAR 50:021, Section 1(37)[this administrative regulation].

(3) "CBD" means cannabidiol.

(4) "Decarboxylated" means the completion of the chemical reaction that converts delta-9 THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of delta-9 THC-acid.

(5) "delta-9-THC" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis). For compliance purposes, all delta-9-THC concentrations are[must be] measured post- decarboxylation or by another method which shall include both delta-9-THC and delta-9-THCA (also known as total THC).

(6) "Department" or "KDA" is defined by KRS 260.850(3).

(7) "Hemp" or "industrial hemp" is defined by KRS 260.850(5).

(8) "Inspector" means an employee or other representative of the department sent to collect samples and perform inspections.

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

(10) "Measurement of uncertainty" means the parameter, associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to the measurement. The statewide Measurement of Uncertainty ~~is~~**[shall be]** the greater of the measurements of uncertainty computed by the designated laboratories testing samples for the department.

(11) "MSU BVC" means the Breathitt Veterinary Center at the Murray State University in Hopkinsville.

(12) "Person" means an individual or business entity.

(13) "Post-harvest sample" means a sample taken from the harvested hemp from a particular lot's harvest in accordance with the procedures as established in 302 KAR 50:055. The entire lot's harvest is in the same form (for example, intact-plant, flowers, ground materials~~[, etc.]~~), homogeneous, and not mixed with non-hemp materials or hemp from another lot.

(14) "Pre-harvest sample" means a composite, representative portion from living plants in a hemp lot collected in accordance with the procedures as established in 302 KAR 50:055.

(15) "Program" means the department's Hemp Licensing Program.

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

(17) "UK DRS" means the Division of Regulatory Services at the University of Kentucky College of Agriculture, Food, and Environment in Lexington.

Section 2. Procedures for Inspection and Sample-Collection Visits.

(1) ~~A~~**[No]** hemp plant shall ~~not~~ be harvested from any lot before a department inspector completes an inspection and sample-collection visit.

(2) The licensed grower shall submit to the department a completed Harvest Report form at least fifteen (15) days prior to the grower's expected harvest date.

(3) Upon receiving a completed Harvest Report form, the department shall contact the licensed grower to schedule an inspection and sample-collection visit for a specific time on a date that is not later than the grower's expected harvest date.

(4) The licensed grower, or the grower's authorized representative, shall be present during the inspection and sample-collection visit.

(5) During the inspection and sample-collection visit, the licensed grower shall provide to the inspector, complete and unrestricted access to all hemp and other cannabis plants, whether growing or harvested; all land, buildings, and other structures used for the cultivation and storage of hemp and other cannabis plants; and all locations listed in the Hemp Grower License.

(6) During the inspection and sample-collection visit, the inspector shall perform a visual inspection of each location listed in the Hemp Grower License in order to verify the GPS coordinates and look for evidence that hemp plants or other cannabis plants were harvested without authorization prior to the inspector's inspection and sample-collection visit or any other suspicious circumstance.

(7) The licensed grower shall complete the harvest of the crop from a lot not more than fifteen (15) days following the date of the inspection and sample-collection visit, unless specifically authorized in writing by the department. ~~[; provided, however, that such]~~ Authorization shall not exceed an additional five (5) days and shall not be granted by the department without its

determination that the cause for delay was inclement weather or another circumstance beyond the licensed grower's control.

(8) If the licensed grower fails to complete the harvest of the crop from a lot within fifteen (15) days following the date of sample collection, then the licensed grower shall submit a new Harvest Report and may be required to pay a secondary pre-harvest sample fee established in 302 KAR 50:060.

(9) Floral material shall not be moved outside the Commonwealth, nor moved beyond a processor; ~~nor~~ nor commingled, ~~nor~~ extracted, ~~nor~~ converted into a consumer-ready product, ~~nor~~ enter commerce, until the department releases the material in writing.

Section 3. Procedure for Collecting Samples.

(1) The inspector shall use the following equipment and supplies:

(a) An ~~[""]~~Inspection and Sample Collection~~[""]~~ form, **which is in the application packet incorporated by reference in 302 KAR 50:080;**

(b) Alcohol wipes;

(c) Pruning shears;

(d) Paper sample-collection bags;

(e) A permanent marker;

(f) Security tape or a stapler;

(g) A GPS unit, or a device with GPS-capable technology; and

(h) Nitrile disposable gloves.

(2) The inspector shall take cuttings from five (5) plants in each lot to make up a composite sample for that lot. ~~[The number of plants selected to form a composite sample was calculated using the Codex Alimentarius Recommended Methods of Sampling for the Determination of Pesticide Residues for Compliance with MRLS CAC/GL 33-1999. In 2019, Kentucky's hemp testing program showed that 43% of the pre-harvest samples were above 0.30% THC; therefore "1" is equal to 0.43.]~~For a confidence level of **ninety-five (95) percent[95%]**, the minimum plant number required **shall be three (3).[is 3;]** A lot from a thousand-acre field would require **five and three-tenths (5.3)[5.3]** plants.

(3) The inspector shall select the individual plants to be sampled from each lot by selecting at random at least five (5) plants that appear to be representative of the composition of the lot~~;~~ and avoiding selecting plants that are close to the perimeter of the lot.

(4) From each individual plant selected for sampling, the inspector shall cut the highest twenty (20) centimeters from the plant's primary stem of female flower. The inspector shall not remove seed, stem, or other material from the sample that is cut from the plant.

(5) The inspector shall place the cuttings from the lot into a paper sample-collection bag, shut the bag by folding over its top, and secure the fold with security tape or a stapler.

(6) Using a permanent marker, the inspector shall write on the sealed paper sample collection bag the Sample ID consistent with**[the following format]**:

(a) The last four **(4)** digits of the Grower License number,

(b) The date, in MMDDYY format; and

(c) A two (2) digit sample number assigned by the inspector.

(d) Example: For Grower License 21_1234, with a sample collected on October 15, 2020, from the third lot sampled by the inspector on that date, the Sample ID is 1234-101520-03.

(7) The inspector shall complete the ~~["]~~Inspection and Sample Collection form~~["]~~ by entering~~[the following information]:~~

- (a) The licensed grower's name and contact information;
- (b) The address where the lot is located;
- (c) The Grower License number;
- (d) The inspector's name;
- (e) The date of the inspection and sample collection visit; and
- (f) For each sample collected, the Location ID, the Sample ID, the hemp variety or strain name, and a description of the crop.

(8) Following the completion of the inspection and sample-collection visit, the inspector shall deliver the sealed sample-collection bag to the department's designated drying facility.

(9) The department shall not unseal sample-collection bags during the drying process.

Section 4. Procedure for THC Testing.

(1) THC testing shall be completed by a testing lab designated by the department.

(2) Upon receipt of a sealed sample-collection bag from the department, the laboratory shall receive, prepare, and release hemp samples in accordance with the UK DRS SOP# HM-LB-001 (Procedures for Receiving, Preparing and Releasing Hemp Samples)~~[/]~~ or MSU BVC SOP # TOX WIN 0042 (Hemp Receiving) and MSU BVC SOP # TOX WIN 0043 (Hemp Storage and Destruction), as applicable.

(3) Hemp material not used by the laboratory for delta-9-THC testing shall be stored as a retained sample.

(4) The laboratory shall measure delta-9-THC content, including both delta-9-THC and delta-9-THCA, on a dry weight basis in accordance with the UK DRS SOP# HMP-LB-002 (Procedures for Measuring Delta 9 THC Content in Industrial Hemp by Gas Chromatography with Flame Ionization Detection) or MSU BVC SOP # TOX WIN 0069 (Hemp Potency), as applicable.

(5) ~~A[No]~~ person shall ~~not[be permitted to]~~ add to, amend, or in any way alter the composition of the retained sample.

Section 5. Post-testing Actions.

(1) Not later than sixty (60) after the date of the inspection and sample-collection visit, the department shall notify the licensed grower of the results of the THC test results and the grower's eligibility to move the harvested materials into commerce.

(2) For the purpose of determining ~~if[whether]~~ a test result is compliant with the definition of hemp (0.3000% delta-9 THC on a dry-weight basis)~~[set forth in federal law and state law]~~, the department shall evaluate it against the Acceptable Hemp THC Level that is applicable for the current year (that is, 0.300% plus the statewide Measurement of Uncertainty).

(3) A sample from a lot with a measured THC concentration not exceeding the Acceptable Hemp THC Level shall be deemed compliant (~~[i.e.,]~~conforming to the legal definition of hemp).

(4) A sample from a lot with a measured THC concentration exceeding the Acceptable Hemp THC Level shall be deemed non-compliant.

(5) Within seven (7) days of receiving notice of a measured THC concentration that exceeds the Acceptable Hemp THC Level but is less than 1.000%, the Licensed Grower ~~shall[must]~~ consent to the destruction of all leaf material and floral material, or he or she may request a post-

harvest re-test in accordance with the procedures **established[set forth]** in Section 6 of this administrative regulation.

(6) The retest fee shall be paid in an amount established in 302 KAR 50:060.

(7) Samples with a measured THC concentration of 1.000% or greater shall not be eligible for a post-harvest retest and shall be destroyed.

(8) The sample for a retest shall be collected on a date determined by the department.

Section 6. Procedure for Collecting Samples for Post-harvest Retests.

(1) The inspector shall use the following equipment and supplies:

(a) An **[""]**Inspection and Sample Collection**[""]** form;

(b) Alcohol wipes;

(c) Pruning shears;

(d) Paper sample-collection bags for wet samples;

(e) Plastic sample-collection bags for dry samples;

(f) A permanent marker;

(g) Security tape or a stapler;

(h) A GPS unit, or a device with GPS-capable technology; and

(i) Nitrile disposable gloves.

(2) The material selected for Post-Harvest Sampling from this lot **shall[will]** be determined by the inspector, not the grower.

(3) The inspector shall perform a visual inspection to verify that the harvested material is in a homogenous state (for example, in an intact-plant state or in a ground-up state, or in another state). If the harvested material is not in a homogenous state, then the inspector shall notify the Hemp Program Manager and convey any instructions the Hemp Program Manager may designate to undertake additional post-harvest processing activities to bring the entire harvest into a homogenous state. If the license holder refuses or fails to undertake **the[such]** designated activities, he or she shall be deemed to have waived any right to request a post-harvest retest and the material shall be designated for disposal.

(4) Floral harvested material selected for Post-Harvest Sampling shall be taken in the state (for example, in an intact-plant state or in a ground-up state, or in another state) in which the license holder plans to sell or send the material to a processor, in accordance with the **[following]instructions established in paragraphs (a) through (c) of this subsection.**

(a) For intact-plant post-harvest samples:

1. Ensure that the entire harvest is accounted for and in the same form (**[i.e.,]**intact plants);**;**

2. Clip the top **twenty (20)[20]** cm of hemp plant, primary stem, including female floral material, without removing seed, stem, or other material;**;**

3. Take cuttings from at least five (5) hemp plants within the harvest's **storage or drying[storage/drying]** area at the discretion of the inspector;**;**

4. Place the complete sample in a paper bag; **and;**

5. Seal the paper bag by folding over top once and stapling to keep closed.

(b) For ground plant or ground floral material Post-Harvest Samples:

1. Ensure that the entire harvest is accounted for and in the same form (**[i.e.,]**all harvested material whether whole plant or floral material only **shall[must]** be ground with no intact plants or whole flowers remaining from that harvest);**;**

2. Sample material from bag or container without removing seed, stem, or other material; ~~and~~

3. Sample from a minimum of five (5) locations within the containers from at least one **(1)** cup of material from the lot; ~~and~~

4. Place the complete sample in a plastic sample container; ~~and~~

5. Seal the plastic sample container.

(c) For Post-Harvest Samples in other forms (~~e.g.,~~ trimmed floral material ~~or~~ floral material and stems):

1. Ensure that the entire harvest is accounted for and in the same form (~~i.e.,~~ all harvested material whether whole plant or floral material only **shall** ~~must~~ be ground with no intact plants or whole flowers remaining from that harvest); ~~and~~

2. Sample material from bag or container without removing seed, stem, or other material; ~~and~~

3. Sample from a minimum of five (5) locations within the containers, collecting from at least one **(1)** cup of material from the lot; ~~and~~

4. Place the complete sample in a plastic sample container; ~~and~~

5. Seal the plastic sample container.

(5) The inspector shall place the cuttings or composite sample from the lot into a sample collection bag ~~and~~ and secure the bag with security tape or staples.

(6) Using a permanent marker, the inspector shall write on the sealed sample-collection bag the Sample ID consistent with the following format:

(a) The last four (4) digits of the Grower License number; ~~and~~

(b) The date, in MMDDYY format; ~~and~~

(c) A two (2) digit sample number assigned by the inspector; ~~and~~

(d) Example: For Grower License 21_1234, with a sample collected on October 15, 2020, from the third lot sampled by the inspector on that date, the Sample ID **is** ~~would be~~ 1234-101520-03.

(7) The inspector shall complete the ~~the~~ Inspection and Sample Collection form ~~by~~ entering **the following information**:

(a) The licensed grower's name and contact information;

(b) The address where the lot was grown and where it is currently located;

(c) The Grower License number;

(d) The inspector's name;

(e) The date of the inspection and sample collection visit; and

(f) For each sample collected, the Location ID, the Sample ID, the hemp variety or strain name, and a description of the crop.

(8) Following the completion of the inspection and sample-collection visit, the inspector shall deliver the sealed sample-collection bag to the department's designated drying facility.

(9) The department shall not unseal sample-collection bags during the drying process.

(10) The procedure for THC testing used by UK DRS shall be the same for post-harvest retests as those **established** ~~set forth~~ in Section 4 of this administrative regulation.

(11) A lot having a post-harvest sample with a measured THC concentration exceeding the Acceptable Hemp THC Level shall be deemed non-compliant and designated for disposal.

Section 7. Disposal of Non-compliant Harvested Materials.

(1) If a lot is designated for mandatory disposal, then the department shall ensure that all leaf material and floral material from that lot is disposed of using one (1) of the procedures **established[set forth]** in this Section of this administrative regulation. The costs of disposal, if any are incurred by the department, shall be charged to the license holder.

(2) Disposal by on-site destruction with department supervision. Without removing the harvested material from the license holder's premises (or other licensed premises where the harvested material is located), a department employee shall personally observe the harvested material's destruction (**[i.e.,]**the act of rendering it into a useless and non-retrievable state) using one (1) of these methods:

- (a) By grinding it up and incorporating it into the soil; or
- (b) By controlled incineration.

(3) Disposal by on-farm transfer to a person who is registered or authorized by the department to accept controlled substances for the purposes of destruction. At the premises of the license holder (or other licensed premises where the harvested material is located), a department employee shall load, or observe the loading, of the harvested material until the transfer is complete.

(4) Disposal by vehicle transport to a department-approved location.

(a) Prior to the transport: At the premises of the license holder (or other licensed premises where the harvested material is located), a department employee shall load, or observe the loading, of the harvested material until the material is completely secured on or in the vehicle.

(b) During the transport: A department employee shall accompany the harvested material as it moves in a vehicle directly to a department-approved location. The vehicle shall constantly move towards its final destination without unnecessary stops, stops for reasons unrelated to the transport task, or stops of an extended duration.

(c) After the transport: Upon arrival at the department-approved location, a department employee shall unload, or observe the unloading, of the harvested material until the material is completely removed from the vehicle.

(d) Following the material's removal from the vehicle, a department employee shall personally observe the harvested material's destruction (**[i.e.,]**the act of rendering it into a useless and non-retrievable state) using one (1) of these methods:

- 1. By grinding it up and incorporating it into the soil; or
- 2. By controlled incineration.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "UK DRS SOP# HMP-LB-002 (Procedures for Measuring Delta 9 THC Content in Industrial Hemp by Gas Chromatography with Flame Ionization Detection)", 2020;

(b) "UK DRS SOP# HM-LB-001 (Procedures for Receiving, Preparing and Releasing Hemp Samples)", 2020;

(c) "MSU BVC SOP # TOX WIN 0042 (Hemp Receiving)", 2020;

(d) "MSU BVC SOP # TOX WIN 0043 (Hemp Storage and Destruction)", 2020; and

(e) "MSU BVC SOP # TOX WIN 0069 (Hemp Potency)", 2020.

(2) These materials may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Office of Agricultural Marketing, 105 Corporate

Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. These materials may also be obtained at www.kyagr.com.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

Andy Beshear
Governor



Lt. Gov. Jacqueline Coleman
Secretary
Education and Workforce
Development Cabinet

Jason E. Glass, Ed.D.
Commissioner and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION

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November 6, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: **702 KAR 7:065**. Designation of agent to manage middle and high school interscholastic athletics.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 702 KAR 7:065, the Kentucky Board of Education proposes the attached amendment to 702 KAR 7:065.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd G. Allen".

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

Version 11/5/2020 2:09 p.m.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Kentucky Board of Education

Department of Education

702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics.

Page 12

Section 7(1)(a)

Line 17

After "Constitution",", insert "7/2020".

Delete "6/2017".

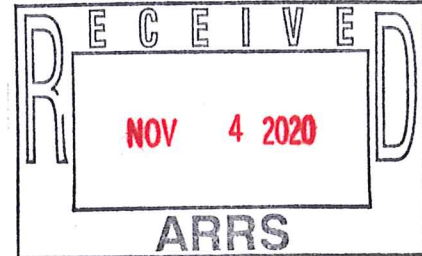
Andy Beshear
Governor



Lt. Gov. Jacqueline Coleman
Secretary
Education and Workforce
Development Cabinet

Jason E. Glass, Ed.D.
Commissioner and Chief Learner

KENTUCKY DEPARTMENT OF EDUCATION
300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov



November 4, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort, KY 40601

Re: **704 KAR 8:090**, Required Kentucky Academic Standards for Technology

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 704 KAR 8:090, the Kentucky Board of Education proposes the attached amendment to 704 KAR 8:090.

Sincerely,

A handwritten signature in black ink that reads "Todd G. Allen".

Todd G. Allen
General Counsel

attachment

Staff-suggested Amendment

**Final Version 11/4/2020 8:43 a.m.
EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education**

704 KAR 8:090. Required Kentucky Academic Standards for Technology.

Page 1

RELATES TO paragraph

Line 6

After "158.6451", delete the following:

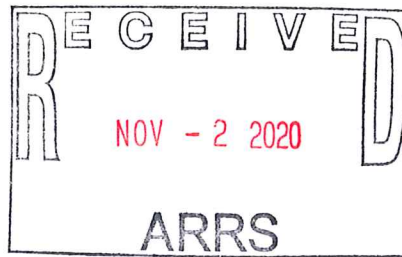
, 160.290, 156.850, 704 KAR 3:305

Page 1

STATUTORY AUTHORITY paragraph

Line 7

After "156.160", insert " , 156.850, 160.290".



118 James Court
Lexington, KY 40505
1-800-782-6823
Fax: 859-256-3125

November 1, 2020

Senator West, Co-Chair
Representative Hale, Co-Chair
c/o Regulations Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Dear Co-Chair West and Co-Chair Hale:

After discussions with the Administrative Regulation Review Subcommittee staff of the issues raised by 739 KAR 2:050, the Kentucky Fire Commission proposes the attached amendments to 739 KAR 2:050.

Sincerely,

Scott Lawson
10-28-20

Scott Lawson
Chairman, Kentucky Fire Commission
118 James Court
Lexington, KY 40505

Staff-suggested Amendment

**Final Version 10/21/2020 1:56 p.m.
KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Kentucky Fire Commission**

739 KAR 2:050. Volunteer fire department aid.

Page 1

RELATES TO paragraph

Line 5

After "Chapter 75," delete "KRS".

After "95A.262", insert "1".

Delete ". KRS".

Page 1

STATUTORY AUTHORITY paragraph

Line 6

After "AUTHORITY: KRS", insert "95A.050(3), 95A.055(13)".

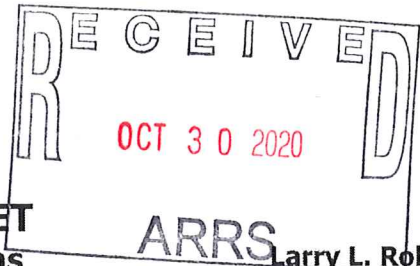
Delete "95A.055(13), KRS 95A.050(3)".

Page 3

Section 6(1)(a)

Line 18

After "State-Aid Application", insert "1".



Andy Beshear
Governor

Jacqueline Coleman
Lieutenant Governor

KENTUCKY LABOR CABINET
Department of Workers' Claims

Mayo-Underwood Building
500 Mero Street, 3rd Floor
Frankfort, KY 40601
Telephone: (502) 564-5550

Larry L. Roberts
Secretary

Robert L. Swisher
Commissioner

October 30, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: **803 KAR 25:089** Workers' compensation medical fee schedule for physicians.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 803 KAR 25:089, the Department of Workers' Claims proposes the attached amendment to 803 KAR 25:089.

Sincerely,

B. Dale Hamblin, Jr
Assistant general Counsel
Worker's Claims Legal Division
Department of Workers' Claims
Mayo-Underwood Building, 3rd Floor
500 Mero Street
Frankfort, KY 40601

Final 10-23-2020

Suggested Amendment

**LABOR CABINET
Department of Workers' Claims**

803 KAR 25:089. Workers' compensation medical fee schedule for physicians.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 9

After "fees, charges", insert a comma.

Page 2

Section 3(1)

Lines 16-17

After "amount is listed", insert a period.

Delete "; and".

Page 2

Section 3(2)

Line 23

After "Rules", insert a period.

Delete the semicolon.

Page 3

Section 5(1)

Line 9

After "Physicians", and the closing quotation marks, insert a comma.

Lines 10-11

Delete "the edition effective".

After "July 1, 2020", insert "Edition".

Line 11

After "reference", insert a period.



KENTUCKY LABOR CABINET
Department of Workers' Claims

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500 Mero Street, 3rd Floor
Frankfort, KY 40601
Telephone: (502) 564-5550

Andy Beshear
Governor

Jacqueline Coleman
Lieutenant Governor

Larry L. Roberts
Secretary

Robert L. Swisher
Commissioner

November 4, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 803 KAR 25:240. Workers' compensation unfair claims settlement practices.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 803 KAR 25:240, the Department of Workers' Claims proposes the attached amendment to 803 KAR 25:240.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Dale Hamblin, Jr.", written over a horizontal line.

B. Dale Hamblin, Jr.
Assistant General Counsel
Workers' Claims Legal Division
Department of Workers' Claims
Mayo-Underwood Building, 3rd Floor
500 Mero Street
Frankfort, KY 40601

Revised: 11/04/2020 1:28 p.m.

SUGGESTED SUBSTITUTE

LABOR CABINET Department of Workers' Claims

803 KAR 25:240. Workers' compensation unfair claims settlement practices.

RELATES TO: KRS 304.12-230, 342.267, 342.610(7)

STATUTORY AUTHORITY: KRS 342.260(1)

NECESSITY, FUNCTION, AND CONFORMITY: ~~[Pursuant to]~~ KRS 342.260(1) requires[,] the Commissioner ~~[Executive Director]~~ of the Department ~~[Office]~~ of Workers' Claims ~~[is authorized]~~ to promulgate administrative regulations necessary to carry on the work of the Department ~~[Office]~~ of Workers' Claims~~[,]~~ and administrative law judges ~~[and arbitrators]~~. KRS 342.267 requires the Commissioner ~~[Executive Director]~~ to fine carriers for engaging in unfair claims settlement practices under KRS Chapter 342 or 304.12-230. This administrative regulation establishes standards for the Commissioner ~~[executive director]~~ and carriers with regard to unfair claims settlement practices.

Section 1. Definitions. (1) "Agent" means a person or entity performing claims adjusting, case management, utilization review, or other service on behalf of a carrier.

(2) "Carrier" is defined by[in] KRS 342.0011(6).

Section 2. File and Record Documentation. (1) Each carrier's claim files and files held by an agent of the carrier shall be subject to examination by the commissioner ~~[executive director]~~ or the commissioner's ~~[executive director's]~~ designee.

(2) Each carrier or agent of the carrier shall maintain claim data that is readily accessible and retrievable for examination.

(3) Documentation shall be contained in each claim file:

(a) Detailing the activities of each carrier and any agent of the carrier; and

(b) Detailing the basis~~[foundations]~~ for the decision of the carrier or agent of the carrier upon material matters of the claim.

(4) Each document within a claim file shall be noted as to date received, date processed, or date mailed.

(5) For a carrier that[which] does not maintain hard copy files, claim files shall be capable of duplication to legible hard copy.

(6) A claim file shall be maintained for a period not less than five (5) years following the creation of the material or the completion of the purpose for which it was created, whichever shall occur last.

Section 3. Notice of Policy Provisions and Information. (1) A carrier shall provide ~~the~~adequate notice required by KRS 342.610(7) with regard to policy provisions, ~~and information with regard to~~ coverage, and benefits.

(2) Failure ~~of a carrier~~ to provide the notice ~~required by KRS 342.610(7)~~^[(6)] in the form prescribed by 803 KAR 25:200 shall constitute an unfair claims settlement practice.

Section 4. Duty to Investigate. Upon notice of a work-related injury, a carrier shall diligently investigate a claim for facts warranting the extension or denial of benefits.

Section 5. Standards for Prompt and Timely Actions. (1) After receipt of notice of a work-related injury necessitating medical care or causing lost work days, a carrier shall as soon as practicable advise an injured employee of acceptance or denial of the claim.

(2) A carrier shall provide to the employee in writing the specific reasons for denial of a claim.

(3) A carrier shall inform an employee of additional information needed for the claim to be accepted.

(4) A carrier shall meet the time constraints for accepting and paying workers' compensation claims established in KRS Chapter 342 and 803 KAR Chapter 25~~[applicable administrative regulations]~~.

Section 6. Standards for Fair and Equitable Settlement. (1) A carrier shall attempt in good faith to promptly pay a claim in which liability is clear;

(2) A carrier shall not misrepresent pertinent facts or law with regard to a claim;

(3) A carrier shall not compel an employee to institute formal proceedings with the Department ~~[Office]~~ of Workers' Claims to recover benefits where liability is clear;

(4) A carrier shall not offer a settlement which is substantially less than the reasonable value of a claim;

(5) A carrier shall not threaten to file or invoke a policy of filing appeals for the purpose of compelling a settlement for less than a workers' compensation award ~~[or benefit review determination]~~; and

(6) A carrier shall not require an employee to obtain information which is accessible to the carrier.

Section 7. Acknowledgment of Communications. (1) Upon receipt of an inquiry from the Department~~[Office]~~ of Workers' Claims, each carrier shall furnish the Department~~[Office]~~ of Workers' Claims a full response within fifteen (15) days.

(2) Upon receipt of a communication from an injured employee ~~that~~which reasonably suggests a response is expected, a carrier shall make a prompt and appropriate reply to the employee.

This is to certify the commissioner has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260, 342.270 and 342.285.

CONTACT PERSON: **B. Dale Hamblin, Jr., Assistant General Counsel, Workers' Claims Legal Division, Kentucky Labor Cabinet**~~**Scott C. Wilhoit, Special Assistant, Department of Workers' Claims**~~, Mayo-Underwood Building, 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-~~**4404**~~**[4532]**, fax (502) 564-~~**0681**~~**[0682]**, email **Dale.Hamblin@ky.gov**~~**[Scottc.wilhoit@ky.gov]**~~.

Andy Beshear
Governor

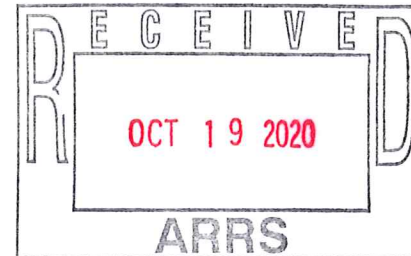
Ray Perry
Deputy Secretary



Kerry B. Harvey
Secretary

Allyson Taylor
Commissioner

October 19, 2020

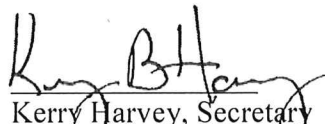


via email to RegsCompiler@lrc.ky.gov
Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

Dear Ms. Caudill:

After discussions with the Administrative Regulation Review Subcommittee staff regarding an omission discovered in **804 KAR 4:415** "Direct Shipper License" amended after comments, the Public Protection Cabinet and Department of Alcoholic Beverage Control propose the attached agency amendment to 804 KAR 4:415.

Sincerely,


Kerry Harvey, Secretary
Public Protection Cabinet


Allyson Taylor, Commissioner
Department of Alcoholic Beverage Control

Department of Alcoholic Beverage Control | Mayo-Underwood Building | 500 Mero Street, 2NE33 |
Frankfort, Kentucky 40601 Telephone: (502) 564-4850 | Fax: (502) 564-1442

TEAM
KENTUCKY

Agency Amendment

**PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control**

804 KAR 4:415. Direct shipper license.

Page 2

Section 1(2)(c)

Line 11

After "a basic importer's", insert "or wholesaler's".

EC

Andy Beshear
Governor

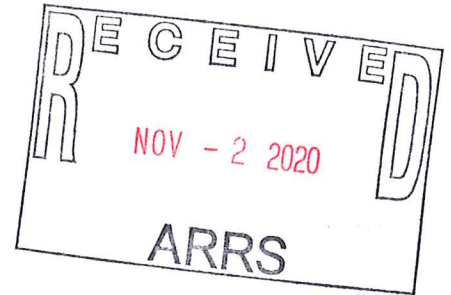
Ray Perry
Deputy Secretary



Kerry B. Harvey
Secretary

Allyson Taylor
Commissioner

November 2, 2020

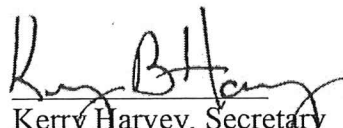



via email to RegsCompiler@lrc.ky.gov
Ms. Emily Caudill, Regulations Compiler
Legislative Research Commission
029, Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601

Dear Ms. Caudill:

After discussions with the Administrative Regulation Review Subcommittee staff of the issues raised in 804 KAR 4:415 "Direct Shipper License" amended after comments, the Public Protection Cabinet and Department of Alcoholic Beverage Control propose the attached suggested amendment to 804 KAR 4:415.

Sincerely,


Kerry Harvey, Secretary
Public Protection Cabinet


Allyson Taylor, Commissioner
Department of Alcoholic Beverage Control

Department of Alcoholic Beverage Control | Mayo-Underwood Building | 500 Mero Street, 2NE33 |
Frankfort, Kentucky 40601 Telephone: (502) 564-4850 | Fax: (502) 564-1442

TEAM
KENTUCKY

Staff-suggested Amendment

**Final Version 11/2/2020 12:37 p.m.
PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(Amended After Comments)**

804 KAR 4:415. Direct shipper license.

Page 1

RELATES TO paragraph

Lines 5 and 6

After "244.585", delete the following:

; 804 KAR 4:015, 804 KAR 4:100, 804 KAR 4:410.

Page 1

STATUTORY AUTHORITY paragraph

Line 7

After "241.060,", delete "KRS".

Page 1

NECESSITY, FUNCTION, AND CONFORMITY paragraph

Lines 8, 10, 11, 12, 14, 16, and 17

After "KRS 243.027", insert "requires".

Delete "authorizes".

After "KRS 243.027(3)(c)", insert "requires".

Delete "authorizes".

Lowercase "Department".

After "what information the", lowercase "Department".

After "KRS 243.027(6)(a)", insert "requires".

Delete "authorizes".

After "authorizes the", lowercase "Department".

After "trafficking of alcoholic beverages.", delete the following:

To protect the public health and safety of Kentucky citizens,

Capitalize "this".

Page 1

Section 1

Line 19

After "direct shipper license," insert "an".
Delete "the".

Page 2

Section 1(1)

Line 1

After "(1) Hold", delete "either".

Page 3

Section 2

Lines 13 and 15

After "2. Prohibited", capitalize "substantial interests".

Remove the quotation marks from "manufacturer".

Page 3

Section 3(2)

Lines 20 and 21

After "direct shipper licensee", insert "uses, or intends to use,".
Delete "will use".

After "incidental to shipment," insert "the".
Delete "such".

Page 4

Section 4

Line 8

After "manufacturer that is", delete "either".

Page 4

Section 6

Line 18

Remove the quotation marks from "manufacturer".

Page 4

Section 7

Line 21

After "licensee shall maintain", delete "such".

Page 4

Section 7

Lines 22 and 23

After "three (3) years.", insert "At the request of the department.".
Lowercase "the".

After "Kentucky consumers", delete the following:

at the request of the department

ANDY BESHEAR
GOVERNOR



KERRY B. HARVEY
SECRETARY

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF CHARITABLE GAMING
AMBROSE WILSON IV, DEPUTY COMMISSIONER
500 MERO STREET 2NW24
FRANKFORT, KENTUCKY 40601-3714
(502) 573-5528 OR (800) 729-5672
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November 6, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill, Regulation Compiler
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 820 KAR 1:050. Raffles

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 820 KAR 1:050, the Department of Charitable Gaming proposes the attached amendment to 820 KAR 1:050.

Sincerely,

A handwritten signature in cursive script that reads "Doug Hardin".

Doug Hardin, Staff Attorney
Kentucky Department of Charitable Gaming
500 Mero Street 2NW24
Frankfort, KY 40601



Equal Employment Opportunities M/F/D

Subcommittee Substitute

PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(As Amended at ARRS)

820 KAR 1:050. Raffles.

RELATES TO: KRS 238.545, 238.550

STATUTORY AUTHORITY: KRS 238.515

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515 authorizes the Department of Charitable Gaming to establish and enforce reasonable standards for the conduct of charitable gaming and to promulgate administrative regulations necessary to implement KRS Chapter 238. This administrative regulation establishes standards for the conduct of raffles.

Section 1. **Definitions.** (1) **"Access control" means the restriction of access to a place or other resource. Locks and login credentials are two (2) mechanisms of access control.**

(2) **"Address Resolution Protocol (ARP)" is the protocol used to translate IP addresses into MAC addresses to support communication on a LAN (Local Area Network). The Address Resolution Protocol is a request and reply protocol and it is communicated within the boundaries of a single network, never routed across internetwork nodes (connection points, either a redistribution point or an end point for data transmissions).**

(3) **"Algorithm" means a finite set of unambiguous instructions performed in a prescribed sequence to achieve a goal, especially a mathematical rule or procedure used to compute a desired result. Algorithms are the basis for most computer programming.**

(4) **"Authentication" means a security measure designed to protect a communications system against acceptance of a fraudulent transmission or simulation by establishing the validity of a transmission, message, or originator.**

(5) **"Bearer ticket" means an electronic or paper ticket that contains one (1) or more draw numbers purchased.**

(6) **"Bi-Directional" means the ability to move, transfer, or transmit in both directions.**

(7) **"Counterfoil" means an electronic record or paper ticket stub, also known as a barrel ticket, which shall be drawn to determine a winner and contains a player's draw number matching the bearer ticket purchased and may, depending on the type of raffle, contain the name, address, or telephone number of the player.**

(8) **Critical memory means memory that is used to store all data that is considered vital to the continued operation of the RSU.**

(9) **"Crypto-analytic" means an attack against the encryption key (refer to definition of encryption key).**

(10) **"Cryptographic" means anything written in a secret code or cipher.**

(11) **"Distributed Denial of Service (DDoS)" means a type of Denial of Service (DoS) attack where multiple compromised systems, usually infected with a destructive software program, are used to target a single system causing a Denial of Service (DoS) attack. Victims**

of a DDoS attack consist of both the end targeted system and all systems maliciously used and controlled by the hacker in the distributed attack.

(12) "Domain" is a term used to identify one (1) or more IP addresses. A domain name is used in a Uniform Resource Locator (URL) to identify particular Web pages.

(13) "Draw number" means a uniquely identifiable number that is provided to the purchaser for each chance purchased and may be selected as the winning number for the raffle.

(14) "Electronic raffle system" means computer software and related equipment used by raffle licensees to sell tickets, account for sales, and facilitate the drawing of tickets to determine the winners.

(15) "Encryption" means the reversible transformation of data from the original (the plaintext) to a difficult-to-interpret format (the ciphertext) as a mechanism for protecting its confidentiality, integrity, or its authenticity.

(16) "Encryption key" means a sequence of numbers used to encrypt or decrypt (to decode/decipher) data.

(17) "Firewall" means any number of security schemes that prevent unauthorized users from gaining access to a computer network or that monitor transfers of information to and from the network.

(18) "Geolocation" means identifying the real-world geographic location of an Internet connected computer, mobile device, or website visitor.

(19) "Host" means a computer system that is accessed by a user working at a remote location. Typically, the term is used when there are two (2) computer systems connected by modems and telephone lines. The system that contains the data is called the host, while the computer at which the user sits is called the remote terminal. A computer that is connected to a TCP/IP network, including the Internet. Each host has a unique IP address.

(20) "Hypertext Transfer Protocol (HTTP)" means the underlying protocol used by the World Wide Web. HTTP defines how messages are formatted and transmitted, and what actions Web servers and browsers shall take in response to various commands.

(21) "Internet" means an interconnected system of networks that connects computers around the world via the TCP/IP protocol. TCP/IP protocol is short for Transmission Control Protocol/Internet Protocol, the suite of communications protocols used to connect hosts on the Internet.

(22) "Intrusion Detection System (IDS)" or "Intrusion Prevention System (IPS)" means a system that inspects all inbound and outbound network activity and identifies suspicious patterns that may indicate a network or system attack from someone attempting to break into or compromise a system. Used in computer security, intrusion detection refers to the process of monitoring computer and network activities and analyzing those events to look for signs of intrusion in a system.

(23) "Internet Protocol (IP)" means an identifier for a computer or device on a TCP/IP network.

(24) "Media Access Control (MAC)" means a hardware address that uniquely identifies each node, such as the computer or printer, of a network.

(25) "Man-in-the-Middle (MITM)" means an active Internet attack where the person attacking attempts to intercept, read, or alter information moving between two (2) computers.

(26) "Message authentication" means a security measure designed to establish the authenticity of a message by means of an authenticator within the transmission derived from certain predetermined elements of the message itself.

(27) "Online" means being connected to the Internet.

(28) "Online Purchasing Platform" means the raffle system hardware and software that drives the features common to all raffles offered, and which forms the primary interface to the Raffle System for both the patron and the operator. The online purchasing platform provides the patron with the means to register an account, log in to or out of their account, modify their account information, make ticket purchases, request account activity statement or reports, and close their account. In addition, any web pages displayed to the patron that relate to ticket purchasing offered on the raffle system. The online purchasing platform provides the operator with the means to review patron accounts, enable or disable raffles, generate various financial transaction and account reports, input raffle outcomes, enable or disable patron accounts, and set any configurable parameters.

(29) "Protocol" means a set of formal rules describing how to transmit or exchange data, especially across a network. TCP/IP is the standard communications protocol of the Internet and most internal networks.

(30) "Raffle sales unit (RSU)" means a portable or wireless device, a remote hardwired connected device, or a standalone cashier station that is used as a point of sale for bearer tickets.

(31) "Remote access" means any access from outside the system or system network including any access from other networks within the same establishment.

(32) "Shellcode" means a small piece of code used as the payload (cargo of data transmission) in the exploitation of computer security. Shellcode exploits a vulnerability and allows an attacker the ability to reduce a computer system's information assurance.

(33) "Security certificate" means information, often stored as a text file, which is used by the Secure Socket Layers (SSL) protocol to establish a secure connection. A security certificate contains information about whom it belongs to, who it was issued by, valid dates, and a unique serial number or other unique identification that may be used to verify the contents of the certificate. In order for an SSL connection to be created, both sides are required to have a valid security certificate, which is also called a digital ID.

(34) "Stateful firewall" means a firewall that keeps track of the state of network connections traveling across it. The firewall is programmed to distinguish legitimate packets for different types of connections. Only packets matching a known active connection shall be allowed by the firewall; others shall be rejected. Stateful inspection, also referred to as Dynamic Packet Filtering, is a security feature often included in business networks.

(35) "Stateless" means a communications protocol that treats each request as an independent transaction that is unrelated to any previous request so that the communication consists of independent pairs of requests and responses. A stateless protocol does not require the server to retain session information or status about each communications partner for the duration of multiple requests. In contrast, a protocol that

requires the keeping of internal state is known as a stateful protocol. Examples of stateless protocols include Internet Protocol (IP) and the Hypertext Transfer Protocol (HTTP).

(36) "Validation number" means a unique number that may represent one (1) or more draw numbers that shall be used to validate the winning number for the raffle.

Section 2. Raffle Ticket Construction. (1) Raffle tickets shall have a detachable section or duplicate ticket and shall be consecutively numbered. If raffle tickets are sold electronically, the charitable organization selling the tickets shall provide all purchasers with a physical ticket or electronic communication that contains the information required by subsection (2) of this section.

(2) The detachable section or duplicate of the ticket shall bear a duplicate number corresponding to the number on the ticket and shall provide space for the purchaser's name, complete address, and telephone number.

(3) The following information shall be on each ticket:

- (a) The date and time for each drawing;
- (b) The location of each drawing;
- (c) The name of the charitable organization conducting the raffle;
- (d) The charitable organization's license number or exemption number;
- (e) The price of the ticket; and
- (f) Each prize to be awarded with a fair market value over \$500.

(4) The requirements of subsections (2) and (3) of this section shall be waived if:

- (a) The raffle tickets sell for five (5) dollars or less, or
- (b) The raffle sales are initiated and concluded and all winners are selected at a licensed charity fundraising event or a licensed special limited charity fundraising event.

Section ~~(3)~~**[2.]** Raffle Prizes. (1) A charitable organization conducting a raffle in which real or personal property prizes are to be awarded shall be responsible for the transfer and delivery of the prize without lien or interest of others.

(2) All raffle prizes shall be awarded as indicated on the raffle ticket unless the event at which the raffle was to be conducted is postponed. If the raffle is postponed, all reasonable efforts shall be made to notify ticket holders of the new drawing date.

(3) If the prize to be awarded is the jackpot of a progressive raffle board, the charitable organization's charitable gaming session records shall report in the gross receipts total all startup cash, monies derived from raffle ticket sales, and any other contribution to the jackpot.

Section ~~(4)~~**[3.]** Conduct of Raffles. (1) Any person holding a raffle ticket shall be permitted to observe the raffle drawing. **A charitable organization may broadcast a raffle drawing via a verifiable online live streaming service to provide ticket holders an opportunity to view the drawing if the charitable organization provides purchasers with instructions for viewing the drawing at the time tickets are purchased.**

(2) A person shall not be required to be present at a raffle drawing in order to be eligible for the prize drawing.

(3) For raffles using paper tickets, each ~~Each~~ ticket seller shall return to the charitable organization the stubs or other detachable sections or duplicates of all tickets sold prior to the drawing.

(4) For raffles using paper tickets, before [Before] drawing, the charitable organization shall place the seller's portion of each ticket sold into a receptacle from which the winning tickets are to be drawn. The receptacle shall be designed so that each ticket placed in it has an equal chance to be drawn.

(5) If a charitable organization uses electronic raffle software to conduct a raffle, the charitable organization shall ensure that the electronic raffle software has been:

- (a) Purchased, leased, or otherwise obtained from a distributor licensed by the department;
- (b) Manufactured by a manufacturer licensed by the department;
- (c) Certified by an independent testing lab; and
- (d) Approved by the department for use in the Commonwealth.

(6) A charitable organization shall conduct a raffle entirely with **traditional** paper tickets or entirely with **an** electronic **or online raffle system [tickets]**; a charitable organization shall not use both paper and electronic tickets in the same raffle, **except for paper receipts or bearer tickets generated by an electronic or online raffle system in compliance with this regulation.**

Section ~~(5)~~[4.] Claiming Raffle Prizes. (1) If the winner is not present at the drawing, the charitable organization shall notify the winner within seven (7) days of the drawing that the winner shall claim the prize within thirty (30) days.

(2) If a winner does not wish to claim the prize but wishes to donate it to the charitable organization, the charitable organization shall obtain a written statement of the winner's intention within the thirty (30) day period. A charitable organization shall not accept the donation to the charitable organization of a prize won if doing so would violate KRS 238.540.

(3) If a raffle winner does not claim the prize or donate it to the charitable organization within thirty (30) days after having been contacted by certified mail, or if the raffle winner is ineligible by law to claim the prize, the charitable organization shall notify the department and draw another ticket in the presence of department personnel.

(4) The requirements of subsections (1), (2), and (3) of this section shall be waived, and the charitable organization shall be allowed to draw tickets until a winner is present if:

- (a) The raffle tickets sell for five (5) dollars or less;
- (b) The raffle sales are initiated and concluded and all winners are selected at a licensed charity fundraising event; or
- (c) The raffle sales are initiated and concluded and all winners are selected at a licensed special limited charity fundraising event.

[Section 5. Electronic Raffle Definitions. (1) "Bearer ticket" means an electronic or paper ticket that contains one or more draw numbers purchased.

(2) "Counterfoil" means an electronic record or paper ticket stub, also known as a barrel ticket, which will be drawn to determine a winner and contains a single draw number matching the player's purchased bearer ticket and may, depending on the type of raffle, contain the name, address, or telephone number of the player.

(3) "Draw number" means a uniquely identifiable number that is provided to the purchaser for each chance purchased and may be selected as the winning number for the raffle.

~~(4) "Electronic raffle system" means computer software and related equipment used by raffle licensees to sell tickets, account for sales, and facilitate the drawing of tickets to determine the winners.~~

~~(5) "Raffle sales unit" (or "RSU") means a portable and/or wireless device, a remote hardwired connected device or a standalone cashier station that is used as a point of sale for bearer tickets.~~

~~(6) "Validation number" means a unique number which may represent one or more draw numbers that will be used to validate the winning number for the raffle.]~~

Section 6. Electronic Raffle System Standards. (1) Each electronic raffle system shall have a device or facility that provides for the sale of bearer tickets and the collection and accounting tools needed to track all sales initiated through the raffle system. The system shall have the ability to support all RSUs, whether they are hard-wired or connected wirelessly, to ensure that each RSU sends or transmits all ticket sales to the system. The system shall have the ability to facilitate winner selection by either manual or electronic means.

(2) Time Limits.[:] The electronic raffle system software **shall [must]** be capable of setting time limits for when tickets may be purchased for a raffle drawing.

(3) Configuration Changes.[:] After the commencement of a raffle, the electronic raffle system software shall not allow changes to parameters **that [which]** may affect the integrity of the raffle.

(4) Bearer Tickets.[:] After the payment of a fee, participants shall receive a bearer ticket for one **(1)** or more chances to win a raffle drawing. The bearer ticket shall be printed with the information required by Section ~~(2)[1]~~(2) of this administrative regulation **and shall include[and]:**

(a) The date and time (in twenty-four (24) hour format showing hours and minutes) that the ticket was purchased;

(b) All unique draw numbers purchased for the raffle;

(c) The RSU identifier from which the ticket was generated; and

(d) A unique validation number or barcode.

(5) Validation Numbers.[:] The algorithm or method used by the electronic raffle system to generate the bearer ticket validation number **shall [must]** be unpredictable and ensure against duplicate validation numbers for the raffle currently in progress.

(6) Voiding a Ticket.[:] The electronic raffle system shall be designed to flag or otherwise identify a voided bearer ticket and its corresponding draw number. The system shall record at a minimum the draw numbers and the validation number from the voided bearer ticket. Voided draw numbers shall not be able to be resold or reissued for that raffle.

(7) Counterfoils.[:] **If [Where]** a manual draw is used to determine a winner, all counterfoils used in a raffle drawing **shall [must]** be the same size, shape, and weight. A counterfoil shall be printed or stored electronically for each purchased draw number. If an electronic random number generator is used to determine the winner of the raffle drawing, a printed counterfoil is not required. A counterfoil **shall [must]** only contain one **(1)** draw number and shall contain the following information, which matches the bearer ticket issued to the player:

(a) Event Identifier or Location;

(b) The draw number;

(c) Issued date and time (in twenty-four (24) hour format showing hours and minutes);

(d) Value or cost of the bearer ticket; and

(e) Unique validation number or barcode.

(8) Reprinting of Counterfoils.[:/ If [Where] the system supports the reprinting of counterfoil tickets, **the [this]** facility shall require additional supervised access controls, and the draw numbers for all reprinted counterfoils shall be flagged in the system as reprints.

(9) Raffle Prize Displays.[:/ An electronic raffle system may include a raffle prize display that **may [can]** be viewed by participants of the raffle that displays the raffle prize and the current progression of the prize. The electronic raffle system may have multiple raffle awards displayed in an alternating fashion.

(10) Electronic Raffle Drawing Requirements.[:/ A raffle drawing shall be held at a date, time, place stated on the charitable organization's license or certificate of exemption. The drawing shall be administered by an officer or chairperson of the charitable organization. A raffle drawing shall only be conducted after:

(a) The close of the raffle; and

(b) All sales and voided sales for the particular raffle purchase period have been reconciled.

(11) Closing the Raffle Purchase Period.[:/ The system **shall [must]** be capable of closing off the sale of bearer tickets at a time determined by the operator. **Tickets shall not be sold [No sales of tickets may occur]** after the raffle purchase period has **[been]** closed. The system **shall [must]** be capable of displaying to the operator by way of the RSU device display that all sales from a particular device have been uploaded, transferred, or otherwise communicated to the electronic raffle system.

(a) On verification of the sales data transfer, the RSU device **shall [must]** be capable of being reset or closed; and

(b) The RSU **shall [must]** not be enabled for any further sales for the current raffle.

(12) Voided Tickets.[:/ Voided tickets shall not be qualified toward any prize. The system shall be capable of reconciling voided sales for the raffle purchase to identify all voided tickets that may be committed to the draw. The system shall record an acknowledgement from the event manager that voided tickets have been reconciled before permitting a winning number to be entered into the system for validation.

(13) Winner Determination.[:/ The operator shall conduct an electronic or other approved draw procedure **that [which]** ensures a randomly selected draw number as a winner from all tickets sold. Each drawn counterfoil shall be verified as a sold and valid ticket. This process shall be repeated for each advertised prize.

(14) Official Drawing Results.[:/ Results of the drawing become official and final after the drawn number is verified as a winning bearer ticket for the respective drawing, and is presented to the participants of the raffle. The system shall display the winning draw on all capable display devices **[that are]** intended to be viewed by participants.

(15) Winner Verification.[:/ Winning tickets shall be verified prior to payout. Participants **shall [must]** present the bearer ticket to an authorized agent for validation with the system. The system shall be capable of verifying the winning draw numbers and shall allow for the validation of draw numbers either manually or through the use of a bar code scanner or equivalent.

(16) System Reporting Requirements.[:/ The system shall be capable of producing general accounting reports to include the following information for each draw conducted:

(a) Raffle Drawing Report. A report **that [which]** includes the following for each raffle drawing:

1. Date and time of the event;
2. Organization running the event;
3. Sales information;
4. Prize value awarded to participant;
5. Prize distribution (total raffle sales vs. prize value awarded to participant);
6. Refund totals by event;
7. Draw numbers-in-play count;
8. Winning number(s) drawn (including draw order, call time, and claim status); and
9. All other information required by 820 KAR 1:057.

(b) Exception Report.[:] A report **that [which]** includes system exception information, including [, but not limited to,] changes to system parameters, corrections, overrides, and voids;

(c) Bearer Tickets Report.[:] A report **that [which]** includes a list of all bearer tickets sold including all associated draw numbers, selling price, and RSU identifier;

(d) Sales by RSU.[:] A report **that [which]** includes a breakdown of each RSU's total sales (including draw numbers sold) and any voided **or [and]** misprinted tickets;

(e) Voided Draw Number Report.[:] A report **that [which]** includes a list of all draw numbers that have been voided including corresponding validation numbers;

(f) Raffle Sales Unit Event Log.[:] A report **that [which]** lists all events recorded for each RSU, including the date and time and a brief text description of the event or identifying code;[:]

(g) Raffle Sales Unit Corruption Log.[:] A report **that [which]** lists all RSUs unable to be reconciled to the system, including the RSU identifier, RSU operator, and the money collected; **and**

(h) All information required by 820 KAR 1:057.

Section 7. Raffle Sales Unit Standards. (1) After the payment of a fee, participants shall receive a chance to win a raffle drawing. A chance to win a raffle drawing shall be purchased from an attendant-operated Raffle Sales Unit (["RSU"]).

(a) Attendant-Operated Raffle Sales Unit.[:] A participant may purchase a bearer ticket from an attendant-operated RSU by providing payment for the ticket(s) to the attendant. Upon receiving payment, the attendant **shall [will]** provide the participant the bearer ticket(s) purchased by the participant.

(b) Player-Operated Raffle Sales Unit.[:] A participant may purchase a bearer ticket from a player-operated RSU by following the instructions appearing on the screen of the RSU and providing payment for the ticket(s). Upon payment for the ticket(s), the RSU **shall [will]** issue the corresponding bearer ticket(s) purchased by the participant.

(2) An RSU **shall [must]** be capable of generating and printing a bearer ticket with one (1) or more uniquely identifiable draw numbers.

(a) The system **shall [must]** not generate duplicate draw numbers within the same event.

(b) For each draw number generated, there **shall [must]** be **only one (1) [and only one]** corresponding counterfoil with the same draw number.

(c) The RSU **shall [must]** be capable of providing a transaction receipt in the form of a bearer ticket to a purchaser.

(3) Access Controls.[:] Access to raffle sales software shall be controlled by a secure logon procedure. It shall not be possible to modify the configuration settings of an RSU without an authorized secure logon.

(4) Touch Screens.[:] Touch screens shall be accurate once calibrated and shall maintain that accuracy for at least the manufacturer's recommended maintenance period.

(5) RSU Interface.[:] The functions of all buttons, touch or click points represented on the RSU interface shall be clearly indicated within the area of the button, ~~for~~ touch ~~or~~ click point ~~and~~ or within the help menu. There shall be no functionality available through any buttons or touch ~~or~~ click points on the RSU that are undocumented.

(6) Communications.[:] A Raffle Sales Unit **shall [must]** be designed or programmed **to [such that it may]** only communicate with authorized electronic raffle systems components. The electronic raffle system **shall [must]** have the capability to uniquely identify and authorize each RSU used to sell tickets for a raffle.

(7) Wireless Raffle Sales Units.[:] Communication **shall [must]** only occur between the RSU and the electronic raffle system via authorized access points.

(8) Printing Bearer Tickets.[:] If the RSU connects to a printer that is used to produce bearer tickets, the bearer ticket shall include information as indicated in Section 2 ~~[(1)(2) of this administrative regulation. This information, or some of this information, [it]~~ may be ~~[permissible for some of this information to be]~~ contained on the ticket stock itself.

(a) The RSU shall [must] control the transfer of ticket data sent to the printer, and only transfer ticket data to the printer when sufficient space is available in the printer memory to receive the ticket information.

(b) If a barcode forms part of the validation number printed on the bearer ticket, the printer shall [must] support the barcode format and print with sufficient resolution to permit validation by a barcode reader.

(9) Printer Error Conditions.[:] The bearer ticket printer shall be able to detect and indicate to the operator the following error conditions:

(a) Low battery;

(b) Out of paper or paper low;

(c) Printer disconnected (~~[-]~~It is permissible for the system to detect this error condition when it tries to print).

(d) If the unit is capable of reprinting a ticket, the reprinted ticket shall clearly indicate that it is a reprint of the original ticket.

(10) Critical Memory Requirements.[:] **[Critical memory means memory that is used to store all data that is considered vital to the continued operation of the RSU.]** Critical memory shall be maintained for the purpose of storing and preserving critical data **including[. This includes, but is not limited to]:**

(a) If [When] not communicating with the system, recall of all tickets sold including, at minimum, draw numbers and validation numbers; and

(b) RSU configuration data.

(11) Maintenance of Critical Memory.[:] Critical memory storage shall be maintained by a methodology that enables errors to be identified. This methodology may involve signatures, checksums, partial checksums, multiple copies, time stamps ~~and~~ or effective use of validity codes.

(12) Comprehensive Checks.[:] Comprehensive checks of critical memory shall be made on startup and shall detect failures with an extremely high level of accuracy.

(13) Unrecoverable Critical Memory. An unrecoverable corruption of critical memory shall result in an error. Upon detection, the raffle sales unit shall cease to function.

(14) Backup Requirements. The RSU **shall [must]** have a backup or archive capability, which allows the recovery of critical data **if [should]** a failure occurs.

(15) RSU Program Identification.[:] All programs shall contain sufficient information to identify the software and revision level of the information stored on the RSU, which may be displayed via a display screen.

(16) Detection of Program Corruption.[:] RSU programs shall be capable of detecting program corruption and cause the RSU to cease operations until corrected.

(17) Verification of Program Updates.[:] Prior to execution of the updated software, the software **shall [must]** be successfully authenticated on the RSU.

(18) Independent Control Program Verification.[:] The RSU shall have the ability to allow for an independent integrity check of the RSU's software from an outside source and is required for all software that may affect the integrity of the raffle. This **shall [must]** be accomplished by being authenticated by a third-party device or by allowing for removal of the media **so [such]** that it **may [can]** be verified externally. This integrity check **shall [will]** provide a means for field verification of the software to identify and validate the program. The test laboratory, prior to device approval, shall evaluate the integrity check method.

Section 8. Random Number Generator Requirements. (1) A random number generator shall reside on a program storage device secured in the logic board of the system. The numbers selected by the random number generator for each drawing shall be stored in the system's memory and be capable of being output to produce a winning number. The use of an RNG results in the selection of raffle outcomes in which the selection shall:

(a) Be statistically independent;

(b) Conform to the desired random distribution;

(c) Pass industry-standard recognized statistical tests, as chosen by the independent testing laboratory; and

(d) Be unpredictable.

(2) Applied Tests. The test laboratory may employ the use of various recognized tests to determine whether or not the random values produced by the random number generator pass the desired confidence level of **ninety-nine (99) percent [99%]**. The independent test lab shall choose the appropriate tests on a case by case basis depending on the RNG under review. These tests may include~~],~~ **but are not limited to**:

(a) Chi-square test;

(b) Equi-distribution (frequency) test;

(c) Gap test;

(d) Overlaps test;

(e) Poker test;

(f) Coupon collector's test;

(g) Permutation test;

(h) Kolmogorov-Smimov test;

- (i) Adjacency criterion tests;
 - (j) Order statistic test;
 - (k) Runs tests (patterns of occurrences **shall [should]** not be recurrent);
 - (l) Interplay correlation test;
 - (m) Serial correlation test potency and degree of serial correlation (outcomes **shall [should]** be independent of the previous game);
 - (n) Tests on subsequences; and
 - (o) Poisson distribution.
- (3) Period.**[:]** The period of the RNG, in conjunction with the methods of implementing the RNG outcomes, **shall [must]** be sufficiently large to ensure that all valid, sold numbers are available for random selection.
- (4) Range.**[:]** The range of raw values produced by the RNG **shall [must]** be sufficiently large to provide adequate precision and flexibility when scaling and mapping.
- (5) Background RNG Cycling or Activity Requirement.**[:] [In-order]** To ensure that RNG outcomes cannot be predicted, adequate background cycling or activity **shall [must]** be implemented between each drawing at a speed that cannot be timed. The rate of background cycling or activity **shall [must]** be sufficiently random in and of itself to prevent prediction.
- (6) RNG Seeding or Re-Seeding.**[:]** The methods of seeding or re-seeding implemented in the RNG **shall [must]** ensure that all seed values are determined securely and that the resultant sequence of outcomes is not predictable.
- (a) The first seed shall be randomly determined by an uncontrolled event. After every bearer ticket draw, there shall be a random change in the RNG process (new seed, random timer, **or** delay, **[etc.]**). This **shall [will]** verify the RNG does not start at the same value, every time. It is permissible not to use a random seed, **except[; however,]** the manufacturer **shall [must]** ensure that the selection process will not synchronize.
- (b) Unless proven to have no adverse effect on the randomness of the RNG outcomes or actually improve the randomness of the RNG outcomes, seeding and re-seeding **shall [must]** be kept to an absolute minimum. If **[for any reason]** the background cycling or activity of the RNG is interrupted, the next seed value for the RNG **shall [must]** be a function of the value produced by the RNG immediately prior to the interruption.
- (7) Scaling Algorithms. The methods of scaling (**[i.e.]** converting raw RNG outcomes of a greater range into scaled RNG outcomes of a lesser range) shall be linear, and shall not introduce any bias, pattern, or predictability. The scaled RNG outcomes **shall [must]** be proven to pass various recognized statistical tests as chosen by the independent testing laboratory.
- (a) If a random number with a range shorter than that provided by the RNG is required for some purpose within the raffle system, the method of re-scaling, (**[i.e.,]** converting the number to the lower range), **shall [is to]** be designed in **[such]** a way that all numbers within the lower range are equally probable.
- (b) If a particular random number selected is outside the range of equal distribution of rescaling values, it is permissible to discard that random number and select the next in sequence for the purpose of re-scaling.
- (8) Winning Number Draw.**[:]** The winning number selection shall only be produced from sold bearer ticket numbers from the current drawing to be available for selection.

(a) Each valid, sold raffle number shall be available for random selection at the initiation of each drawing; and

(b) For raffles **that [which]** offer multiple awards or drawings with separate buy-ins for each, the winning number selection shall only be produced from sold bearer ticket numbers corresponding with each applicable award or drawing. As winning numbers are drawn, they shall be immediately used as governed by the rules of the raffle (**[i.e.]** the bearer tickets **shall not [are not to]** be discarded due to adaptive behavior).

(9) No Corruption from Associated Equipment.**[:]** An electronic raffle system shall use appropriate protocols to protect the random number generator and random selection process from influence by associated equipment, which may be communicating with the electronic raffle system.

Section 9. Electronic Raffle System Server Requirements. (1) The Electronic Raffle System Server(s) may be located locally, within a single facility or may be remotely located outside of the facility through a Wide Area Network (WAN).

(2) Physical Security.**[:]** The servers shall be housed in a secure location that has sufficient physical protection against alteration, tampering, or unauthorized access.

(3) Logical Access Control.**[:]** The electronic raffle system shall be logically secured through the use of passwords, biometrics, or other means certified as secure by the independent testing lab. The storage of passwords, PINs, biometrics, and other authentication credentials shall be secure. The system **shall [must]** have multiple security access levels to control and restrict different classes of access to the electronic raffle system.

(4) Security from Alteration, Tampering,**[:]** or Unauthorized Access.**[:]** The electronic raffle system shall provide a logical means for securing the raffle data against alteration, tampering, or unauthorized access. The following rules also apply to the raffle data within the Electronic Raffle System:

(a) **Equipment shall not [No equipment shall]** have a mechanism whereby an error will cause the raffle data to automatically clear. Data shall be maintained at all times regardless of whether the server is being supplied with power.

(b) Data shall be stored in **[such]** a way as to prevent the loss of the data when replacing parts or modules during normal maintenance.

(5) Data Alteration.**[:]** The electronic raffle system shall not permit the alteration of any accounting, reporting, or significant event data without supervised access controls. In the event any data is changed, the following information shall be documented or logged:

(a) Data element altered;

(b) Data element value prior to alteration;

(c) Data element value after alteration;

(d) Time and date of alteration; and

(e) User login to identify the personnel that performed the alteration.

(6) Server Programming.**[:]** There shall be no means available for an operator to conduct programming on the server in any configuration (**[e.g.]** the operator **shall [should]** not be able to perform SQL statements to modify the database). **[However,]** Network administrators may perform authorized network infrastructure maintenance with sufficient access rights, which include the use of SQL statements that were already resident on the system.

(7) Copy Protection.[:/] Copy protection to prevent unauthorized duplication or modification of software, for servers or RSUs, may be implemented if [provided that]:

(a) The method of copy protection is fully documented and provided to the Test Laboratory, which shall [who will] verify that the protection works as described; or

(b) The program or component involved in enforcing the copy protection may [can] be individually verified by the methodology described in subsection (17).

(8) Uninterruptible Power Supply Support.[:/] If [Where] the server is a stand-alone application, it **shall [must]** have an uninterruptible power supply ([“]UPS[“]) connected and of sufficient capacity to permit a graceful shut-down and that retains all electronic raffle system data during a power loss. The electronic raffle system server may be a component of a network that is supported by a network-wide UPS if [provided that] the server is included as a device protected by the UPS.

(9) System Clock Requirements.[:/] An Electronic Raffle System **shall [must]** maintain an internal clock that reflects the current date and time (in twenty-four (24) hour format showing hours and minutes) that shall be used to provide for the following:

(a) Time stamping of significant events;

(b) Reference clock for reporting; and

(c) Time stamping of all sales and draw events.

(10) System Clock Synchronization Feature.[:/] If multiple clocks are supported the system shall have a facility to synchronize clocks within all system components.

(11) RSU Management Functionality.[:/] An electronic raffle system **shall [must]** have a master list of each authorized RSU in operation, including at minimum the following information for each entry:

(a) A unique RSU identification number or corresponding hardware identifier ([i.e.] MAC);

(b) Operator identification; and

(c) Tickets issued for sale, if applicable.

(12) RSU Validation.[:/] It is recommended that RSUs be validated at least once per year with at least one **(1)** method of authentication. The system shall have the ability to remotely disable the RSU after the threshold of unsuccessful validation attempts has been reached.

(13) Counterfoil Printers.[:/] If [Where] printed counterfoils are in use, the printer mechanism shall be able to detect and indicate the following error conditions:

(a) Out of paper;[:/]

(b) Paper low;[:/]

(c) Memory Error;

(d) Printer failure; and

(e) Printer disconnected.

(14) Printer Disable. At any time during an active draw, the operator shall have the ability to manually disable a printer and remove the printer from the configuration without affecting the remaining printers or any outstanding print requests.

(15) Significant Event Logging. Significant events shall be communicated and logged on the electronic raffle system, which shall include:

(a) Connection **or [A]** Disconnection of an RSU or any component of the system;

(b) Critical memory corruption of any component of the system;[:/]

(c) Counterfoil Printer errors;

1. Out of paper **or [A]** paper low;

2. Printer disconnect **or** ~~if~~ failure; and

3. Printer memory error;~~[-]~~

(d) Establishment and failure of communications between sensitive electronic raffle system components;~~[-]~~

(e) Significant event buffer full;

(f) Program error or authentication mismatch;

(g) Firewall audit log full, **if** ~~[where]~~ supported; and

(h) Remote access, **if** ~~[where]~~ supported.

(16) Significant Event Surveillance or Security Functionality. Each significant event conveyed to the electronic raffle system shall be stored. An electronic raffle system shall provide an interrogation program that enables on-line comprehensive searching of the significant events through recorded data. The interrogation program shall have the ability to perform a search based at least on the following:

(a) Date and time range;

(b) Unique component identification number; and

(c) Significant event identifier.

(17) Storage Medium Backup.~~[-]~~ The electronic raffle system shall have sufficient redundancy and modularity so that if any single component or part of a component fails, the raffle **may** ~~[can]~~ continue. Redundant copies of critical data shall be kept on the electronic raffle system with open support for backups and restoration.

(a) All storage shall be through an error checking, nonvolatile physical medium, or an equivalent architectural implementation, so **if** ~~[that should]~~ the primary storage medium fail, the functions of the electronic raffle system and the process of auditing those functions **may** ~~[can]~~ continue with no critical data loss.

(b) The database shall be stored on redundant media so that no single failure of any portion of the system would cause the loss or corruption of data.

(18) Recovery Requirements. In the event of a catastrophic failure, **and if** ~~[when]~~ the electronic raffle system cannot be restarted in any other way, it shall be possible to reload the electronic raffle system from the last viable backup point and fully recover the contents of that backup, including~~[-]~~ **but not limited to**:

(a) Significant Events;

(b) Accounting information;

(c) Reporting information; and

(d) Specific site information such as employee files **or** ~~[-]~~ raffle set-up~~[-, etc.]~~

(19) Verification of System Software. System software components and modules shall be verifiable by a secure means at the system level denoting the program identification and version. The system shall have the ability to allow for an independent integrity check of the components and modules from an outside source and is required for all software that may affect the integrity of the system. This **shall** ~~[must]~~ be accomplished by being authenticated by a third-party device, or by allowing for removal of the media **so** ~~[such]~~ that it **may** ~~[can]~~ be verified externally. This integrity check shall provide a means for field verification of the system components and modules to identify and validate the programs or files. The independent testing laboratory, prior to system approval, shall approve the integrity check method.

Section 10. Electronic Raffle System Communication Requirements. (1) Communication Protocol. [!:] Each component of an electronic raffle system **shall [must]** function as indicated by the communication protocol implemented. An electronic raffle system **shall [must]** provide for the following:

(a) Communication between all system components **and shall [must]** provide mutual authentication between the component and the server; [!:]

(b) All protocols **shall [must]** use communication techniques that have proper error detection and recovery mechanisms, which are designed to prevent eavesdropping and tampering. Any alternative implementations **shall [will]** be reviewed on a case-by-case basis, with regulatory approval; and

(c) All data communications critical to the raffle shall employ encryption. The encryption algorithm shall employ variable keys, or similar methodology to preserve secure communication.

(2) Connectivity. [!:] Only authorized devices shall be permitted to establish communications between any system components. Electronic raffle systems shall provide a method to:

(a) Verify that the system component is being operated by an authorized user;

(b) Enroll and un-enroll system components;

(c) Enable and disable specific system components; [!:]

(d) Ensure that only enrolled and enabled system components participate in the raffle; and

(e) Ensure that the default condition for components shall be un-enrolled and disabled.

(3) Loss of Communications. [!:] Raffle sales units (RSUs) may continue to sell tickets when not in communication with the system. Sales taking place on the RSU during a loss of communication with the system shall be logged on the device. The RSU shall deactivate upon detecting the limit of its buffer overflow. Upon the re-establishment of communication, the system shall require the RSU to re-authenticate with the server(s). All tickets sold during communication loss shall be transmitted to the system. Loss of communications shall not affect the integrity of critical memory.

(4) System Security. [!:] All communications, including remote access, **shall [must]** pass through at least one (1) approved application-level firewall and **shall [must]** not have a facility that allows for an alternate network path. Any alternate network path existing for redundancy purposes **shall [must]** also pass through at least one (1) application-level firewall.

(5) Firewall Audit Logs. The firewall application **shall [must]** maintain an audit log and **shall [must]** disable all communications and generate a significant event **that [which]** meets the requirements as specified in Section 9(13) if the audit log becomes full. The audit log shall contain:

(a) All changes to configuration of the firewall;

(b) All successful and unsuccessful connection attempts through the firewall; and

(c) The source and destination IP Addresses, Port Numbers, and MAC Addresses.

(6) Remote Access. [~~“Remote access” means any access from outside the system or system network including any access from other networks within the same establishment.~~] The electronic raffle system shall have the option to disable remote access. Remote access shall accept only the remote connections permissible by the firewall application and electronic raffle system settings. In addition, there shall be:

(a) No unauthorized remote user administration functionality, such as adding users, or changing permissions;

(b) No unauthorized access to any database other than information retrieval using existing functions;

(c) No unauthorized access to the operating system; and

(d) For systems using an electronic random number generator, the electronic raffle system **shall [must]** immediately detect remote access.

(7) The system manufacturer may, as needed, remotely access the electronic raffle system and its associated components for the purpose of product and user support.[.]

(8) Remote Access Auditing. The electronic raffle system **shall [must]** maintain an activity log **that [which]** updates automatically depicting all remote access information, to include:

(a) Log on name;

(b) Time and date the connection was made;

(c) Duration of connection; and

(d) Activity while logged in, including the specific areas accessed and changes that were made.

(9) Wide Area Network Communications. Wide Area Network (~~["WAN"]~~) communications are permitted as allowed by the regulatory body and shall meet the following requirements:

(a) The communications over the WAN are secured from intrusion, interference, and eavesdropping via techniques such as use of a Virtual Private Network (VPN) or encryption; and

(b) Only functions documented in the communications protocol shall be used over the WAN. The protocol specification shall be provided to the Testing Laboratory.

(10) Wireless Network Communications. If a wireless communication solution is utilized, it shall adhere to the following requirements:

(a) Segregation of Networks. Networks used by the electronic raffle systems **shall [should]** be separate and not include other devices that are not part of the electronic raffle system.

(b) Service Set Identifier (SSID). The wireless network name (SSID) used to identify the wireless network **shall [should]** be hidden and not broadcast.

(c) Media Access Control (MAC) Address Filtering. The wireless network should use MAC address filtering **[as means]** to validate whether or not a device may connect to the wireless network.

(d) Device Registration. The electronic raffle system **shall [should]** use a device registration method **[as means]** to validate whether or not a device is an authorized device on the electronic raffle system.

Section 11. Online Raffle Ticket Sales. (1) All systems used for the sale of raffle tickets through the Internet **shall [must]** meet the requirements contained within this **administrative regulation [document]** and the terms and conditions set forth by **this administrative regulation [these regulations]** for the sale of raffle tickets through the Internet.

[(2) Definitions:

(a) "Access control" means the restriction of access to a place or other resource. Locks and login credentials are two mechanisms of access control.

(b) "Address Resolution Protocol ('ARP') is the protocol used to translate IP addresses into MAC addresses to support communication on a LAN ("Local Area Network"). The Address Resolution Protocol is a request and reply protocol and it is communicated within the boundaries of a single network, never routed across internetwork nodes (connection points, either a redistribution point or an end point for data transmissions).

(c) "Algorithm" means a finite set of unambiguous instructions performed in a prescribed sequence to achieve a goal, especially a mathematical rule or procedure used to compute a desired result. Algorithms are the basis for most computer programming.

(d) "Authentication" means a security measure designed to protect a communications system against acceptance of a fraudulent transmission or simulation by establishing the validity of a transmission, message or originator.

(e) "Bi-Directional" means the ability to move, transfer or transmit in both directions.

(f) "Counterfoil" means an electronic record or paper ticket stub, also known as a barrel ticket, which will be drawn to determine a winner and contains a player's draw number matching the bearer ticket purchased and may, depending on the type of raffle, contain the name, address, or telephone number of the player.

(g) "Crypto-analytic" means an attack against the encryption key (refer to definition of encryption key).

(h) "Cryptographic" means anything written in a secret code, cipher, or the like.

(i) "Distributed Denial of Service ('DDoS')" means a type of Denial of Service ("DoS") attack where multiple compromised systems, usually infected with a destructive software program, are used to target a single system causing a Denial of Service (DoS) attack. Victims of a DDoS attack consist of both the end targeted system and all systems maliciously used and controlled by the hacker in the distributed attack.

(j) "Domain" is a term used to identify one or more IP addresses. A domain name is used in a Uniform Resource Locator ("URL") to identify particular Web pages.

(k) "Encryption" means the reversible transformation of data from the original (the plaintext) to a difficult-to-interpret format (the ciphertext) as a mechanism for protecting its confidentiality, integrity and sometimes its authenticity.

(l) "Encryption key" means a sequence of numbers used to encrypt or decrypt (to decode/decipher) data.

(m) "Firewall" means any number of security schemes that prevent unauthorized users from gaining access to a computer network or that monitor transfers of information to and from the network.

(n) "Geolocation" means identifying the real-world geographic location of an Internet connected computer, mobile device, or website visitor.

(o) "Host" means a computer system that is accessed by a user working at a remote location. Typically, the term is used when there are two computer systems connected by modems and telephone lines. The system that contains the data is called the host, while the computer at which the user sits is called the remote terminal. A computer that is connected to a TCP/IP network, including the Internet. Each host has a unique IP address.

(p) "Hypertext Transfer Protocol ('HTTP')" means the underlying protocol used by the World Wide Web. HTTP defines how messages are formatted and transmitted, and what actions Web servers and browsers should take in response to various commands.

(q) "Internet" means an interconnected system of networks that connects computers around the world via the TCP/IP protocol. TCP/IP protocol is short for Transmission Control Protocol/Internet Protocol, the suite of communications protocols used to connect hosts on the Internet.

(r) "Intrusion Detection System ('IDS') or "Intrusion Prevention System ('IPS') means a system that inspects all inbound and outbound network activity and identifies suspicious patterns that may indicate a network or system attack from someone attempting to break into or compromise a system. Used in computer security, intrusion detection refers to the process of monitoring computer and network activities and analyzing those events to look for signs of intrusion in a system.

(s) "Internet Protocol ('IP') means an identifier for a computer or device on a TCP/IP network.

(t) "Media Access Control ('MAC') means hardware address that uniquely identifies each node, such as computer or printer, of a network.

(u) "Man-in-the-Middle ('MITM') means an active Internet attack where the person attacking attempts to intercept, read or alter information moving between two computers.

(v) "Message authentication" means a security measure designed to establish the authenticity of a message by means of an authenticator within the transmission derived from certain predetermined elements of the message itself.

(w) "Online" means being connected to the Internet.

(x) "Online Purchasing Platform" means the raffle system hardware and software which drives the features common to all raffles offered, and which forms the primary interface to the Raffle System for both the patron and the operator. The online purchasing platform provides the patron with the means to register an account, log in to/out of their account, modify their account information, make ticket purchases, request account activity statement/reports, and close their account. In addition, any web pages displayed to the patron that relate to ticket purchasing offered on the raffle system. The online purchasing platform provides the operator with the means to review patron accounts, enable or disable raffles, generate various financial transaction and account reports, input raffle outcomes, enable or disable patron accounts, and set any configurable parameters.

(y) "Protocol" means a set of formal rules describing how to transmit or exchange data, especially across a network. TCP/IP is the standard communications protocol of the Internet and most internal networks.

(z) "Shellcode" means a small piece of code used as the payload (cargo of data transmission) in the exploitation of computer security. Shellcode exploits a vulnerability and allows an attacker the ability to reduce a computer system's information assurance.

(aa) "Security certificate" means information, often stored as a text file, which is used by the Secure Socket Layers ("SSL") protocol to establish a secure connection. A security certificate contains information about whom it belongs to, who it was issued by, valid dates, a unique serial number or other unique identification that can be used to verify the contents of the certificate. In order for an SSL connection to be created, both sides must have a valid security certificate, which is also called a digital ID.

(ab) "Stateful firewall" means a firewall that keeps track of the state of network connections traveling across it. The firewall is programmed to distinguish legitimate packets for different types of connections. Only packets matching a known active connection will be allowed by the firewall; others will be rejected. Stateful inspection, also referred to as Dynamic Packet Filtering, is a security feature often included in business networks.

~~(ac) "Stateless" means a communications protocol that treats each request as an independent transaction that is unrelated to any previous request so that the communication consists of independent pairs of requests and responses. A stateless protocol does not require the server to retain session information or status about each communications partner for the duration of multiple requests. In contrast, a protocol which requires the keeping of internal state is known as a stateful protocol. Examples of stateless protocols include Internet Protocol (IP) and the Hypertext Transfer Protocol (HTTP).]~~

(2) All online raffle ticket sales systems, software, and database requirements **shall [must]** be tested and certified by an independent testing laboratory to meet the applicable requirements set forth in this **administrative regulation [document]** and approved by the department.

(3) Operation manuals and service manuals **shall [must]** be expressed in broad terms that are directly relevant to the system used to sell raffle ticket(s) through the Internet and **shall [must]** be provided at the request of the department.

(4) Geolocation.~~[:]~~ The raffle system, online purchasing platform or the patron device **shall [must]** be able to reasonably detect the physical location of an authorized patron attempting to access the service. Third parties may be used to verify the location of patrons.

(5) Inventory.~~[:]~~ **If [When]** issued a charitable gaming license to conduct a raffle, the charitable organization shall provide the number of raffle tickets available for sale through the Internet. The raffle system software shall have the ability to set time limits for which tickets may be purchased. Upon completion of the sale of the final raffle ticket for a charitable organization raffle, the raffle **shall [must]** close.

(6) Systems used by the purchaser to obtain raffle ticket(s) through the Internet **shall [must]** be designed to be reasonably impervious to communication errors. Personally identifiable information, sensitive account data, and financial information shall be protected over a public network.

(7) Asset Management.~~[:]~~ All assets housing, processing of communication controlled information, including those comprising the operating environment of the Raffle system ~~[and/]~~ or its components, **shall [should]** be accounted for and have a designated ~~[""]~~owner~~[""]~~ responsible for ensuring that information and assets are appropriately classified, and defining and periodically reviewing access restrictions and classifications.

(8) Raffle Equipment Security.~~[:]~~ Raffle system servers **shall [must]** be located in server rooms **that [which]** restrict unauthorized access. Raffle system servers shall be housed in racks located within a secure area.

(9) Network Security Management.~~[:]~~ To ensure purchasers are not exposed to unnecessary security risks by choosing to participate in raffles, these security requirements **shall [must]** apply to the following critical components of the raffle system:

(a) Raffle system components **that [which]** record, store, process, share, transmit, or retrieve sensitive purchaser information, **such as [e.g.]** credit card **or [if]** debit card details, authentication information, **or** patron account balances;

(b) Raffle system components **that [which]** store results of the current state of a purchaser's purchase order;

(c) Points of entry to and exit from the above systems (other systems **that [which]** are able to communicate directly with the core critical systems); and

(d) Communication networks **that [which]** transmit sensitive patron information.

(10) Networks should be logically separated **so [such]** that there **shall [should]** be no network traffic on a network link **that [which]** cannot be serviced by hosts on that link.

(a) The failure of any single item **shall [should]** not result in denial of service;

(b) An Intrusion Detection System **or [if]** Intrusion Prevention System **shall [must]** be installed on the network **and shall [which can]**:

1. Listen to both internal and external communications;

2. Detect or prevent Distributed Denial of Services (**[if]**DDoS**[if]**) attacks;

3. Detect or prevent shellcode from traversing the network;

4. Detect or prevent Address Resolution Protocol (**[if]**ARP**[if]**) spoofing; and

5. Detect other Man-in-the-Middle indicators and server communications immediately if detected.

(c) Stateless protocols **shall [should]** not be used for sensitive data without stateful transport (HTTP is allowed if it runs on TCP);**[if]**

(d) All changes to network infrastructure **shall [must]** be logged;

(e) Virus scanners or detection programs **shall [should]** be installed on all pertinent information systems. These programs shall be updated regularly to scan for new strains of viruses;

(f) Network security shall be tested by a qualified and experienced individual at least once per year; **and**

(g) Testing shall include testing of the external (public) interfaces and the internal network; **and****[if]**

(h) Testing of each security domain on the internal network shall be undertaken separately.

(11) Communication Protocol.**[if]** Online raffle tickets offered for sale by a charitable organization shall support a defined communication protocol that ensures purchasers are not exposed to unnecessary security risks when using the Internet for this purpose. Each component of a raffle system **shall [must]** function as indicated by the communication protocol implemented. The system **shall [must]** provide for the following:

(a) All critical data communication shall be protocol based or incorporate an error detection and correction scheme to ensure accuracy of messages received;

(b) All critical data communication shall employ encryption. The encryption algorithm shall employ variable keys or similar methodology to preserve secure communication;

(c) Communication between all system components **shall [must]** provide mutual authentication between the component and the server;

(d) All protocols shall use communication techniques that have proper error detection and recovery mechanisms, which are designed to prevent eavesdropping and tampering;**[if]**

(e) All data communications critical to raffle ticket sales through the Internet shall employ encryption. The encryption algorithm shall employ variable keys, or similar methodology to preserve secure communication.

(12) Remote Access.**[if]** **~~Remote access means any access from outside the system or system network including any access from other networks within the same establishment.~~** Remote access shall only be allowed with prior written approval of the department and shall have the option to be disabled. **If [Where]** allowed, remote access shall accept only the remote connections permissible by the firewall application and online raffle ticket sales settings. In addition, there shall be:

(a) No authorized remote user administration functionality;

(b) No authorized access to any database other than information retrieval using existing functions;

(c) No authorized access to the operating system; and

(d) The raffle system **shall [must]** maintain an activity log **that [which]** updates automatically depicting all remote access information.

(13) Error Recovery.[:/ The system used by a licensed charitable organization to offer the sale of raffle ticket(s) through the Internet **shall [must]** be able to recover messages when they are received in error. This would include inaccurately inputting personal **or [if]** banking information **that [which]** would result in the purchaser being notified that the information is invalid and **shall [must]** require review and corrective measures. In the event of a catastrophic failure, **if [when]** the system cannot be restarted in any other way, it shall be possible to reload the system information from the last viable backup point and fully recover the contents of that backup, including **[, but not limited to]**:

(a) Significant events;

(b) Accounting information;

(c) Reporting information; and

(d) Specific site information, including **[but not limited to]** employees file and the raffle set-up.

(14) Bi-Directional Requirements.[:/ Any system used to sell raffle ticket(s) through the Internet shall be tested by an independent testing laboratory, **which [who]** shall certify that:

(a) The physical network is designed to provide exceptional stability and limited communication errors;

(b) The system is stable and capable of overcoming and adjusting for communication errors in a thorough, secure, and precise manner; and

(c) Information is duly protected with the most secure forms of protection via encryption, segregation of information, firewalls, passwords, and personal identification numbers.

(15) Encryption.[:/ Security messages that traverse data communications lines **shall [must]** be encrypted using an encryption key or keys to ensure that communications are demonstrably secure against crypto-analytic attacks. The encryption keys or keys used to provide security to the system that provide for the sale of raffle tickets through the Internet **shall [must]** be monitored and maintained. Additionally, there **shall [must]** be a documented process for:

(a) Obtaining or generating encryption keys;

(b) Managing the expiry of encryption keys **[if encryption keys]**;

(c) Revoking encryption keys;

(d) Securely changing the current encryption keyset;

(e) The storage of any encryption keys; and

(f) To recover data encrypted with a revoked or expired encryption key for a defined period of time after the encryption key becomes valid.

(16) Cryptographic Controls.[:/ Cryptographic controls shall be implemented for the protection of the following information:

(a) Any sensitive or personally identifiable information shall be encrypted if it traverses a network with a lower level of trust;

(b) Data that is not required to be hidden **and has to [but must]** be authenticated shall use some form of message authentication technique;

(c) Authentication **shall [must]** use a security certificate **[from an organization]** approved by the independent testing laboratory;

(d) The grade of encryption used **shall [should]** be appropriate to the sensitivity of the data;

(e) The use of encryption algorithms shall be reviewed periodically by qualified management staff to verify that the current encryption algorithms are secure;

(f) Changes to encryption algorithms to correct weaknesses shall be implemented as soon as practical. If no **[such]** changes are available, the algorithm shall be replaced; and

(g) Encryption keys **shall [must]** not be stored without being encrypted themselves through a different encryption method **[and/]** or by using a different encryption key.

(17) Firewalls. All online raffle systems shall utilize firewalls that comply with the following provisions:

(a) A firewall shall be located at the boundary of any two **(2)** dissimilar security domains.

(b) All connections to hosts used for the sale of raffle tickets through the Internet shall be housed in a secure data center and **shall [must]** pass through at least one **(1)** application-level firewall. This includes connections to and from any non-related hosts used by the operator.

(c) The firewall shall be a separate hardware device with the following characteristics:

1. Only firewall-related applications may reside on the firewall; and

2. Only a limited number of accounts may be present on the firewall.

(d) The firewall shall reject all connections except those that have been specifically approved.

(e) The firewall shall reject all connections from destinations **that [which]** cannot reside on the network from which the message originated.

(f) The firewall shall maintain an audit log of all changes to parameters **that [which]** control the connections permitted through the firewall.

(g) The firewall shall maintain an audit log of all successful and unsuccessful connection attempts. Logs **shall [should]** be kept for **ninety (90)** days and a sample reviewed monthly for unexpected traffic.

(h) The firewall shall disable all communication if the audit log becomes full.

(18) Firewall Audit Logs. **[:]** The audit log shall contain:

(a) All changes to **the** configuration of the firewall;

(b) All successful and unsuccessful attempts through the firewall; and

(c) The source and destination IP addresses, port numbers, and MAC addresses.

(19) System Clock. **[:]** The system used for the sale of raffle tickets through the Internet shall maintain an internal clock that reflects the current date and time that shall be used for the following:

(a) Time stamping of significant events;

(b) Reference clock for reporting; and

(c) Time stamping of all sales.

(20) Purchase Session. **[:]** A purchase session consists of all activities and communications performed by a purchaser during the time the purchaser accesses the raffle system or online purchasing platform. Tickets sold online shall only be purchased during a purchase session.

(21) Purchasing Tickets. **[:]** A participant may purchase a raffle ticket from the website by following the instructions appearing on the screen and providing payment for the tickets. Each raffle ticket **shall [must]** be sold individually for the price indicated. Multiple discounted prices

shall [will] only be allowed if a way of ensuring financial accountability is possible by the online purchasing platform or raffle system:

(a) A ticket purchase via a credit card transaction or other methods that may [which-can] produce a sufficient audit trail shall [must] not be processed until [such-time-as] the funds are received from the issuer or the issuer provides an authorization number indicating that the purchase has been authorized;

(b) There shall [must] be a clear notification that the purchase has been accepted by the system and the details of the actual purchase accepted shall [must] be provided to the patron once the purchase is accepted; and

(c) Purchase confirmation shall include the amount of the purchase accepted by the raffle system or online purchasing platform.

(22) Disputes.[:] The raffle system or online purchasing platform shall [must] conspicuously provide a mechanism to advise the patron of the right to make a complaint against the operator and to enable the patron to notify the department of [such] a complaint.

(23) Bearer Ticket Issuance.[:] After the payment of a fee, the purchaser shall receive a receipt through the Internet that the purchase of a raffle ticket or tickets is complete. Upon receiving the receipt acknowledging the purchase through the Internet, the purchaser may receive the raffle ticket via e-mail. The receipt acknowledging purchase and the issuance of the raffle tickets through the Internet shall [must] be processed as two (2) separate transactions.

(24) Validation Numbers.[:] The method used by the raffle system to generate the bearer ticket validation number shall [must] be unpredictable and ensure against duplicate validation numbers for the raffle currently in progress.

(25) Voiding a Ticket.[:] If a ticket is voided, the appropriate information shall be recorded, which includes the draw numbers and the validation number pertaining to the voided ticket. Voided draw numbers shall not be able to be resold or reissued.

(26) Raffle Drawing Requirements. (a) A raffle drawing shall be held the date, time, and place stated on the organization's license or certificate of exemption.

(b) The operator shall conduct a manual or electronic draw procedure that [which] ensures a randomly selected draw number as a winner from all the tickets sold. Each drawn counterfoil shall be verified as a sold and valid ticket. Voided tickets shall not be qualified toward any prize. This process shall be repeated for each advertised prize.

(c) Results of the drawing become official and final after the drawn number is verified as a winning raffle ticket for the respective drawing and is presented to the participants for the raffle. The winning draw number shall be made available on the raffle website for the participants to review. Operators may utilize any additional methods in presenting the winning draw number(s) to the participants.

(27) Accounting Requirements.[:] Any system used for the sale of raffle tickets through the Internet shall [must] have the capability to log sales and to print reports detailing sales and accounting information for specific dates and time periods that shall [must] be available. This information shall include~~[, but is not limited to,]~~ the price of each raffle ticket, number of raffle tickets sold, and total sales. The system or other equipment shall be capable of producing accounting reports to include the following information:

(a) Data required to be maintained for each raffle drawing, including:

1. Date and time of event;

2. Organization running the event;

3. Sales information;

4. Value of prize(s) awarded;

5. Prize distribution;

6. Refund totals of event;

7. Draw numbers-in-play;

8. Winning number(s) drawn (including draw order, call time, and claim status); and

9. Any other information required by 820 KAR 1:057.

(b) Exception Report.[:] A report **that [which]** includes system exception information, including ~~[- but not limited to,]~~ changes to system parameters, corrections, overrides, and voids.

(c) Bearer Tickets Reports.[:] A report **that [which]** includes a list of all bearer tickets sold including all associated draw numbers and selling price.

(d) Sales Report.[:] A report **that [which]** includes a breakdown of sales of raffle ticket(s) through the Internet, including draw numbers sold and any voided and misprinted tickets.

(e) Voided Draw Number Report.[:] A report **that [which]** includes a list of all draw numbers that have been voided including corresponding validation numbers.

(f) Event Log.[:] A report **that [which]** lists all events recorded specific to the sales of raffle ticket(s) through the Internet. This **shall [will]** include the date and time of the transaction and a brief description of the transaction ~~[and/]~~ or identifying code.

(g) Corruption Log.[:] A report **that [which]** lists all Internet transactions that were unable to be reconciled to the system.

(28) Sales and Accounting Report Requirements.[:] Any raffle ticket sold **shall [must]** be included in the sales and accounting reports and be detailed in all financial transactions on the system. In addition, a log relating to accounting and raffle ticket sales **shall [must]** be maintained on the system. The charitable organization conducting the raffle shall be given the option of printing this log on demand.

(29) Backup Requirements.[:] Any system used for the sale of raffle ticket(s) through the Internet **shall [must]** have a backup and archive utility to allow the licensed charitable organization, conducting the raffle, the ability to save critical data **if [should]** a system failure occurs. This backup **may [can]** be automatically run by the charitable organization.

(30) Data Alteration.[:] The alteration of any accounting, reporting or significant event data related to the sale of raffle tickets through the Internet shall include supervised access controls. In the event any data is changed, the following information shall be logged, documented, stored, and available upon request for review:

(a) Data element altered;

(b) Data element value prior to alteration;

(c) Data element value after alteration;

(d) Time and date of alteration; and

(e) User login of the personnel that performed the alteration.

(31) Access Controls.[:] The allocation of access privileges shall be restricted and controlled on business requirements and the principle of least privilege.

(a) A formal user registration and de-registration procedure **shall [must]** be in place for granting and revoking access to all information systems and services.

(b) All users shall have a unique identifier (user ID) for their personal use only, and a suitable authentication technique shall be chosen to substantiate the claimed identity of a user.

(c) The use of generic accounts shall be limited, and **if [where]** used **the [for]** reasons for their use shall be formally documented.

(d) Password provision **shall [must]** be controlled through a formal management process.

(e) Passwords **shall [must]** meet business requirements for length, complexity, and lifespan.

(f) Access to system applications shall be controlled by a secure log-on procedure.

(g) Appropriate authentication methods, in addition to passwords, shall be used to control access by remote users

(h) Any physical access to areas housing components used for the sale of raffle ticket(s) through the Internet application and any logical access to these applications **shall [must]** be recorded.

(i) The use of automated equipment identification to authenticate connections from specific locations and equipment shall be formally documented and **shall [must]** be included in the regular review of access by management.

(j) Restrictions on connection times shall be used to provide additional security for high-risk applications.

(k) The use of utility programs that might be capable of overriding system application controls shall be restricted and tightly controlled.

(l) A formal policy shall be in place and appropriate security measures shall be adopted to protect against the risks of using mobile computing and communication facilities.

(32) Purchaser Account Registration.[:] The raffle system or online purchasing platform **shall [must]** employ a mechanism to collect purchaser information prior to registration of a purchaser account. The purchaser **shall [must]** be fully registered, and the purchaser's account **shall [must]** be activated prior to permitting ticket purchases. Once the identity verification is successfully complete, and the purchaser has acknowledged all of the necessary privacy policies and the terms and conditions, the purchaser account registration is complete and the patron account **shall [can]** become active.

(33) Third-Party Services.[:] Any third-party service providers contracted to provide service involving accessing, processing, communicating, or managing the sale of raffle tickets through the Internet **shall [must]** adhere to information contained in this **administrative regulation [document]**. The security roles and responsibilities of third-party service providers **shall [should]** be defined and documented as it relates to the security of information.

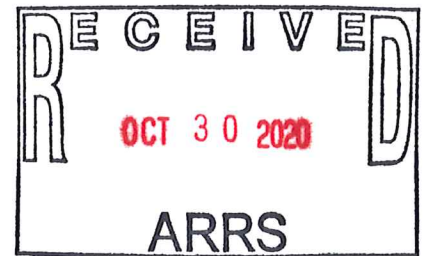
(a) Agreements with third-party service providers involving accessing, processing, communicating, or managing the purchase of on-line raffle tickets through the Internet[//]or its components, or adding products or services to the system used[//]or its components shall cover all relevant security requirements.

(b) The services, reports, and records provided by the third-party shall be monitored and reviewed by the department upon request.

(c) Changes to the provision of services, including maintaining and improving existing information security policies, procedures and controls, shall be managed, taking account of the criticality of business systems and processes involved and re-assessment of risks.

(d) The access rights of third-party service providers to the system **[and//]** or its components shall be removed upon termination of their contract or agreement, or adjusted upon change.

CONTACT PERSON: Doug Hardin, Staff Attorney, Department of Charitable Gaming, 500 Mero Street 2NW24, Frankfort, Kentucky 40601; phone (502) 782-8204; fax (502) 573-6625; doug.hardin@ky.gov.



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Eric C. Friedlander
Secretary

October 30, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: 902 KAR 45:110. Permits and fees for retail food establishments, vending machine companies, and restricted food concessions.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 45:110, the Department for Public Health proposes the enclosed substitute to 902 KAR 45:110.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

10/29/2020

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety

902 KAR 45:110. Permits and fees for retail food establishments, ~~[food manufacturing plants, food storage warehouses, salvage processors and distributors,]~~ vending machine companies, and restricted food concessions.

RELATES TO: KRS 217.015, 217.025, 217.035, 217.037, 217.085, 217.095, 217.125, 217.155, 217.811

STATUTORY AUTHORITY: KRS 217.125(1), ~~[(2),]~~ (4), 217.811

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act. KRS 217.125~~[(2) and]~~(4) requires the secretary ~~[of the Cabinet for Health and Family Services]~~ to provide by administrative regulation a schedule of reasonable fees to be paid by ~~[food manufacturing plants, food storage warehouses,]~~ retail food establishments~~[, salvage distributors, salvage processing plants,]~~ and restricted food concessions for permits to operate and for inspection activities carried out by the cabinet. KRS 217.811 requires the cabinet to provide by administrative regulation a schedule of fees for operating a vending machine company~~[for Health and Family Services]~~. This administrative regulation establishes the schedule of fees.

Section 1. Fees. (1) ~~[A permit fee shall be required for inspections conducted by the cabinet or the local health department to determine compliance with:~~

(a) 902 KAR 45:080 for a salvage distributor or a salvage processing plant; or

(b) KRS 217.025, 217.035, and 217.037 for a food manufacturing plant or food storage warehouse.

(2) A fee for the inspection of an establishment identified in subsection (1)(a) or (b) of this section shall be assessed according to the total square footage of the establishment:

(a) Zero — 1,000 square feet — \$120;

(b) 1,001 — 5,000 square feet — \$160;

(c) 5,001 — 20,000 square feet — \$200;

(d) 20,001 — 40,000 square feet — \$300;

(e) 40,001 — 80,000 square feet — \$400;

(f) 80,001 — 150,000 square feet — \$500; or

(g) 150,001 or more square feet — \$600.

(3) A fee shall be assessed for inspection of a retail food store or[and] food service establishment conducted by the cabinet or local health department to determine compliance with the provisions of KRS 217.025, 217.035, and 217.037~~[, and 217.125(2)]~~ pertaining to:

(a) Adulteration;

(b) Misbranding;

(c) Packaging; or

(d) Labeling of food products.

(2) A fee shall be assessed for inspection of a food service establishment conducted by the cabinet or local health department to determine compliance with the provisions of 902 KAR 45:005.

(3) The ~~(4)~~ A fee for the inspection of a retail food store or and a food service establishment shall be assessed according to the total square footage of the establishment:

- (a) Zero - 1,000 square feet – ninety (90)~~[ninety-three (93)]~~~~[seventy-five (75)]~~ dollars;
- (b) 1,001 - 10,000 square feet - \$155~~[156]~~~~[125]~~;
- (c) 10,001 - 20,000 square feet - \$215~~[218]~~~~[175]~~;
- (d) 20,001 - 30,000 square feet - \$250~~[200]~~; or
- (e) 30,001 or more square feet - \$375~~[300]~~.

~~(4)~~~~(5)~~ An application for a permit to operate a mobile retail food store shall be accompanied by an annual fee of sixty (60)~~[sixty-two (62)]~~~~[fifty (50)]~~ dollars.

~~(5)~~~~(6)~~ An application for a permit to operate a vending machine company shall be accompanied by the annual permit fee of \$125 plus a fee for the total number of vending machines operated by the applicant:

(a) One (1) – twenty-five (25) machines – sixty (60) dollars~~[sixty-two dollars and fifty cents (62.50)]~~;

(b) Twenty-six (26) – fifty (50) machines – ninety (90) dollars~~[ninety-three dollars and seventy-five cents (93.75)]~~;

(c) Fifty-one (51) – 100 machines - \$125;

(d) 101 – 150 machines - \$155~~[156.50]~~; and

(e) 151 and over machines - \$250.

~~(6)~~~~(5)~~ ~~[the annual fee required by KRS 217.811.~~

~~(7)~~ An application for a permit to operate a permanent food service establishment shall be accompanied by an annual fee of \$125~~[400]~~, plus the following fee if applicable:

(a) Fee for the number of seats:

1. One (1) to twenty-five (25) seats – seventy-five (75)~~[sixty (60)]~~ dollars;

2. Twenty-six (26) to fifty (50) seats - \$125~~[400]~~;

3. Fifty-one (51) to 100 seats - \$155~~[156]~~~~[125]~~;

4. 101 to 200 seats - \$185~~[187]~~~~[150]~~; or

5. 201 or more seats - \$215~~[218]~~~~[175]~~;

(b) Drive-through window - \$155~~[156]~~~~[125]~~; and

(c) Catering operation - \$135~~[137]~~~~[110]~~.

~~(7)~~~~(6)~~~~(8)~~ An application for a permit to operate a statewide mobile food unit shall be accompanied by an annual fee of \$200~~[160]~~.

~~(8)~~~~(7)~~~~(9)~~ An application for a permit to operate a temporary food service establishment shall be accompanied by a fee according to the length of the event:

(a) One (1) to three (3) day event – sixty (60)~~[sixty-two (62)]~~~~[fifty (50)]~~ dollars;

(b) Four (4) to seven (7) day event – ninety (90)~~[ninety-three (93)]~~~~[seventy-five (75)]~~ dollars;

or

(c) Eight (8) to fourteen (14) day event - \$125~~[400]~~.

~~(9)~~~~(8)~~ An application for a permit to operate a farmer's market temporary food service establishment shall be accompanied by a fee of \$100.

~~(10)~~~~(9)~~~~(10)~~ An application for a permit to operate a restricted food concession or mobile restricted food concession shall be accompanied by an annual fee of \$125~~[400]~~.

~~(11)~~ A request for a certificate of free sale or export authorizing a Kentucky food manufacturing plant holding a valid permit to operate to export a product outside of the United States shall be accompanied by a service fee of ten (10) dollars for each certificate requested.]

Section 2. Payment of Fees. ~~(4)~~ Fees shall be made payable to the local health department having jurisdiction by a:

~~(1)~~~~(a)~~ Retail food store;

~~(2)~~~~(b)~~ Mobile retail food store;

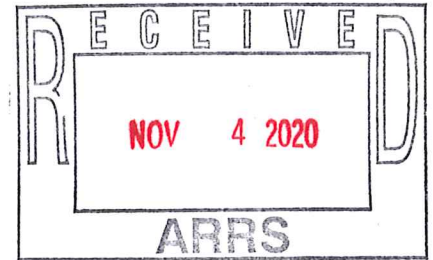
~~(3)~~~~(c)~~ Vending machine company ~~[and commissary]~~;

- ~~(4) Statewide [(d)] mobile food unit;~~
- ~~(5)[(e)] Temporary food establishment;~~
- ~~(6)[(f)] Salvage distributor;~~
- ~~(g)] Restricted food concession; or~~
- ~~(7)[(h)] Food service establishment.~~

~~[(2) Fees shall be made payable to the Kentucky State Treasurer and forwarded to the Kentucky Department for Public Health by a:~~

- ~~(a) Food manufacturing plant;~~
- ~~(b) Salvage processing plant;~~
- ~~(c) Food storage warehouse; or~~
- ~~(d) Food manufacturing plant requesting a certificate for free sale or export.]~~

CONTACT PERSON: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.



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Eric C. Friedlander
Secretary

November 4, 2020

Senator Stephen West, Co-Chair
Representative David Hale, Co-Chair
c/o Emily Caudill
Administrative Regulation Review Subcommittee
Legislative Research Commission
029, Capitol Annex
Frankfort KY 40601

Re: Suggested Substitute for **902 KAR 50:120**, Unpasteurized goat milk.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 902 KAR 50:120, the Department for Public Health proposes the enclosed substitute to 902 KAR 50:120.

If you have any questions regarding this matter, please contact Julie Brooks, Department for Public Health, at 564-3970, extension 4069.

Sincerely,

Donna Little
Deputy Executive Director
Office of Legislative and Regulatory Affairs

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Public Health

Division of Public Health Protection and Safety

(Amendment)

902 KAR 50:120. Unpasteurized goat milk.

RELATES TO: KRS Chapter 217C

STATUTORY AUTHORITY: KRS ~~[194.050;]~~ 217C.090

NECESSITY, FUNCTION, AND CONFORMITY: ~~[The Cabinet for Human Resources is directed by]~~ KRS 217C.090 authorizes the secretary of the Cabinet for Health and Family Services to issue administrative regulations allowing, upon written recommendation of a physician, the sale of goat milk which has not been pasteurized. This administrative regulation establishes~~[sets]~~ uniform standards for the production, handling, sampling, examination, and sale, at the farm, of goat's milk which has not been pasteurized;~~[and for]~~ the inspection of the goat farm facilities;~~[and]~~ and ~~[provides for]~~ the issuance, revocation, and reinstatement of farm permits.

Section 1. Applicability. (1) This administrative regulation is applicable only to dairy goat farms offering unpasteurized goat milk direct to the consumer.

(2) All other dairy goat farms shall follow the applicable administrative regulation under 902 KAR Chapter 50.

(3) Milk produced in compliance with the requirements of this administrative regulation ~~shall~~**[does]** not guarantee the absence of pathogenic organisms.

Section 2. Sale Restrictions. (1) The sale of unpasteurized goat milk pursuant to this administrative regulation shall be from on the farm sales only.

(2) Unpasteurized goat milk for direct consumer consumption shall only be sold from a permitted goat producer to persons with a written recommendation from a physician.

(3) A written recommendation statement from a physician shall be:

(a) For a specific individual;

(b) Kept on file at the producer location for one (1) year; and

(c) Subject to inspection by the cabinet.

(4) The producer shall keep on file records stating the volume of unpasteurized goat milk sold and the date of sales to each person having submitted a written recommendation statement.

Section 3. Permits. (1) ~~A/No~~ person shall **not** sell or offer for sale unpasteurized goat milk, without first obtaining a permit from the cabinet.

(2) Prior to the issuance of a permit to dairy goat producer offering unpasteurized goat milk for sale, the cabinet shall conduct an inspection of the producer's facilities.

(3) If the producer is not in compliance with this administrative regulation:

(a) The permit shall not be issued;

(b) The violations shall be given to the producer in writing; and

(c) The findings posted in a conspicuous place at the farm.

(4) A permit shall be issued if the inspection reveals compliance with this administrative regulation.

(5) Permits shall not be transferable with respect to persons or locations and shall remain valid unless suspended or revoked by the cabinet.

Section 4. Inspection of Goat Farm. (1) Each dairy goat farm offering unpasteurized milk for sale shall be inspected at least one (1) time each two (2) months after the issuance of a permit.

(2) If the violation of any requirement of this administrative regulation is found to exist on an inspection, a second inspection shall be required after the time **[deemed]** necessary to remedy the violation, but not before three (3) days.

(3) This second inspection shall be used to determine compliance with the requirements of this administrative regulation.

(4) If a violation of the same requirement of this administrative regulation is found on the second inspection, the permit shall be suspended in accordance with Section 12 of this administrative regulation.

(5) A copy of the inspection report shall be:

(a) Provided to the producer or other responsible person;

(b) Posted in a conspicuous place on an inside wall of the milk house; and

(c) Filed with the department.

(6) Every producer offering unpasteurized goat milk for sell shall, upon request of the cabinet, permit access of officially designated persons to all parts of the milk house or facilities to determine compliance with the provisions of this administrative regulation.

Section 5. Animal Health. (1) All milk shall be from herds that are free from tuberculosis and brucellosis.

(a) Tuberculin test. The herd shall be located in an area within the state which meets the requirements of a modified accredited area in which not more than one-half (1/2) of one (1) percent of the goat herd have been found to be infected with tuberculosis. This requirement is in accordance with the "Bovine Tuberculosis Eradication, Uniform Methods and Rules", incorporated by reference in 902 KAR 50:032.

(b) Brucellosis test. The herd shall be located in an area within the state in which the percentage of the goat herd affected with brucellosis does not exceed one (1) percent and the percentage of herds in which brucellosis is present does not exceed five (5) percent.~~f.~~ **This requirement is** in accordance with the "Brucellosis Eradication, Uniform Methods and Rules", incorporated by reference in 902 KAR 50:032.

(2) A certificate identifying test results of each animal, signed by a veterinarian, shall be submitted to the cabinet for each test required by this section.

(3) Failure to comply with the requirements of this section shall result in immediate permit suspension.

Section 6. Sampling Frequency and Required Test. (1) A representative sample of the unpasteurized goat milk shall be collected at the farm by the cabinet each month.

(2) All samples shall be analyzed for bacteria count, somatic cell count, antibiotics, adulteration with water, and temperature in an official laboratory or an officially designated laboratory.

(3) Additional samples shall be collected at the farm by the cabinet at least every two (2) months and analyzed for pathogenic organisms in an official laboratory.

(4) Samples of unpasteurized goat milk may be collected for pesticide analysis as directed by the cabinet.

(5)(a) If two (2) of the last four (4) consecutive bacterial counts, somatic cell counts, or cooling temperatures, taken on separate days, exceed the limit established in Section 7 of this administrative regulation, the cabinet shall send a written notice to the producer;

(b) The notice shall be in effect so long as two (2) of the last four (4) consecutive samples exceed the limit of the standard; and

(c) An additional sample shall be taken within twenty-one (21) days of the sending of the notice, but not before the lapse of three (3) days.

(6) Immediate suspension of permit in accordance with Section 12 of this administrative regulation shall be instituted if the limit established in Section 7 of this administrative regulation is violated by three (3) of the last five (5) bacterial counts, cooling temperatures, or somatic cell counts.

(7)(a) If an antibiotic or pesticide residue test is positive, an investigation shall be made to determine the cause, and the cause shall be corrected.~~./~~

(b) An additional sample shall be taken and tested for antibiotic or pesticide residues.~~./~~ **and**

(c) ~~[No]~~ Milk shall **not** be offered for sale until it is shown, by a subsequent sample, to be free of antibiotic or pesticide residues or below the actionable levels established for residues.

(8) If pathogenic organisms are found in the milk, immediate permit suspension shall occur and ~~[no]~~ milk shall **not** be sold from the farm until at least four (4) consecutive tests taken on separate days contain no pathogenic organisms upon laboratory analysis.

Section 7. Bacterial, Chemical, and Temperature Standards. (1) Unpasteurized goat milk shall be produced, handled, stored, and packaged to conform to the following standards:

(a) Temperature - cooled to between thirty-six (36) and forty (40) degrees Fahrenheit or less within two (2) hours after milking. Subsequent milkings shall not exceed forty-five (45) degrees Fahrenheit if blended with previous milkings.

(b) Bacterial limits - not to exceed 20,000 per milliliter.

(c) Somatic cells - not to exceed 1,000,000 per milliliter.

(d) Antibiotics - negative.

(e) Coliform - not to exceed ten (10) per milliliter.

(f) Pathogens - negative.

(g) Pesticides and chemical adulterants - negative.

(2) No process, manipulation, or additives shall be applied to the milk, other than appropriate refrigeration, for the purpose of removing or deactivating microorganisms.

Section 8. Sanitation Requirements. (1) The milking area, milk house operations, and equipment shall be located and conducted to prevent contamination of milk, equipment, containers, and utensils.

(2) Abnormal milk.

(a) Goats that show evidence of secreting abnormal milk based upon bacteriological, chemical, or physical examination, shall be milked last or with separate equipment and the milk shall be discarded. ~~[- and]~~

(b) Goats treated with, or who have consumed chemical, medicinal, or radioactive agents capable of being secreted in the milk and damaging to human health, shall be milked last or with separate equipment and the milk discarded.

(3) Milking barn or parlor construction.

(a) A milking barn or parlor shall be provided on all farms and located to be readily accessible to both the milk room and animal housing area.

(b) The milking barn or parlor shall:

1. Have floors constructed of concrete or equally impervious material;

2. Have walls and **ceilings[ceiling]** that are water resistant, cleanable, smooth, in good repair, and the ceiling dust tight;

3. Be provided with natural or artificial light, well distributed for day or night milking;

4. Have ventilation and fresh air inlets for air circulation to prevent condensation and excessive odors;

5. Not be overcrowded; and

6. Have dust tight covered boxes or bins, or separate storage facilities for feed.

(c) The interior of the milking barn or parlor shall be kept clean.

(d) Swine and fowl shall be kept out of the milking area.

(4) Goat yard.

(a) The goat yard shall be graded and drained, and shall have no standing pools of water or accumulations of organic wastes.[:]

(b) In loafing or goat housing areas, goat droppings and soiled bedding shall be removed, or clean bedding added, at sufficiently frequent intervals to prevent the soiling of the goat's udder and flanks.[:]

(c) Waste feed shall not be allowed to accumulate.[:]

(d) Manure packs shall be properly drained and shall provide a firm footing.[:and]

(e) Swine shall be kept out of the goat yard.

(5) Milk house or room construction and facilities.

(a) A milk house or room shall:

1. Be a sufficient size for the:

a. Cooling, handling, storing, and packaging of milk; and

b. Washing, sanitizing, and storing of milk containers and utensils, except as provided in subsections (8)(c) and (d) of this section;

2. Have a smooth floor constructed of concrete or equally impervious material graded to drain, and maintained in good repair;

3. Have walls and ceilings constructed of smooth material, in good repair, and well painted or finished in an equally suitable manner;

4. Have adequate natural or artificial light and be well ventilated;

5. Be used for only milk house operations; and

6. Be free of trash, animals, and fowl.

(b) There shall **not** be ~~a[no]~~ direct opening from the milk house or room into a barn, stable, or room used for domestic purposes.

(c) A direct opening between the milk house and milking barn, or parlor, is permitted if a tight-fitting, self-closing solid door hinged to be single or double acting is provided.

(d) Potable water under pressure shall be piped into the milk house.

(e) The milk house shall be equipped with a two (2) compartment wash vat and adequate hot water heating facilities.

(f) Separate handwashing facilities shall be provided in the milk house with running potable water, soap or detergent, and individual sanitary towels.

(g) Bottling or packaging may be carried out in the milk house or room if it is done in a sanitary manner and by a method that prevents contamination.

(6) Toilet. Every farm shall be provided with one (1) or more toilets, conveniently located and properly constructed, operated, and maintained in a sanitary manner. The waste shall be inaccessible to flies and shall not pollute the soil surface or contaminate the water supply.

(7) Water supply. Water for milk house or room, and milking operations shall be:

(a) From a supply properly located, protected, and operated; and

(b) Easily accessible, adequate, and of a safe, sanitary quality.

(c) No cross-connection shall exist between a safe water supply and an unsafe or questionable water supply, or any other source of pollution.

(d) A well or other source of water shall be located and constructed to prevent underground or surface contamination from a sewerage system, privy, or other source of pollution from reaching the water supply.

(e) Individual water supplies and water supply systems that have been repaired or become contaminated shall be thoroughly disinfected before being placed in use. The supply shall be made free of the disinfectant by pumping to waste before a sample for bacteriological testing shall be collected.

(f) All containers and tanks used in the transportation of water shall be sealed and protected from possible contamination. These containers and tanks shall be subjected to a thorough cleaning and a bacteriological treatment prior to filling with potable water to be used at the farm.

(g) Samples for bacteriological examination shall be taken upon the initial approval of the physical structure, if a repair or alteration of the water supply system has been made, and at least every year.

(8) Utensils and equipment.

(a) All multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be:

1. Made of smooth, nonabsorbent, corrosion-resistant, nontoxic materials;
2. Constructed for easy cleaning; and
3. In good repair.

(b) Multiple-use woven material shall not be used for straining milk.

(c) All single-service articles shall be manufactured, packaged, transported, and handled in a sanitary manner. Articles intended for single-service use shall not be reused.

(d) Containers for purchasing milk may be provided by the person purchasing the milk, and these containers shall not be washed, sanitized, or stored at the farm.

(e) The product-contact surfaces of all multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be:

1. Cleaned after each usage; and
2. Sanitized before each use.

(f) After sanitization, all containers, utensils, and equipment shall be handled in a manner to prevent contamination of a product-contact surface.

(g) All containers, utensils, and equipment used in the handling, storage, or transportation of milk, unless stored in sanitizing solutions, shall be stored to assure complete drainage, and protected from contamination prior to use.

(h) Pipeline milking equipment such as milker claws, inflations, weigh jars, meters, milk hoses, milk receivers, tubular coolers, and milk pumps that are designed for mechanical cleaning may be stored in the milking barn or parlor if this equipment is designed, installed,

and operated to protect the product and solution-contact surfaces from contamination at all times.

(9) Insect and rodent control.

(a) Effective measures shall be taken to prevent the contamination of milk, containers, equipment, and utensils by insects, rodents, and chemicals used to control vermin;

(b) Milk houses or rooms shall be free of insects and rodents; and

(c) Surroundings shall be kept neat, clean, and free of conditions that harbor or are conducive to the breeding of insects and rodents.

Section 9. Milking Procedures. (1) All milking shall be done in the milking barn or parlor.

(2) Milking by hand shall be prohibited.

(3) The flanks, udders, and bellies of all milking goats shall be free from visible dirt.

(4) All brushing shall be completed prior to milking.

(5) The udders and teats of all milking goats shall be cleaned and treated with a sanitizing solution prior to milking, and shall be dry before milking.

(6) Hands shall be washed clean and dried with an individual sanitary towel immediately before milking or performing any milk house function, and immediately after the interruption of any of these activities.

(7) All personnel shall wear clean outer garments while milking or handling milk, milk containers, utensils, or equipment.

Section 10. Personnel Health. (1) A person shall not work at the farm in any capacity while having a disease in a communicable form, or being a carrier of a communicable disease.

(2) The owner of a dairy goat farm on which a communicable disease occurs, or who suspects that an employee has contracted a disease in a communicable form, or has become a carrier of a disease, shall notify the cabinet immediately.

(3) If reasonable cause exists to suspect the possibility of transmission of infection from a person involved with the handling of milk, the cabinet shall require the following measures:

(a) The immediate exclusion of that person from milk handling;

(b) The immediate exclusion of the milk supply concerned from distribution and sale;
and

(c) Adequate medical and bacteriological examination of the person involved in milk production or handling activities.

Section 11. Trade Secrets. No person shall, in an official capacity, obtain information under the provisions of this administrative regulation including information as to the quantity, quality, source, or disposition of milk or milk products, or results of inspections or tests to use the information to his or her own advantage or to reveal it to an unauthorized person.

Section 12. Permit Suspension, Revocation and Hearing Procedure. In addition to the penalties established in KRS 217C.990, the cabinet may suspend or revoke an individual producer's permit, in accordance with KRS 217C.040.

(1) The cabinet shall, upon notice to the producer, immediately suspend the permit if:

(a) There is reason to believe that an imminent public health hazard exists;

(b) The producer or an employee has interfered with the cabinet in the performance of the cabinet's duties; or

(c) The producer or an employee has falsified records.

(2)(a) A producer whose permit has been suspended three (3) times within a twelve (12) month period for a violation of any type in accordance with this administrative regulation, shall be issued a notice that upon the fourth suspension within a twelve (12) month period the producer shall appear at the cabinet for a conference to show cause why the permit should be reinstated.

(b) Upon the fourth suspension within a twelve (12) month period, the producer shall appear before the cabinet to show cause why the permit should be reinstated.

(c) At this conference the cabinet may set conditions under which the permit may be reinstated.

(d) This permit suspension shall remain in effect until the conditions of the conference have been met.

(3) In all other instances of violation of this administrative regulation, the cabinet shall:

(a) Serve on the producer a written notice stating the violation; and

(b) Afford the producer a reasonable opportunity to correct the violation.

(4) A producer whose permit has been suspended may, at any time, submit an "Application for Reinstatement of Permit" incorporated by reference in 902 KAR 50:033.

(5) Suspension of a permit shall remain in effect until the violation has been corrected ***[to the satisfaction of the cabinet]***.

(6) For serious or repeated violations of any of the requirements of this administrative regulation the producer's permit may be permanently revoked.

(7) Prior to revocation, the cabinet shall notify the producer in writing, stating the reasons for which the permit is subject to revocation and advising the permit shall be permanently revoked at the end of ten (10) days following the service of the notice, unless the "Request for a Hearing", incorporated by reference in 902 KAR 50:033, is filed in accordance with KRS 217C.100. ~~Permits. (1) No person shall sell or offer for sale unpasteurized goat milk, without first obtaining a permit from the cabinet.~~

~~(2) Prior to the issuance of a permit to a goat milk producer, the cabinet shall conduct an inspection of the producer's facilities. A producer not in compliance with this administrative regulation, shall not be issued a permit, and violations shall be given to the producer in writing and posted in a conspicuous place at the farm. A permit may be issued if the inspection reveals compliance with this administrative regulation.~~

~~(3) Permits shall not be transferable with respect to persons or locations and shall remain valid unless suspended or revoked by the cabinet.~~

~~(4) The cabinet shall suspend the permit, if the cabinet has reason to believe that a public health hazard exists; the permit holder has violated any of the requirements of this administrative regulation; or the permit holder has interfered with the cabinet in the performance of its duties. The cabinet shall in all cases, except if the milk involved creates, or appears to create, an imminent hazard to the public health; or in a case of willful refusal to permit authorized inspection, serve upon the permit holder a written notice of intent to suspend permit. The notice shall specify the violation in question and afford the permit holder reasonable opportunity to correct the violation as may be agreed to by the parties; or in the absence of agreement, fixed by the cabinet before making an order of suspension effective. A suspension of permit shall remain in effect until the violation has been corrected to the satisfaction of the cabinet. Upon notification acceptable to the cabinet by a person whose permit has been suspended, or upon application within forty eight (48) hours by a person who has been served with a notice of intention to suspend, and in the latter case before suspension, the cabinet shall within seventy-two (72) hours proceed to a hearing to ascertain the facts of the violation or interference. Upon evidence presented at the hearing the hearing officer shall affirm, modify, or rescind the suspension or intention to suspend. Upon repeated violation, the cabinet may revoke the permit following reasonable notice to the permit holder and an opportunity for a hearing.~~

~~(5) A producer whose permit has been suspended may make written application for reinstatement of the permit on Form DFS-7A, "Application for Reinstatement of Permit", incorporated by reference. A copy of Form DFS-7A, "Application for Reinstatement of Permit", revised October 1986, is available for inspection and copying, 8 a.m. until 4:30 p.m., Monday through Friday, at the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.~~

~~(6) If the permit suspension has been due to violation of quality or temperature standards, the cabinet, within one (1) week after receipt of Form DFS-7A, "Application for Reinstatement of Permit", shall conduct an inspection and collect a sample to determine if compliance with this administrative regulation has been met. If the inspection and sample analysis indicate compliance with this administrative regulation, permit reinstatement may be made.~~

~~(7) If the permit suspension has been due to the presence of a pathogenic organism in the milk sample, collection and analysis shall continue at the rate of at least two (2) per week for two (2) weeks after conditions of subsection (6) of this section have been met.~~

~~Section 2. Sale Restrictions and Volume Control. (1) Unpasteurized goat milk shall be sold from a permitted goat producer only to persons with a written recommendation from a physician.~~

~~(2) A written recommendation statement from a physician shall be for a specific individual and shall be kept on file at the producer location and subject to inspection by the cabinet.~~

~~(3) Written recommendation statements shall be kept on file by the producer for at least one (1) year.~~

~~(4) The producer shall keep on file records stating volume of unpasteurized goat milk sold and date of sales to each person having submitted a written recommendation statement.~~

~~(5) All sale of unpasteurized goat milk regulated under this administrative regulation shall be from on-the-farm sales only.~~

~~Section 3. Inspection of Goat Farm. (1) Inspection of each goat farm shall be made prior to the issuance of a permit.~~

~~(2) Inspection of each goat farm shall be made at least one (1) time each two (2) months after the issuance of a permit.~~

~~(3) If the violation of any requirement [in Section 6] of this administrative regulation is found to exist on an inspection, a second inspection shall be required after the time deemed necessary to remedy the violation, but not before three (3) days. This second inspection shall be used to determine compliance with the requirements of Section 6 of this administrative regulation. A violation of the same requirement of Section 6 of this administrative regulation on the second inspection shall call for permit suspension in accordance with Section 1(4) of this administrative regulation.~~

~~(4) One (1) copy of the inspection report shall be provided the operator, or other responsible person, or be posted in a conspicuous place on an inside wall of the milk house. The inspection report shall not be defaced and shall be made available to the cabinet upon request. An identical copy of the inspection report shall be filed with the records of the cabinet.~~

~~(5) Every goat producer shall, upon request of the cabinet, permit access of officially designated persons to all parts of the milk house or facilities to determine compliance with the provisions of this administrative regulation.~~

~~(6) No person shall, in an official capacity, obtain information under the provisions of this administrative regulation (including information as to the quantity, quality, source, or disposition of milk or milk products, or results of inspections or tests to use the information to his own advantage or to reveal it to an unauthorized person.~~

~~Section 4. Sampling Frequency and Required Test. (1) A representative sample of each producer's milk shall be collected at the farm by the cabinet each month and analyzed in an official laboratory for bacteria count, somatic cell count, antibiotics, adulteration with water, and temperature.~~

~~(2) Additional samples shall be collected at the farm by the cabinet at least every two (2) months and analyzed for pathogenic organisms in an official laboratory as directed by the cabinet.~~

~~(3) Samples of raw milk may be collected for pesticide analysis as directed by the cabinet.~~

~~(4) If two (2) of the last four (4) consecutive bacterial counts, somatic cell counts, or cooling temperatures, taken on separate days, exceed the limit of the standard, the cabinet shall send a written notice to the person concerned. The notice shall be in effect so long as two (2) of the last four (4) consecutive samples exceed the limit of the standard. An additional sample shall be taken within twenty one (21) days of the sending of the notice, but not before the lapse of three (3) days. Immediate suspension of permit in accordance with Section 1(4) of this administrative regulation or court action shall be instituted if the standard is violated by three (3) of the last five (5) bacterial counts, cooling temperatures, or somatic cell counts.~~

~~(5) If an antibiotic or pesticide residue test is positive, an investigation shall be made to determine the cause, and the cause shall be corrected. An additional sample shall be taken and tested for antibiotic or pesticide residues. No milk shall be offered for sale until it is shown, by a subsequent sample, to be free of antibiotic or pesticide residues or below the actionable levels established for residues.~~

~~(6) If pathogenic organisms are found in the milk, immediate permit suspension shall occur and no milk shall be sold from the farm until at least four (4) consecutive tests taken on separate days contain no pathogenic organisms upon laboratory analysis.~~

~~(7) All samples shall be analyzed in an official laboratory or an officially designated laboratory. Analytical procedures shall be in compliance with "Standard Methods for the Examination of Dairy Products" or "Official Methods of Analysis" of the Association of Official Analytical Chemists. Methods for determining quality testing shall be those described in the "Standard Methods for the Examination of Dairy Products", 16th Edition, 1992, published by the American Public Health Association, and the "Official Methods of Analysis", 15th Edition, 1990, Volumes I and II, published by the Association of Official Analytical Chemists, Inc., unless otherwise approved by the cabinet. Copies of the "Standard Methods for the Examination of Dairy Products", revised 1992, incorporated by reference, and the "Official Methods of Analysis", revised 1990, incorporated by reference, are available for inspection and copying, 8 a.m. until 4:30 p.m., Monday through Friday, at the Office of the Commissioner, Department for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.~~

~~Section 5. Bacterial, Chemical, and Temperature Standards. (1) Unpasteurized goat milk shall be produced, handled, stored, and packaged to conform with the following standards:~~

~~(a) Temperature — cooled to forty five (45) degrees Fahrenheit or less within two (2) hours after milking. Subsequent milkings shall not exceed fifty (50) degrees Fahrenheit if blended with previous milkings.~~

~~(b) Bacterial limits — not to exceed 20,000 per ml.~~

- ~~(c) Somatic cells—not to exceed 1,000,000 per ml.~~
- ~~(d) Antibiotics—negative.~~
- ~~(e) Coliform—not to exceed ten (10) per ml.~~
- ~~(f) Pathogens—negative.~~
- ~~(g) Pesticides and chemical adulterants—negative.~~
- ~~(2) No process, manipulation, or additives shall be applied to the milk, other than appropriate refrigeration, for the purpose of removing or deactivating microorganisms.~~

~~Section 6. Sanitation Requirements. (1) Abnormal milk. Goats, which show evidence of the secretion of abnormal milk based upon bacteriological, chemical, or physical examination, shall be milked last or with separate equipment and the milk shall be discarded. Goats treated with, or goats which have consumed chemical, medicinal, or radioactive agents which are capable of being secreted in the milk and which, in the judgment of the cabinet may be damaging to human health, shall be milked last or with separate equipment and the milk disposed of as the cabinet may direct.~~

~~(2) Milking barn or parlor construction. A milking barn or parlor shall be provided on all farms in which the milking herd shall be housed during milking operations. The areas used for milking purposes shall:~~

- ~~(a) Have floors constructed of concrete or equally impervious material;~~
- ~~(b) Have walls and ceiling which are smooth, painted or finished in an approved manner, in good repair, and ceiling dust tight;~~
- ~~(c) Be provided with natural or artificial light, well distributed for day or night milking;~~
- ~~(d) Provide sufficient air space and air circulation to prevent condensation and excessive odors;~~
- ~~(e) Not be overcrowded; and~~
- ~~(f) Have dust tight covered boxes or bins, or separate storage facilities for ground, chopped, or concentrated feed.~~

~~(3) Milking barn or parlor cleanliness. The interior shall be kept clean. Floors, walls, ceilings, windows, pipelines, and equipment shall be clean and free of filth or litter. Swine and fowl shall be kept out of the milking area.~~

~~(4) Goat yard. The goat yard shall be graded and drained, and shall have no standing pools of water or accumulations of organic wastes. In loafing or goat housing areas, goat droppings and soiled bedding shall be removed, or clean bedding added, at sufficiently frequent intervals to prevent the soiling of the goat's udder and flanks. Waste feed shall not be allowed to accumulate. Manure packs shall be properly drained and shall provide a firm footing. Swine shall be kept out of the goat yard.~~

~~(5) Milk house or room construction and facilities. A milk house or room shall be a sufficient size for the cooling, handling, storing, and packaging of milk; and the washing, sanitizing, and storing of milk containers and utensils, except as provided for in subsection (12) of this section.~~

~~(a) The milk house shall have a smooth floor constructed of concrete or equally impervious material graded to drain and maintained in good repair. Liquid waste shall be disposed of in a sanitary manner; all floor drains shall be accessible and shall be trapped if connected to a sanitary sewer system.~~

~~(b) Walls and ceilings shall be constructed of smooth material, in good repair, and well painted or finished in an equally suitable manner.~~

~~(c) The milk house shall have adequate natural or artificial light and be well ventilated.~~

~~(d) The milk house shall be used for only milk house operations; there shall be no direct opening into a barn, stable, or room used for domestic purposes. A direct opening between the milk house and milking barn, or parlor is permitted if a tight-fitting, self-closing solid door hinged to be single or double acting is provided.~~

~~(e) Potable water under pressure shall be piped into the milk house.~~

~~(f) The milk house shall be equipped with a two (2) compartment wash vat and adequate hot water heating facilities.~~

~~(g) Bottling or packaging may be carried out in the milk room if it is done in a sanitary manner and by a method which prevents contamination.~~

~~(6) Milk house or room cleanliness. The floors, walls, ceilings, windows, tables, shelves, cabinets, wash vats, nonproduct contact surfaces of milk containers, utensils, and equipment shall be clean. Only articles directly related to milk room activities shall be permitted in the milk room. The milk room shall be free of trash, animals, and fowl.~~

~~(7) Toilet. Every farm shall be provided with one (1) or more toilets, conveniently located and properly constructed, operated, and maintained in a sanitary manner. The waste shall be inaccessible to flies and shall not pollute the soil surface or contaminate the water supply.~~

~~(8) Water supply. Water for milk house and milking operations shall be from a supply properly located, protected, and operated; and shall be easily accessible, adequate, and of a safe, sanitary quality.~~

~~(a) No cross-connection shall exist between a safe water supply and an unsafe or questionable water supply, or any other source of pollution.~~

~~(b) The well or other source of water shall be located and constructed to prevent underground or surface contamination from a sewerage systems, privy, or other source of pollution from reaching the water supply.~~

~~(c) Individual water supplies and water supply systems which have been repaired or become contaminated shall be thoroughly disinfected before being placed in use. The supply shall be made free of the disinfectant by pumping to waste before a sample for bacteriological testing shall be collected.~~

~~(d) All containers and tanks used in the transportation of water shall be sealed and protected from possible contamination. These containers and tanks shall be subjected to a thorough cleaning and a bacteriological treatment prior to filling with potable water to be used at the farm.~~

~~(e) Samples for bacteriological examination shall be taken upon the initial approval of the physical structure, if a repair or alteration of the water supply system has been made, and at least every year.~~

~~(9) Utensils and equipment construction. All multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be made of smooth, nonabsorbent, corrosion-resistant, nontoxic materials, and shall be constructed for easy cleaning. All containers, utensils, and equipment shall be in good repair. All milk pails used for hand milking and stripping shall be seamless and of the hooded type. Multiple-use woven material shall not be used for straining milk. All single-service articles shall be manufactured, packaged, transported, and handled in a sanitary manner and shall comply with requirements of subsection (11) of this section. Articles intended for single-service use shall not be reused. Containers for purchasing milk may be provided by the person purchasing the milk; in which case, the containers shall not be washed, sanitized, or stored at the farm.~~

~~(10) Utensils and equipment cleaning. The product contact surfaces of all multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be cleaned after each usage.~~

~~(11) Utensils and equipment sanitation. The product contact surfaces of all multiuse containers, equipment, and utensils used in the handling, storage, or transportation of milk shall be sanitized before each use.~~

~~(12) Utensils and equipment storage. All containers, utensils, and equipment used in the handling, storage, or transportation of milk, unless stored in sanitizing solutions, shall be stored to assure complete drainage, and protected from contamination prior to use. Pipeline milking equipment such as milker claws, inflations, weigh jars, meters, milk hoses, milk receivers, tubular coolers, and milk pumps which are designed for mechanical cleaning may be stored in the milking barn or parlor if this equipment is designed, installed, and operated to protect the product and solution contact surfaces from contamination at all times.~~

~~(13) Utensils and equipment handling. After sanitization, all containers, utensils, and equipment shall be handled in a manner to prevent contamination of a product-contact surface.~~

~~(14) Milking flanks, udders, and teats. Milking shall be done in the milking barn or parlor. The flanks, udders, and bellies of all milking goats shall be free from visible dirt. All brushing shall be completed prior to milking. The udders and teats of all milking goats shall be cleaned and treated with a sanitizing solution prior to milking, and shall be dry before milking. Wet hand milking is prohibited.~~

~~(15) Milking surcingles, milk stools, and antikickers. Surcingles, milk stools, and antikickers shall be kept clean and stored above the floor.~~

~~(16) Protection from contamination. The milking area, milk house operations, and equipment shall be located and conducted to prevent contamination of milk, equipment, containers, and utensils. No milk shall be strained, poured, transferred, or stored unless it is properly protected from contamination. Hand capping of bottles, containers, or packages~~

may be done if volume does not cause this to be impractical and protection from contamination is maintained.

~~(17) Personnel handwashing facilities. Adequate handwashing facilities shall be provided in the milk house with running potable water, soap or detergent, and individual sanitary towels.~~

~~(18) Personnel cleanliness. Hands shall be washed clean and dried with an individual sanitary towel immediately before milking or performing any milk house function, and immediately after the interruption of any of these activities. Milkers shall wear clean outer garments while milking or handling milk, milk containers, utensils, or equipment.~~

~~(19) Cooling. Raw milk shall be cooled to forty-five (45) degrees Fahrenheit or less within two (2) hours after milking. The blend temperature after the first milking and subsequent milkings shall not exceed fifty (50) degrees Fahrenheit.~~

~~(20) Insect and rodent control. Effective measures shall be taken to prevent the contamination of milk, containers, equipment, and utensils by insects, rodents, and chemicals used to control vermin. Milk rooms shall be free of insects and rodents. Surroundings shall be kept neat, clean, and free of conditions which might harbor or be conducive to the breeding of insects and rodents.~~

Section 7. Animal Health. (1) All milk shall be from herds which are free from tuberculosis and brucellosis.

~~(a) Tuberculin test. The herd shall be located in an area within the state which meets the requirements of a modified accredited area in which not more than one-half (1/2) of one (1) percent of the goat herd have been found to be infected with tuberculosis. This requirement is in accordance with the "Bovine Tuberculosis Eradication, Uniform Methods and Rules", February 3, 1989, for establishing and maintaining tuberculosis-free herds of goat and modified accredited areas approved by the Animal and Plant Health Inspection Service, Veterinary Services, U. S. Department of Agriculture. If the herd is not located in a modified accredited area, it shall be tested annually under the jurisdiction of the program. Additions to the herd shall be from a modified accredited area or from herds meeting the requirements of this administrative regulation. Copies of the "Bovine Tuberculosis Eradication, Uniform Methods and Rules", incorporated by reference, are available for inspection and copying, 8 a.m. until 4:30 p.m., Monday through Friday, at the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621. This publication may also be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402.~~

~~(b) Brucellosis test. The herd shall be located in an area within the state in which the percentage of the goat herd affected with brucellosis does not exceed one (1) percent and the percentage of herds in which brucellosis is present does not exceed five (5) percent. This requirement is in accordance with the "Brucellosis Eradication, Uniform Methods and~~

Rules", May 6, 1992, for establishing and maintaining certified brucellosis-free areas approved by the Animal and Plant Health Inspection Service, Veterinary Services, U. S. Department of Agriculture. If the herd is located in an area that does not meet these requirements, the herd shall be blood-tested annually or milk-ring-tested semiannually. Additions to the herd shall be from herds meeting the requirements of this administrative regulation. Copies of the "Brucellosis-Eradication, Uniform Methods and Rules", incorporated by reference, are available for inspection and copying, 8 a.m. until 4:30 p.m., Monday through Friday, at the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621. This publication may also be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402.

(2) The cabinet shall require physical, chemical, or bacteriological tests necessary to prevent the spread of diseases or the contamination of the milk with pathogenic organisms.

(3) A certificate identifying test results of each animal, signed by a veterinarian, shall be submitted to the cabinet for each test required by this section.

(4) Failure to comply with the requirements of this section shall result in immediate permit suspension.

Section 8. Milk which May be Sold. Goat milk sold at a farm permitted under this administrative regulation shall be limited to milk produced at the particular farm and no milk shall be transferred from one farm to another or delivered from the farm to another place or location for sale.

Section 9. Construction Plan. Properly prepared plans for all milking barns, parlors, and milk houses shall be submitted to the cabinet for written approval prior to a permit being issued.

Section 10. Personnel Health. No person affected with a disease in a communicable form, or while a carrier of disease, shall work at the farm in any capacity which brings him in contact with the handling, storage, or sale of milk, containers, equipment, and utensils. No farm operator shall employ in any capacity a person suspected of having a disease in a communicable form, or of being a carrier of a communicable disease. An owner of a dairy farm on which a communicable disease occurs, or who suspects that an employee has contracted a disease in a communicable form, or has become a carrier of a disease, shall notify the cabinet immediately.

Section 11. Procedure if Infection is Suspected. If reasonable cause exists to suspect the possibility of transmission of infection from a person concerned with the handling of milk, the cabinet shall require any or all of the following measures:

(1) The immediate exclusion of that person from milk handling;

(2) The immediate exclusion of the milk supply concerned from distribution and sale;

~~(3) Adequate medical and bacteriological examination of the person, involved in milk production or handling activities.~~

~~Section 12. Disclaimer. Milk produced in compliance with the requirements of this administrative regulation does not assure the absence of pathogenic organisms.~~

~~Section 13. Hearing Procedure. (1) Upon notification of intent to suspend or upon suspension, the producer may request a hearing. The request for a hearing shall be made in writing on Form DFS-8, "Request for Hearing", revised January 1989, to the cabinet within ten (10) days after notification by the cabinet of an enforcement proceeding. Form DFS-8, "Request for Hearing", is incorporated by reference and may be viewed or obtained, 8 a.m. until 4:30 p.m., Monday through Friday, at the Office of the Commissioner of Health Services, 275 East Main Street, Frankfort, Kentucky 40621.~~

~~(2) The cabinet shall notify the requesting party in writing of the:~~

~~(a) Name of the hearing officer; and~~

~~(b) Time and place of the hearing.~~

~~(3) All parties shall be allowed a reasonable time to prepare for the hearing, including the right to:~~

~~(a) Be represented by counsel;~~

~~(b) Present evidence on his behalf; and~~

~~(c) Cross-examine witnesses.~~

~~(4) A transcript of the hearing shall not be made unless requested. The expense of transcribing the hearing shall be the responsibility of the requesting party.~~

~~(5) The hearing officer shall make written findings of fact and conclusions of law, and render a decision based upon the evidence presented. The decision of the hearing officer shall be the final decision of the cabinet.]~~