

302 KAR 50:030. Policies and procedures for hemp processors and handlers.

RELATES TO: KRS 260.850-260.869

STATUTORY AUTHORITY: KRS 260.862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1) authorizes the department to promulgate administrative regulations for a Hemp Licensing Program in the Commonwealth of Kentucky. KRS 260.862(1)(a) 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 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" 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 are subspecies thereof. Cannabis includes all parts of the plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts; and does not include a publicly marketable hemp product.

(5) "CBD" means cannabidiol.

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

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

(8) "Conviction" means an adjudication or finding of guilt, or a plea of guilty or nolo contendere. If a conviction is subsequently overturned on appeal, pardoned, or expunged, it is not considered a conviction.

(9) "Corrective action plan" is a document set forth by the department for a licensee to correct a negligent violation of, or non-compliance with, KRS 260.850-260.869 or 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 calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven-tenths (87.7) percent of 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 shall be measured post-decarboxylation (a 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).

(17) "Hemp Grower License" means a document issued by the department authorizing a 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.

(18) "Hemp Processor/Handler License" means a document issued by the department authorizing a 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.

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

(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 50:020.

(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 an 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 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. 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. Includes, without limitation, 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; 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 organization's officer or agent who has written authorization to commit the organization or legal entity to a binding agreement.

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

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

(35) "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, or other characteristics from all other publicly known varieties.

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

(2) As established in Section 7 of this administrative regulation, existing processor/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/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:

(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:

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.

(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.

(2) Each person who is required to undergo an annual criminal background check, as required by KRS 260.862(2)(d), shall ensure delivery of the completed 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) 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/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, an applicant shall submit a complete application with all required components and attachments.

(b) An applicant who has previously been a program participant 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.

(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 times 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 or 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.

(l) The applicant's proposed sites shall comply with the land use restrictions 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) If the application satisfies the criteria established in this administrative regulation, the department shall conditionally approve the application for a processor/handler license.

(3) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved.

(4) Applicants shall complete a mandatory orientation session at a location designated by the department, and pay licensing fees prior to receiving a processor/handler license.

(5) The department shall not allow any person to complete orientation in lieu of the applicant.

(6) 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.

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.

(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 or handler.

(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 for, 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.

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 standards 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, 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.

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

Section 7. Hemp Processor/Handler Licenses. (1) The processor/handler license application shall establish the terms and conditions governing participation in the Hemp Licensing

Program.

(2) Failure to agree or comply with the 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.

(3) 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 set forth in 302 KAR Chapter 50.

(4) A processor/handler license shall remain in force as long as the license holder meets the annual renewal requirements by December 31 of each year.

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

(6) The department shall issue processor/handler's license numbers in accordance with the following 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 required for each harvested component that is applicable.

(5) A handler who 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 and 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 shall determine whether 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, pre-approval from the department shall not be 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, from an independent third-party laboratory, for that strain or variety. The certificate of analysis shall show that mature plants grown from that seed variety or strain have a floral material post-decarboxylation delta-9-THC content of not more than zero and three-tenths (0.3) percent on a dry weight basis.

(2) A license holder who develops a new hemp variety or strain shall submit the New Hemp Variety or Strain Request Form for approval of the new hemp variety or strain 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 post-decarboxylation delta-9-THC content exceeding zero and three-tenths (0.3) percent 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 were distributed.

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

(8) Any person who intends to move transplants or other living plants to a location outside Kentucky shall 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 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 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 not have a reasonable expectation of privacy with respect to premises where hemp or other cannabis seeds, plants, or materials are located, or to any premises listed in the processor/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, or into any premises listed in the processor/handler license, with or without cause, and with or without advance notice.

Section 12. Collection and Retention of Cannabis Samples. (1) The department 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 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 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 the materials under the laws of that jurisdiction.

(3) The department shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, cannabinoid 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 processor or handler selling or transferring, or permitting the sale or transfer 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.

(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 administrative 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 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 ship or transport, or allow to be shipped or transported, any hemp substance with a delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

(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, or store hemp under their license in lieu

of obtaining a separate hemp processor/handler license.

(6) Processors using hazardous materials or flammable solvents 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. (1) Except as 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 extent permitted by law; provided, however, the department shall provide this information to law enforcement agencies and other regulatory agencies upon request.

Section 16. Consequences for Negligent Violations. (1) If the department determines that a licensed processor or handler committed a negligent violation of any provision within KRS Chapter 260.850 to 260.869, or any administrative regulation promulgated under the authority of those statutes, the department shall devise and implement a corrective action plan for the licensed processor or handler.

(2) Corrective action plans shall remain in place for at least two (2) years and shall include:

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

(b) Steps to correct each negligent violation;

(c) A description of the procedures to demonstrate compliance; and

(d) Inspections or other measures to ensure compliance.

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

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

Section 17. Violations Requiring Temporary License Suspension Procedures. (1) The department shall notify a licensed processor or 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 or handler has:

(a) Pleaded 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) 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 not later than sixty (60) days following the notification of temporary suspension.

(3) Except as authorized in writing by a representative of the department, 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 the department issued its notice of temporary suspension.

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

Section 18. 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 17(1) of this administrative regulation, 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, 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 not be owed compensation or indemnity for the value of the cannabis, hemp, or hemp products that were destroyed or confiscated.

(12) The department shall immediately report, to an appropriate law enforcement agency, 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.

(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 19. 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/handler license application, 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. 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 20. Licensing for Representatives of Universities and Colleges. (1) Except as provided in this section, faculty members, administrators, and staff members of an institution of higher education shall be subject to this administrative regulation.

(2) An institution of higher education shall not permit or authorize its faculty, administration, staff members, or any sponsored student to be in possession of, or conduct academic research involving, living hemp plants or harvested hemp without completing and submitting a Grower License Application.

(3) An authorized faculty member, 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 or harvested hemp shall complete and submit a Grower License

Application.

(4) An institution of higher education shall not permit or authorize its faculty, administration, staff members, or any sponsored student to be in possession of, or conduct academic research involving, leaf material or floral material from hemp without completing and submitting a Processor/Handler License Application.

(5) An authorized faculty member, 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, 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 member, 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.

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

(9) An eligible institution of higher education shall be one that:

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

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

(c) Has a principal campus or office that is located at a site within the Commonwealth of Kentucky. (44 Ky.R. 1758; 2000; eff. 4-6-2018; 46 Ky.R. 2508; 47 Ky.R. 299; eff. 9-17-2020.)