

302 KAR 50:090. Enforcement, corrective action plans and mandatory reporting to state and federal agencies; department to retain growing site information for at least three (3) years.

RELATES TO: KRS 260.850-260.869

STATUTORY AUTHORITY: KRS 260.862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)(a) authorizes the department to promulgate administrative regulations for any industrial hemp research pilot program in the Commonwealth of Kentucky. KRS 260.862(1)(c) authorizes the department to license persons who wish to participate in an industrial hemp research pilot program by cultivating, handling, processing, or marketing industrial hemp. This administrative regulation defines certain departmental enforcement duties with respect to individuals who are found to have violated the statutes and administrative regulations governing that person's participation in the department's hemp program.

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.
- (5) "Person" means an individual or business entity.
- (6) "Program" means the department's Industrial Hemp Program.

Section 2. Department to Collect and Retain Information About Growing Locations. 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 3. Ineligibility of Persons Found to Have Negligently Violated Requirements Three (3) or More Times in a Five (5) Year Period. A person who is found by the department to have negligently violated any statute or administrative regulation governing that person's participation in the hemp program three (3) or more times in a five (5) year period shall be ineligible to hold a license for a period of five (5) years beginning on the date of the third violation.

Section 4. Corrective Action Plans for Negligent Violations.

(1) In addition to being subject to the license suspension, license revocation, and monetary civil penalty procedures established in 302 KAR 50:020 and 302 50:030, a person who is found by the department to have negligently violated any statute or administrative regulation governing that person's participation in the hemp program shall be subject to a corrective action plan at the discretion of the department.

(2) The department may impose a corrective action plan for a negligent violation of any statute or administrative regulation governing a person's participation in the hemp program, including without limitation:

- (a) Failing to disclose or provide required information about, a site where hemp is being grown, processed, or stored;
- (b) Failing to obtain a necessary license from the department or a necessary authorization from a state or federal agency; and
- (c) Producing hemp or other cannabis with a delta-9 THC concentration of more than zero

and three-tenths (0.3) percent on a dry weight basis.

(3) Corrective action plans issued by the department shall include, at a minimum:

(a) A reasonable date by which the person shall correct the violation; and

(b) A requirement for periodic reports from the person to the department about the person's compliance with the corrective action plan, statutes, and administrative regulations for a period of at least three (3) years from the date of the corrective action plan.

Section 5. Mandatory Reports to State and Federal 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 50:020 and 302 KAR 50:030, 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 Attorney General of the United States;

(b) The commissioner of the Kentucky State Police; and

(c) The commander of the Kentucky State Police's Cannabis Suppression Branch.

Section 6. Department to Submit Growing Locations and Grower Licensee Information to United States Secretary of Agriculture.

(1) Not more than thirty (30) days after receiving and compiling the following information, the department shall provide to the United States Secretary of Agriculture or the secretary's designee:

(a) The licensed grower's name;

(b) The licensed grower's telephone number, email address, residential address, mailing address, or another form of contact information;

(c) The Location ID for each field, facility, or other place where hemp is licensed to be grown; and

(d) An indication whether or not the person's license is currently in good standing.

(2) The department shall provide real-time updates to the information that the department previously submitted pursuant to Section (1) of this administrative regulation. (45 Ky.R. 2253, 2890; eff. 5-3-2019.)