DEPARTMENT OF AGRICULTURE
Office of the Consumer and Environmental Protection
(Amendment)

302 KAR 50:080. Materials incorporated by reference.

RELATES TO: KRS 260.850-260.869, 7 U.S.C. 1739p
STATUTORY AUTHORITY: 260.850-260.869, 7 U.S.C. 1739p
NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)(a) authorizes the department to promulgate administrative regulations for any <u>Hemp Licensing Program</u>~~[industrial hemp research pilot program]~~ in the Commonwealth of Kentucky. This administrative regulation establishes material incorporated by reference for 302 KAR Chapter 50, except 302 KAR 50:056.

Section 1. Incorporation by Reference.
(1) The following material is incorporated by reference:
(a) "Hemp Grower License Application~~[Packet]~~", <u>2021</u>~~[2020]~~;
(b) "Field Planting Report", <u>2021</u>~~[2020]~~;
(c) "Greenhouse/Indoor Planting Report", <u>2021</u>~~[2020]~~;
(d) "Harvest Report", <u>2021</u>~~[2020]~~;
(e) <u>"New Hemp Variety or Strain Request", 2021</u>; ~~["New Hemp Variety or Strain Request", 2020 "Site Modification Request ", 2020;]~~
(f) <u>"Site Modification Request ", 2021</u>;
<u>(g)</u> "Processor/Handler License Application~~[Packet]~~", <u>2021</u>~~[2020]~~; and
<u>(h)</u> ~~[(g)]~~ "University/College Application~~[Packet]~~", <u>2021</u>~~[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~~[/]~~.

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: October 13, 2021
FILED WITH LRC: October 13, 2021 at 1:21 p.m.
PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 28, 2021, at 1:00 p.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.
CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 782-0284, fax (502) 564-2133, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Clint Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This regulation established the guidelines for participation in the Hemp Program administered by the Kentucky Department of Agriculture.

(b) The necessity of this administrative regulation:
This regulation is necessary to establish provisions for growing, movement, processing and possession of hemp.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
KRS 260.850-260.869 requires the Kentucky Department of Agriculture to regulate hemp. This administrative regulation satisfies this mandate.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This program that has been administered by the KDA since the 2014 growing season. This administrative regulation and creates the forms needed for the program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
This filing undated items to address current events and federal requirements.

(b) The necessity of the amendment to this administrative regulation:
This regulation is necessary to establish provisions for growing, movement, processing and possession of industrial hemp by laying out the forms required for the program.

(c) How the amendment conforms to the content of the authorizing statutes:
KRS 260.850-260.869 requires the Kentucky Department of Agriculture to regulate industrial hemp. This administrative regulation satisfies this mandate by creating easy to understand rules.

(d) How the amendment will assist in the effective administration of the statutes:
This program that has been administered by the KDA since the 2014 growing season. This administrative regulation and creates the forms for the program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
The Kentucky Department of Agriculture, 970 growers, 12 Universities and 170 processors.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
Entities will be required to follow the instructions in the forms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Likely no modification of current actions would be needed, so little to no costs would be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Administrative ease on behalf of the KDA and clear guidance for entities.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

Expenses for the entire hemp program for 2019 were approximately $1,156,000.

(b) On a continuing basis:

Market forces will determine participation levels for 2020 and beyond. Ongoing costs will be a function of grower numbers and location modifications.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The hemp program is funded by the fees set for in 302 KAR 50:060.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increases in funding are required currently.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

This filing does not contain fees. The hemp program is funded by the fees set for in 302 KAR 50:060.

(9) TIERING: Is tiering applied?

No. All regulated entities have the same requirements..

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.
7 U.S.C. 1739p.

(2) State compliance standards.
KRS 260.850-260.869

(3) Minimum or uniform standards contained in the federal mandate.
7 U.S.C. 1739p. establishes requirements for hemp programs. This administrative regulation establishes the requirements for participation in Kentucky.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?
No, this administrative regulation does not impose stricter, additional, or different requirements or responsibilities than those required by the federal mandate.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.
This administrative regulation does not impose stricter, additional, or different requirements or responsibilities than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

No answer provided.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 260.682

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

Income for the entire hemp program for 2021 was approximately $482,000

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

Even with a fixed fee structure, revenue is almost entire determined by participation. Market forces will dictate revenue to a point the KDA cannot guess with any certainty.

(c) How much will it cost to administer this program for the first year?

Expenses for the entire hemp program for 2020 were $947,712

(d) How much will it cost to administer this program for subsequent years?

The KDA expects this spending trendline to continue for the hemp program as a whole, but based on producer participation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):2020=$1,067,000, 2021=$482,000

Expenditures (+/-):2020= $947,000, 2021 no estimate yet

Other Explanation: