

GENERAL GOVERNMENT

Department of Agriculture

Office of Agricultural Marketing

(New Administrative Regulation)

302 KAR 50:040 - AFFILIATED UNIVERSITIES AND COLLEGES

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

STATUTORY AUTHORITY: KRS 260.862(1)(d).

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)(d) confers on the department the authority and power to promulgate administrative regulations to prescribe rules for a university's participation in, or affiliation with, any industrial hemp research pilot program in the Commonwealth of Kentucky. This administrative regulation sets forth rules and procedures for eligible universities and colleges with faculty or staff members who wish to affiliate with the department's industrial hemp research pilot program for the purpose of conducting academic research projects.

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Section 1. Definitions.

- (1) “Cannabis” means all parts of the cannabis plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts. Cannabis does not include publicly marketable hemp products, as defined in this regulation.
- (2) “Commonwealth” means the Commonwealth of Kentucky.
- (3) “DEA” means the United States Drug Enforcement Administration.
- (4) “Decarboxylated” means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value may also be calculated using a conversion formula that sums delta-9-THC and THC-acid.
- (5) “Department” means the Kentucky Department of Agriculture.
- (6) “GPS” means Global Positioning System.
- (7) “Handling” means possessing or storing hemp for any period of time on premises owned, operated, or controlled by a person licensed to grow or process hemp. Handling also includes possessing or storing hemp in a vehicle for any period of time other than during its actual transport from the premises of a person who is licensed or approved by the Department to the premises of another person who is licensed or approved by the Department.
- (8) “Hemp” or “industrial hemp” means the cannabis plant and any part of such plant, whether growing or not, with a decarboxylated delta-9-THC concentration of not more than 0.3 percent on a dry weight basis.
- (9) “Law enforcement agency” means the Kentucky State Police, DEA, or other federal, state, or local law enforcement agency or drug suppression unit.
- (10) “Location ID” means the unique identifier established for each unique set of GPS coordinates where hemp will be grown, handled, stored, or processed, which may include a field name or building name.
- (11) “Plot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.
- (12) “Processing” means converting an agricultural commodity into a marketable form.
- (13) “Program” means the Department’s Industrial Hemp Research Pilot Program.
- (14) “Propagule” means a plant or plant part that can be utilized to grow a new plant.
- (15) “Seed source” means the origin of the seed or propagules as determined by the Department.

Section 2. Eligible institutions of higher education.

- (1) To be eligible to affiliate with the Department's Program, an institution of higher education shall:
 - (a) Be accredited by, and in good standing with, a regional or national higher education accreditation agency;
 - (b) Confer academic degrees at the associate, bachelor, master, or doctoral level; and
 - (c) Have a principal campus or office that is located at a site within the Commonwealth of Kentucky.
- (2) No institution of higher education shall conduct hemp research under the authority of the Department's Program at a campus or other site that is located outside the Commonwealth of Kentucky.

Section 3. Affiliation with department required.

- (1) An authorized representative of an eligible institution of higher education with faculty, administration, or staff members who wish to conduct academic research projects involving hemp under the auspices of the Department's Program shall complete and submit a University/College Affiliation Application annually.
- (2) No institution of higher education shall authorize its faculty, administration, or staff members, or any sponsored student, to conduct academic research involving hemp without first completing and submitting a University/College Affiliation Application.
- (3) The Department shall accept annual University/College Affiliation Applications at any time during a Program year.
- (4) Upon request from the Department, a letter from a faculty department chair or other appropriate academic authority shall be provided in support of a University/College Affiliation Application.
- (5) Following receipt of a University/College Affiliation Application form from an authorized representative of an eligible institution of higher education, the Department shall issue a University/College Affiliation Confirmation Letter authorizing that person to grow, cultivate, and process hemp:
 - (a) In accordance with the institution's research plan;
 - (b) In accordance with state and federal law; and
 - (c) In accordance with this regulation.

Section 4. Affiliation application form - required components.

A University/College Affiliation Application form shall contain, at a minimum, the following information:

- (1) The full name(s) of the person(s) authorized by the institute of higher education who will be responsible for overseeing the academic research project;
- (2) The full name of each person who will be involved in growing, processing, or handling hemp;
- (3) An academic research plan summary;
- (4) Street address and GPS coordinates for each field, greenhouse, building, or site where hemp will be grown, handled, processed or stored; and
- (5) Maps depicting each site where hemp will be grown, handled, processed, or stored, with appropriate designations for entrances, field boundaries, and specific locations corresponding to GPS coordinates.

Section 5. Restrictions on affiliated projects.

- (1) An institution of higher education with a project affiliated with the Department's Program shall not involve any person who is ineligible or was terminated, or denied admission to the program for one or both of the following reasons:
 - (a) Failure to obtain an acceptable criminal background check, or
 - (b) Failure to comply with an order from a representative of the Department.
- (2) An institution of higher education with a project affiliated with the Department's Program shall not grow, handle, process, or store hemp on property owned by or leased from any person who is ineligible or was terminated, or denied admission to the program for one or both of the following reasons:
 - (a) Failure to obtain an acceptable criminal background check, or
 - (b) Failure to comply with an order from a representative of the Department.
- (3) Any planting or growing of hemp under an affiliated project that is not conducted on property owned or leased by the institution of higher education shall require the property owner to apply separately to the Department's Program for a Grower Licensing Agreement.

Section 6. No fees -- sampling and THC testing services available at cost.

- (1) The Department shall not assess fees on affiliated institutions of higher education except as provided in subsection (2).
- (2) If a representative of an affiliated institution of higher education requests assistance from the Department in collecting samples from hemp plants or testing the THC concentration, then the Department shall collect a nonrefundable service charge in an amount sufficient to pay for staff time and other expenses incurred in visiting the site, collecting the samples, and in testing the samples.

Section 7. Seed acquisition.

- (1) No institution of higher education shall acquire hemp seeds or propagules from a source outside the Commonwealth of Kentucky except as provided in subsection (2).
- (2) A representative of an affiliated institution of higher education shall obtain hemp seeds or propagules from a source outside the Commonwealth by submitting a Seed/Propagule Request form and obtaining written approval from a representative of the Department.
- (3) A person submitting a Seed/Propagule Request form shall submit to the Department documentation showing that the mature plants grown from that seed or propagule variety have a floral material decarboxylated delta-9 THC content of not more than 0.30 percent on a dry weight basis.
- (4) A person acquiring seeds or propagules from a source outside the Commonwealth shall arrange for the seeds or propagules to arrive at the Department's facility at 105 Corporate Drive, Frankfort, Kentucky 40601, for inventory and distribution.
- (5) Upon request from a representative of the Department, a representative of an affiliated institution of higher education shall provide a distribution list showing the locations where and to whom the hemp seeds were distributed following inventory at the Department's facility.
- (6) No Seed/Propagule Request shall be required for the acquisition of seeds or propagules from a source inside the Commonwealth of Kentucky.

Section 8. Planting reports.

- (1) Within ten (10) days after every planting of hemp, the person(s) responsible for overseeing the academic research project shall submit to the Department a completed Planting Report.

Section 9. Site access for representatives of the Department and law enforcement agencies.

- (1) The Department shall provide information about approved growing, handling processing, and storage site locations to representatives of the Kentucky State Police, DEA, and other law enforcement agencies whose representatives request registered site information, including GPS coordinates.
- (2) Representatives of affiliated institutions of higher education who are participating in hemp research 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 University/College Affiliation Confirmation Letter.
- (3) A representative of an affiliated institution of higher education 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 University/College Affiliation Confirmation Letter with or without cause and with or without advanced notice.

Section 10. Academic research project summary to be submitted to the Department.

Following the completion of an academic research project conducted under the auspices of the Department's Program, the person(s) responsible for overseeing the research project shall submit to the Department a summary of the research's objectives and findings.