

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
Plant Protection

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Agriculture and Industries

Rule NO. & TITLE: 80-10-21-.06 Grower Licensing Agreements

INTENDED ACTION: To amend rule.

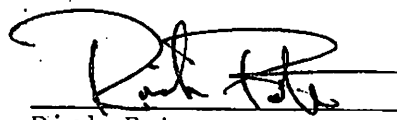
SUBSTANCE OF PROPOSED ACTION: To comply with the United States Department of Agriculture (USDA) 2018 Farm Bill requirements.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Views may be presented in writing to the contact person below or in person on Tuesday, May 10, 2022, at 10:00 a.m., in the Board Room of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama, 36117.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: May 10, 2022.

CONTACT PERSON AT AGENCY: N. Gunter Guy, Jr., General Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. (334) 240-7117.

2/11/2022
Date



Rick Pate
Commissioner of Agriculture
and Industries

80-10-21-.06 Grower Licensing Agreements

(1) An applicant shall not be a participant in the department's program until the conditionally approved applicant and the department have executed a grower licensing agreement following the applicant's completion of the department's mandatory orientation session. Each licensed grower or producer shall be assigned a department license number in the form prescribed by USDA.

(2) The grower licensing agreement shall establish additional terms and conditions governing participation in the department's program.

(3) The terms and conditions established in the grower licensing agreement shall include, at a minimum, the following requirements for licensed growers:

(a) Acknowledge that licensed growers shall act as agents of the department and shall comply with instructions from representatives of the department and law enforcement agencies;

(b) Agree to pay a licensing fee in the amount established by these administrative rules;

(c) 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, with or without advance notice;

(d) Consent to forfeiture and destruction, without compensation, of:

1. Material found to have a measured total 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;

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

(f) Acknowledge that licensed growers shall submit a Site Modification Request Forms, the appropriate fees based on the requested changes, and obtain prior written approval from a representative of the department before implementing any change to the licensed sites stated in the grower licensing agreement, and that growing site changes shall be subject to a site modification surcharge in the amount established in these administrative rules for a new set of GPS coordinates;

(g) Acknowledge that hemp shall not be grown, handled, or stored in any location other than the location listed in the grower

licensing agreement;

(h) Agree not to interplant hemp with any other crop without express written permission from the department;

(i) Acknowledge that anyone applying pesticides to hemp shall apply pesticides in accordance with this administrative regulation;

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

(k) Acknowledge that the risk of financial or other loss shall be borne solely by the licensed grower;

(l) Agree that any time hemp is in transit, a copy of the grower licensing agreement shall be available for inspection upon the request of a representative of the department or a law enforcement agency;

(m) 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 grower licensing agreement for inspection;

(n) Agree to submit Hemp Grow Plan Reports, Harvest/Destruction Reports, Form Post-Harvest Reports and Production Reports, and any other reports required by the department or USDA, to which the grower has agreed, on or before the deadlines established in this administrative regulation;

(o) Agree to scout and monitor unregistered 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;

(p) Agree not to employ or rent land to cultivate hemp from any person who was terminated or denied admission to the 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;

(q) Agree that land used for the cultivation or storage of hemp shall not be owned by or leased from any person who was terminated, or denied admission to the 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;

(r) Agree to notify the department of any interaction with law enforcement immediately by phone and follow-up in writing within three (3) calendar days of the occurrence; and

(s) Agree to notify the department of any theft of cannabis materials, whether growing or not.

(t) Agree that the department, law enforcement or other

authorized entities may conduct annual inspections of licensed growers, at random, to verify that hemp is not being produced in violation of these rules or state or federal laws and regulations.

(4) Failure to agree or comply with terms and conditions established in the grower licensing agreement or this administrative regulation shall constitute grounds for appropriate departmental action, up to and including termination of the grower licensing agreement and expulsion from the department's program.

(5) A person who has been expelled from the program shall not be eligible to reapply to the program for a period of five (5) years from the date of expulsion.

(6) Failure to agree and sign the grower licensing agreement shall terminate conditional approval and a licensing agreement shall not be executed.

(7) The department may deny or revoke any license for good cause shown.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala.1975, §2-8-383

History: New Rule: Filed November 15, 2018; effective December 30, 2018. **Repealed and New Rule:** Published August 31, 2020; effective October 15, 2020; operative November 1, 2020 **Amended:** Filed November 10, 2021, Effective: January 14, 2022. **Amended:**