

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 80 Department or Agency Department of Agriculture and Industries
Chapter No. 80-10-21

Chapter Title: Industrial Hemp

X New Amend X Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare?

Yes

Is there another, less restrictive method of regulation available that could adequately protect the public?

No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule?

NO

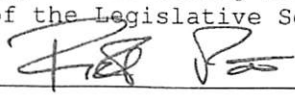
Does the proposed rule have any economic impact?

Yes

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection(f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer 

Date: 6-17-20

REC'D & FILED

JUN 17 2020

LEGISLATIVE SVC AGENCY

(DATE FILED)
(STAMP)

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
Plant Protection

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Agriculture and Industries

Chapter NO. & TITLE: 80-10-21 Industrial Hemp

INTENDED ACTION: To Repeal & Replace with New Chapter.

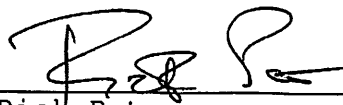
SUBSTANCE OF PROPOSED ACTION: To promulgate rules to administer an Industrial Hemp Program; to authorize the production of Industrial Hemp to be used for the manufacturing of Industrial Hemp Products; to establish reasonable fees necessary for implementing and operating an Industrial Hemp Program.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Views may be presented in writing to the contact person below or in person on Tuesday, August 11, 2020, 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: August 11, 2020.

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

6-17-20
Date



Rick Pate
Commissioner of Agriculture
and Industries

APA-6

ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23 (f))

Control No. 80 Department or Agency Agriculture & Industries

Chapter No. 80-10-21

Chapter Title: Industrial Hemp

X New _____ Amend _____ Repeal _____ Adopt by Reference

_____ This rule has no economic impact.

X This rule has an economic impact as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

The Alabama Industrial Hemp Research Program Act, as amended, along with the Agricultural Improvement Act of 2018, directs the Alabama Department of Agriculture and Industries to administer an Industrial Hemp Research Program and to license growers to grow industrial hemp.

2. COST/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

The Legislature granted rulemaking authority to the Alabama Department of Agriculture and Industries, per Alabama Code Section 2-8-380 et seq., which allows them to establish reasonable fees for licenses, permits, and other expenses to defray the cost of implementing and operating the Industrial Hemp Research Program on an ongoing basis. The Alabama Department of Agriculture and Industries determined that this is the most cost effective and efficient way to administer an Industrial Hemp Research Program.

3. EFFECT OF THIS RULE ON COMPETITION:

Minimal, if any.

4. EFFECT OF THIS RULE ON COST-OF-LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

Minimal, if any.

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

The purpose of the Alabama Industrial Hemp Research Program is to "develop a more permanent, profitable, and diversified agriculture....." (Section 2-8-382). The rule that enables implementation of an Industrial Hemp Program has the potential of attracting new business to the state and creating new job opportunities for Alabama residents (Section 2-8-383).

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

License fees for growing, processing, and handling Industrial Hemp.

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

License fees will be borne by growers, processors, and handlers. The public will benefit from the new agricultural industry.

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

The exact number of growers, processors, and handlers who will apply for licenses is unknown, as well as the number of acres of industrial hemp to be grown.

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
Minimal, if any.

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
Minimal, if any.

"REPEALED"

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

PLANT INDUSTRY

ADMINISTRATIVE CODE

CHAPTER 80-10-21

INDUSTRIAL HEMP

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80-10-21-.01 Purpose. To authorize the Alabama Department of Agriculture & Industries to administer an industrial hemp program and to authorize the production of industrial hemp to be used for the manufacture of industrial hemp products.

Author: N. Gunter Guy Jr.

Statutory Authority: Code of Ala. 1975, §2-8-380, et seq.

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.02 Definitions.

(1) "Act" means the Alabama Industrial Hemp Research Program Act, Code of Ala. 1975, §§ 2-8-380, et seq.

(2) "Applicant" means a person that is an individual residing in Alabama or an institution of higher education as defined in section 101 of the Higher Education Act of 1965 (20 U.S. Code § 1001(a)), a sole proprietorship, partnership, association, corporation, limited liability corporation, limited partnership, or any other business entity having any:

(a) Place of business permanently located within this state;

(b) Employees permanently assigned to work stations or areas located within this state; or

(c) Tangible assets permanently located within this state;

and who submits an application to grow industrial hemp.

(3) "Grower" means someone who is licensed to grow industrial hemp by the Alabama Department of Agriculture & Industries.

(4) "Commissioner" means the Commissioner of Agriculture & Industries and any employee of the Department of Agriculture associated with the Industrial Hemp Regulatory Program.

(5) "Industrial Hemp" means all parts and varieties of the plant *Cannabis sativa*, cultivated or possessed by a licensed grower, whether growing or not, that contain a delta-9 tetrahydrocannabinol concentration of not more than 0.3 % on a dry weight basis. Industrial hemp shall be considered an agricultural crop or an agricultural commodity, or both, in all respects under state law. The term excludes marijuana as defined in subdivision (14) of Section 20-2-2 of the Code of Alabama 1975.

(6) "Sample" means parts taken as representative of the combined total number of plants in the growing area, research site, storage area, or other building facility.

(7) "Department" means the Alabama Department of Agriculture & Industries.

(8) "Institution of Higher Education" means a postsecondary institution, as defined in 20 U.S. Code 1001(a).

(9) "Growing Area" means the land area on which the industrial hemp is grown.

(10) "Viable" means able to regenerate, reproduce, or survive.

(11) "Processor" means a person or business who treats or transforms harvested industrial hemp from its natural state for distribution in commerce.

(12) "Propagule" means any viable plant material cultivated from a mother plant.

Author: N. Gunter Guy Jr.

Statutory Authority: Code of Ala. 1975, §§2-8-381, 2-8-383

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.03 Industrial Hemp Institution of Higher Learning License.

(1) Each Institution of Higher Learning seeking an industrial hemp grower's license shall submit a signed, completed, accurate, and legible application form provided by the Commissioner by November 1 of the preceding year in which the applicant plans to grow industrial hemp, which includes the following:

(a) The university's name, mailing address, and phone number in Alabama and, if applicable, their electronic-mailing address;

(b) The cultivated variety that will be sown and/or grown;

(c) The source and amount of certified seed to be used;

(d) The number of acres to be cultivated for seed, viable grain, industrial products, or any combination thereof;

(e) The Global Positioning System coordinates in decimal degrees from the central most point of the growing area to

be cultivated and a map showing the location of the growing area in terms of its address or legal description;

(f) The address of the place in Alabama where the university will keep the records, books, electronic data, or other documents that are required by these regulations;

(g) The name and address of each place where the industrial hemp is to be stored, sold, or provided, indicating for each place the form of the industrial hemp; and

(h) The university's acknowledgment and agreement to the following terms and conditions:

(1) Any information obtained by the Department may be disclosed pursuant to the Alabama Open Records Act and/or provided to law enforcement agencies without further notice to the applicant or licensee.

(2) The university agrees to allow any inspection and sampling that the Department deems necessary.

(3) The university agrees to pay for any sampling and analysis costs that the Department deems necessary.

(4) The university agrees to submit all required reports by the applicable due dates specified by the Commissioner.

(2) Any application for a license received after November 1 of the preceding year in which an applicant applies will be denied except for good cause shown. Failure to complete an accurate application by November 1 of the preceding year will also be denied.

(3) In addition to the application form, each applicant for a license shall submit an application fee of \$200. If the fee does not accompany the application, the application for a license will be deemed incomplete. The application fee is non-refundable.

(4) The annual participant fee for production of industrial hemp shall be \$1000 per growing address. Upon notification that your application has been accepted into the program, the annual participant fee shall be submitted to the Department within 10 business days.

(5) All licenses shall be valid for one year from the date of issuance.

(6) A site modification fee of \$1000 per change or addition of GPS coordinates will be charged. Any university that wishes to alter the growing areas on which the licensee will conduct industrial hemp cultivation shall, before altering the area, submit to the Department for approval, in addition to the site modification fee, an updated address, Global Positioning System location, and map specifying the proposed alterations.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.04 Industrial Hemp Grower License.

(1) Each applicant for an industrial hemp grower's license shall submit a signed, completed, accurate, and legible application form provided by the Commissioner by November 1 of the preceding year in which the applicant plans to grow industrial hemp, which includes the following:

(a) The applicant's name, mailing address, phone number in Alabama, and if applicable, their electronic mailing address;

(b) If the applicant is an individual or partnership, the date of birth of the individual or partners;

(c) If the applicant is any business entity other than an individual, partnership, or institution of higher learning, documentation that the entity is authorized to do business in Alabama;

(d) The cultivated variety that will be sown and/or grown;

(e) The source and amount of certified seed to be used;

(f) The number of acres to be cultivated for seed, viable grain, industrial products, or any combination thereof;

(g) The Global Positioning System coordinates in decimal degrees from the central most point of the growing area to be cultivated and a map showing that location of the growing area in terms of its address or legal description;

(h) A statement that the applicant is the owner of the growing area to be used for the cultivation or a statement, signed

by the owner of the growing area, indicating that he has consented to that use;

(i) The address of the place in Alabama where the applicant will keep the records, books, electronic data, or other documents that are required by these regulations;

(j) The name and address of each place where the industrial hemp is to be stored, sold, or provided, indicating for each place the form of the industrial hemp; and

(k) The applicant's acknowledgment and agreement to the following terms and conditions:

(1) Any information obtained by the Department may be disclosed pursuant to the Alabama Open Records Act and/or provided to law-enforcement agencies without further notice to the applicant or licensee.

(2) The licensee agrees to allow any inspection and sampling that the Department deems necessary.

(3) The licensee agrees to pay for any sampling and analysis costs that the Department deems necessary.

(4) The licensee agrees to submit all required reports by the applicable due dates specified by the Commissioner.

(5) The applicant, any partners, directors, or members that have not been convicted of any felony related to the possession, production, sale, or distribution of a controlled substance in any form in this or any other country.

(2) An application shall be signed by the applicant or, in the case of a corporation, cooperative, or partnership, one of its officers, directors, or partners and indicate that all information and documents submitted in support of the application are true and complete to the best of their knowledge.

(3) Any application for a license received after November 1 of the preceding year in which an applicant applies will be denied except for good cause shown. Failure to complete an accurate application by November 1 of the preceding year will also be denied.

(4) In addition to the application form, each applicant for a license shall submit an application fee of \$200. If the fee does not accompany the application, the application for a license will be deemed incomplete. The application fee is non-refundable.

(5) The annual participant fee for production of industrial hemp shall be \$1000 per growing address. Upon notification that your application has been accepted into the program, the annual participant fee shall be submitted to the Department within 10 business days.

(6) All licenses shall be valid for one year from the date of issuance.

(7) A site modification fee of \$1000 per change or addition of GPS coordinates will be charged. Any licensee that wishes to alter the growing areas on which the licensee will conduct industrial hemp cultivation shall, before altering the area, submit to the Department for approval, in addition to the site modification fee, an updated address, Global Positioning System location, and map specifying the proposed alterations.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.05 Industrial Hemp Processor License.

(1) Each applicant for an industrial hemp processor license shall submit a signed, complete, accurate, and legible application form provided by the Commissioner, which includes the following:

(a) The applicant's name, mailing address, and phone number in Alabama and, if applicable, their electronic-mailing address;

(b) If the applicant is an individual or partnership, the date of birth of the individual or partners;

(c) If the applicant is any business entity other than an individual, partnership, or institution of higher learning, documentation that the entity is authorized to do business in Alabama;

(d) The intended use of the crop;

(e) The form in which the crop is to be sold or distributed;

(f) The Global Positioning System coordinates in decimal degrees of each building;

(g) A statement that the applicant is the owner of the business, or a statement, signed by the owner of the growing area, indicating that the individual has consented to that use;

(h) The address of the place in Alabama where the applicant will keep the records, books, electronic data, or other documents that are required by these regulations;

(i) The name and address of each place where the industrial hemp is to be processed;

(j) The applicant's acknowledgment and agreement to the following terms and conditions:

(1) Any information obtained by the Department may be disclosed pursuant to the Alabama Open Records Act and/or provided to law enforcement agencies without further notice to the applicant or licensee.

(2) The licensee agrees to allow any inspection and sampling that the Department deems necessary.

(3) The licensee agrees to pay for any sampling and analysis costs that the Department deems necessary.

(4) The licensee agrees to submit all required reports by the applicable due dates specified by the Commissioner.

(5) The applicant, any partners, directors, or members have not been convicted of any felony related to the possession, production, sale, or distribution of a controlled substance in any form in this or any other country.

(2) An application shall be signed by the applicant or, in the case of a corporation, cooperative, or partnership, one of its officers, directors, or partners and indicate that all information and documents submitted in support of the application are correct and complete to the best of their knowledge.

(3) In addition to the application form, each applicant for a license shall submit an application fee of \$200. If the fee does not accompany the application, the application for a license will be deemed incomplete. The application fee is non-refundable.

(4) The annual participant fee for production, or research and development of industrial hemp shall be \$1000 per growing address, or research and development facility address. Upon notification that your application has been accepted into the

program, the annual participant fee shall be submitted to the Department within 10 business days.

(5) All licenses shall be valid for one year from the date of issuance.

(6) A site modification fee of \$1000 per change or addition of GPS coordinates will be charged. Any licensee that wishes to alter the growing areas on which the licensee will conduct industrial hemp cultivation shall, before altering the area, submit to the Department for approval, in addition to the site modification fee, an updated address, Global Positioning System location, and map specifying the proposed alterations.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.06 License Evaluation.

The Alabama Department of Agriculture & Industries is not required to approve all applications, even if the applicant meets the requirements for a license. There are a limited number of applications that will be approved each year. The Department will consider factors such as:

- (1) Demographics;
- (2) Venue;
- (3) Diversification;
- (4) Experience of the grower;
- (5) Knowledge of the grower;
- (6) Location of the cultivation site;
- (7) Criminal history of the applicant, subcontractors, or employee(s); and
- (8) Prior administrative actions taken by the Department against the applicant.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.07 Acquisition of Seed and Propagules.

(1) Each licensee shall be responsible for acquisition and transport of seed or propagules used for growth of industrial hemp. Prior to acquisition of propagating material, the licensee shall submit on forms provided by the Department a seed acquisition request, which may require:

(a) A copy of the industrial hemp license for which the propagating material is requested;

(b) The scientific or common name for the variety requested;

(c) The name, address, telephone number, and email address of the person providing the requested material;

(d) Evidence that the source of the variety is:

(1) A university;

(2) A state department of agriculture authorized to conduct an industrial hemp pilot program. If the source is a pilot program participant in this or another state, a copy of that participant's industrial hemp license is sufficient to fulfill the requirement; or,

(3) A lawful vendor of industrial hemp in the jurisdiction where it is distributed;

(e) The form of material to be acquired (e.g. seed, seedlings, cuttings, etc.);

(f) The quantity in pounds of seed or number of propagules to be acquired;

(g) Test results from an ISO-accredited or state department of agriculture approved, third party laboratory certifying that material from the variety has been shown to contain no more than 0.3% THC on a dry mass basis; and,

(h) Evidence that the licensee is authorized to propagate industrial hemp from the material, if applicable.

(2) Prior to cultivation by any licensee, all propagating material acquired through the Alabama Department of Agriculture & Industries' controlled substance registration or acquired for growth by non-university licensees shall first be inventoried by the Department at: Alabama Department of

Agriculture & Industries, Industrial Hemp Program, 1445 Federal Drive, Montgomery, AL 36107.

(3) Costs. Licensees shall pay all costs incurred for acquisition and delivery of any seed or propagules, including but not limited to costs for procurement, taxes, shipping, and customs brokerage.

(4) Return. The Department may return to its sender any industrial hemp in the Department's possession that was requested for shipment or distribution to an ineligible person or that was not approved for use in their industrial hemp pilot program. The Department may destroy any industrial hemp that is not retrieved by its intended recipient in a timely manner.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.08 Reports.

(1) At least 10 business days prior to harvest, each industrial hemp licensee shall file a report with the Commissioner that shall include a statement of intended disposition of its industrial hemp crop.

(2) Licensees must report any subsequent changes to the purchase agreement or disposition statement to the Commissioner within 10 business days of the change.

(3) At least 3 business days prior to the movement of the industrial hemp grain or plant material from the permitted location, the licensee shall submit to the Commissioner an application for movement permit. The application shall include the mode and location to which the product is to be transported. An inspection of the product may occur prior to movement. Out-of-state movement of industrial hemp may occur only by lawful passage through states that have authorized the possession and distribution of industrial hemp.

(4) Licensees must immediately report the theft or loss of industrial hemp to the Department.

(5) On forms provided by the Department, a licensee must immediately report to the Department:

(a) Changes to the name, address, email, or telephone number of the licensee;

(b) Changes in the ownership or structure of the entity holding an industrial hemp license;

(c) Changes in location or the addition of a field or growing area.

(6) Growers and processors must ensure that all laboratory THC test results for all harvest lots are timely reported to the Department and that any failed test report is immediately reported to the Department.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.09 Inspections and Sampling.

(1) All licensees are subject to sampling of their industrial hemp crop to verify that the THC concentration does not exceed 0.3% on a dry mass basis.

(2) During the inspection, the licensee or authorized representative shall be present at the growing area, research site, storage area, or other building facility. The licensee or authorized representative shall provide the Department's inspector with complete and unrestricted access to all industrial hemp plants and seeds whether growing or harvested, all land buildings, and other structures used for the cultivation and storage of industrial hemp, and all documents and records pertaining to the licensee's industrial hemp business.

(3) Sampling of industrial hemp plants will occur in the following manner:

(a) Samples of each variety of industrial hemp may be sampled from the growing area, research site, storage area, or building facility at the Commissioner's discretion.

(b) Quantitative laboratory determination of the THC concentration on a dry mass basis will be performed according to protocols approved by the Commissioner.

(c) A sample test result greater than 0.3% THC will be considered conclusive evidence that at least one Cannabis plant or

part of a plant in the growing area, research site, storage area, or building facility contains a THC concentration over the limit allowed for industrial hemp and that the licensee of that growing area, research site, storage area, or building facility is therefore not in compliance with the Act. Upon receipt of such a test result, the Commissioner may summarily suspend and revoke the registration of an industrial hemp licensee. The Commissioner shall furnish to the licensee a portion of the violative sample if the licensee requests it within 30 days of notification.

(d) After the Department obtains a sample, licensees shall not move any Cannabis plant or plant product from the area represented by the sample until the Department determines the same tests no higher than 0.3% THC on a dry mass basis.

(4) Fees. Licensees shall pay a charge of \$250 dollars per inspection for each growing area, research site, storage area, or building facility.

(5) Destruction.

(a) Cannabis plants found to be in violation of the Act or this Chapter shall be destroyed in accordance with a departmental directive or destruction order.

(b) Destruction of any plants or plant products under this rule shall be performed in accordance with a directive from the Commissioner, which may include destruction by any means necessary for reasonable that all Cannabis plants exceeding allowable limits of THC concentration are destroyed, e.g. by removal and incineration, field burning, deep burial, or other means authorized by the Department.

(6) Administrative Appeal. Any licensee aggrieved by an order issued under this Chapter may submit a written request for a hearing within 15 days of the date of the destruction order being issued. If no petition is filed with the department within the 15-day period, the Department's order shall become final and will not be subject to review. For purposes of any hearing under this Chapter, any Cannabis plant grown or processed by a licensee under the Department's industrial hemp pilot program shall be considered property of the Department for researching the growth, cultivation, and marketability of industrial hemp and not a legal right, duty, or privilege of the licensee.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.10 Records. Growers shall retain the following records for no less than 5 years from the date the record is obtained or generated:

(1) All records relating to information supplied in the application for a license;

(2) All records relating to the use and disposition of industrial hemp harvested or any plant parts thereof;

(3) All records relating to the storage or processing of industrial hemp or any plants parts thereof;

(4) All records relating to the destruction of industrial hemp harvested or any plant parts thereof, including but not limited to, any affidavits, notifications, and electronic records required by this subchapter.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.11 Violations. In addition to any other violations of the Code of Alabama or this Chapter, the following acts and omissions by any licensee or authorized representative thereof constitute violations for which civil penalties up to \$500 and disciplinary sanctions, including revocation of an application, may be imposed by the Commissioner:

(1) Refusal or failure by a licensee or authorized representative to fully cooperate and assist the Department with the inspection process.

(2) Failure to provide any information required or requested by the Commissioner.

(3) Providing false, misleading, or incorrect information pertaining to the licensee's cultivation of industrial hemp to the Commissioner by any means, including but not limited to information provided in any application form, report, record, or inspection required or maintained.

(4) Failure to submit any required report.

(5) Growing industrial hemp that when tested is shown to have a THC concentration greater than 0.3% on a dry mass basis.

(6) Failure to pay fees assessed by the Commissioner for inspection or laboratory analysis costs.

(7) Cultivating, handling, processing, or marketing living industrial hemp plants or viable seeds, leaf materials, or floral materials derived from industrial hemp without a license.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.12 Disqualification Process.

(1) A "Notice of Disqualification" will be sent to the grower via certified mail.

(2) The notice will explain the cause(s) for the action and the effective date of the action.

(3) Disqualification takes effect on the 10th day from the date on the letter, during which time the grower may appeal the adverse action.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.13 Pre-Disqualification Meeting.

(1) Growers may request a pre-disqualification meeting with the Director of the Industrial Hemp Program. Growers may request that employees of the Alabama Department of Agriculture & Industries that are directly involved in the action be present for the meeting. However, representatives of other entities will not be allowed.

(2) The appeal will be heard by the Director of the Industrial Hemp Program.

(3) Growers will receive written notice acknowledging the request of the meeting within 10 business days.

(4) The meeting may result in:

- (a) Disqualification;
- (b) Suspension and placed on probation;
- (c) Sanction lifted with the grower being placed on probation; or
- (d) Ruled in favor of the grower.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

80-10-21-.14 Administrative Appeal from Denial of Application.

(1) If no pre-disqualified meeting is requested, or if the outcome of the meeting is not satisfactory an applicant and wishing to appeal the Department's denial or partial denial of an application shall submit a written request for a hearing postmarked within 15 days of the date of the Department's notification letter or email.

(2) An appealing applicant shall mail a hearing request letter to the Alabama Department of Agriculture & Industries, Industrial Hemp Program, located at 1445 Federal Drive, Montgomery, Alabama 36107-1123.

(3) Notice of the time and date of the appeal hearing will be given for preparation of the hearing.

(4) The applicant may request that the date of the hearing be rescheduled one time.

(5) The hearing will be conducted by an impartial hearing officer.

(6) Applicants will have an opportunity to confront the person or entity that denied their application.

(7) The basis of the hearing officer's decision will be delivered to the applicant in writing.

(8) If the disqualification is substantiated, the applicant will automatically be disqualified.

(9) Applicants may request a judicial review at their own expense.

Author: N. Gunter Guy Jr.

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

History: New Rule Filed: November 15, 2018; effective December 30, 2018.

"New Chapter"
Alabama Department of Agriculture and Industries
Plant Protection
Administrative Code

Chapter 80-10-21
Industrial Hemp

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80-10-21-.01 Purpose. To authorize the Alabama Department of Agriculture and Industries to administer a hemp program pursuant to the Alabama Industrial Hemp Act, Section 2-8-380 et. seq., Code of Alabama 1975, and the Agricultural Improvement Act of 2018 and to promulgate administrative regulations for a hemp program and to authorize the department to license persons who wish to participate in a hemp program by growing, cultivating, handling, or processing hemp.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala.1975, §2-8-380, et seq.

History: New Rule Filed:

80-10-21-.02 Definitions.

(1) "Acceptable hemp THC Level" means, for the purpose of compliance with the requirements of a State hemp plan under the USDA rules, when the application of the measurement of uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. This definition of "acceptable hemp THC level" affects neither the statutory definition of hemp, 7 U.S.C. § 16390(1), in the 2018 Farm Bill nor the definition of "marihuana," 21 U.S.C. § 802(16), in the CSA.

(1) "Applicant" means a person, or a person who is authorized to sign for a business entity or University, and who submits an application to participate in the industrial hemp program.

(2) "Cannabis": 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 refers to any form of the plant in which the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.

(3) "CBD" means cannabidiol.

(4) "Certified seed" means seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of a state, territory, or possession to officially certify seed and that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified.

(5) "Conviction" means any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal, pardoned or expunged. For purposes of this definition, a conviction is expunged when the conviction is removed from the individual's criminal history record and there are no legal disabilities or restrictions associated with the expunged conviction, other than the fact that the conviction may be used for sentencing purposes for subsequent convictions. In addition, where an individual is

allowed to withdraw an original plea of guilty or nolo contendere and enter a plea of not guilty and the case is subsequently dismissed, the individual is no longer considered to have a conviction for purposes of this definition.

(6) "Commissioner" means the Commissioner of the Alabama Department of Agriculture and Industries and any employee of the Department of Agriculture and Industries associated with the Alabama Hemp regulatory program.

(7) "Corrective Action Plan" means a plan established by the Department for a licensed grower to correct a negligent violation or non-compliance with a hemp statute or administrative regulation.

(8) "Culpable mental state greater than negligence" means to act intentionally, knowingly, willfully, recklessly or with criminal negligence.

(9) "DEA" means the United States Drug Enforcement Administration.

(10) "Decarboxylated" means the completion of the chemical reaction that converts THC-acid into total delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.

(11) "delta-9-THC" means total delta-9-tetrahydrocannabinol concentration (the primary intoxicating or psychoactive component of cannabis) which includes the measurement of uncertainty applicable to the definition of "acceptable hemp THC level".

(12) "Department" means the Alabama Department of Agriculture and Industries.

(13) "Dry weight basis" means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. It is a basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of total THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item.

(14) "Entity" means a corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization, or other similar organization, including any such organization participating in the hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

(15) "Farm Service Agency or FSA" means an agency of the United States Department of Agriculture.

(16) "Grower licensing agreement" means a document executed by a person and the department authorizing the person to possess, grow, handle, and store hemp at one (1) or more specified locations

in the State under the terms established in this administrative regulation.

(17) "GPS" or Global Positioning System means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.

(18) "Handle or Handling" means taking ownership, possessing or storing hemp for any period of time on licensed premises owned, operated, or controlled by a person licensed to cultivate 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 licensed person to cultivate or process hemp to the premises of another licensed person.

(19) "Hemp" or "industrial hemp" is the plant *Cannabis sativa* L and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Industrial Hemp shall be considered an agricultural crop or an agricultural commodity, or both, in all respects under state law. The term excludes marijuana as defined in subdivision (14) of Section 20-2-2 of the Code of Alabama, 1975.

(20) "Hemp product" or "industrial hemp product" is products derived from, or made by, processing industrial hemp plants or plant parts.

(21) "Key participants" means a sole proprietor, a partner in a partnership, or a person with executive managerial control in a business entity or corporation. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer and chief financial officer or similar position of managerial control. This definition does not include non-executive managers such as farm, field, or shift managers.

(22) "Law enforcement agency" means ALEA (Alabama Law Enforcement Agency), or other federal, state, or local law enforcement agency or drug suppression unit.

(23) "Licensed grower or producer" means a person authorized in the State by the department to grow, cultivate, handle, and store hemp under the terms established in a grower licensing agreement and this administrative regulation.

(24) "Licensed processor" means a person in the State authorized by the department to process, handle, and store hemp under the terms established in a processor licensing agreement.

(25) "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, greenhouse or building name.

(26) "Measurement of Uncertainty" means the parameter associated with the result of a measurement that characterizes the dispersion

of the values that could reasonably be attributed to the particular quantity subject to measurement.

(27) "Nonviable seed" means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.

(28) "Person" means an individual, institution of higher education, business entity or entity.

(29) "Pesticide" means any substance or mixture of substances intended to:

(a) Prevent, destroy, control, repel, attract, or mitigate any pest;

(b) Be used as a plant regulator, defoliant, or desiccant; or

(c) Be used as a spray adjuvant, once they have been mixed with a product registered by U.S. Environmental Protection Agency.

(30) "Plot, lot or growing area" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.

(31) "ppm" means parts per million.

(32) "Post-harvest sample" means a sample taken from the harvested hemp from a particular plot's harvest in accordance with the procedures as established by the department. The entire plot's harvest is in the same form (for example, intact-plant, flowers, ground materials, etc.), homogenous, and not mixed with non-hemp materials or hemp from another plot.

(33) "Pre-harvest sample" means a composite, representative portion from plants in a hemp plot collected in accordance with the procedures as established by the department.

(34) "Prohibited variety" means a variety or strain of cannabis excluded from the department's program.

(35) "Processing" is converting an agricultural commodity into a marketable form.

(36) "Processor/Handler licensing agreement" means a document executed by a person and the department authorizing the person to process, handle, and store hemp at one (1) or more specified locations in the State under the terms established by the department.

(37) "Program" means the department's Industrial Hemp Program.

(38) "Propagule" means a plant or plant part that can be utilized to grow a new plant.

(39) "Secondary pre-harvest sample" means a pre-harvest sample that is taken:

(a) In a given plot after the first pre-harvest sample is taken; and

(b) On a different day than the initial pre-harvest sample.

(40) "Seed source" means the origin of the seed or propagules as determined by the department.

(41) "Signing authority" means an officer or agent of the

business entity or organization with written authorization to commit the legal entity to a binding agreement.

(42) "State" means the State of Alabama.

(43) "University" means a postsecondary institution, as defined in 20 U.S. Code 1001(a). and located in the State.

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

(45) "Variety of concern" means any variety of hemp in the department's program that tests above 3,000 ppm or 0.3000 percent total 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.

(46) "Volunteer cannabis plant" means any cannabis plant that:

(a) Grows of its own accord from seeds or roots in the years following an intentionally planted cannabis crop; and

(b) Is not intentionally planted.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala.1975, §§2-8-381, 2-8-383

History: New Rule Filed:

80-10-21-.03 Grower License Application.

(1) Any person who wishes to grow hemp at any location in the State shall submit to the department annually a completed Grower License Application, incorporated by reference as part of the Grower Licensing Application Packet.

(2) A person who does not hold a license from the department shall not grow, cultivate, handle, store hemp or other cannabis.

(3) A person under the age of eighteen (18) years of age shall not apply for or hold a grower license.

(4)(a) Completed Grower License Application forms shall be postmarked or received by the department on or before the end of the application period established in the application.

(b) Completed Grower License Application forms shall be delivered to the Alabama Department of Agriculture and Industries as stated in the application package.

(c) The department may deny any Grower License Application that fails to meet the deadline established in the application.

(5) Each applicant shall pay a grower application fee in the amount established by the department.

(6) Application fees shall not cover or include the cost of the criminal background checks required by this administrative regulation. Applicants and license holders shall pay criminal background check fees directly to ALEA or any other law enforcement agency designated by the department.

(7) The department shall deny any Grower License Application that is received without the application fee established by these regulations.

(8) With the Grower License Application form, the applicant shall submit, at a minimum:

(a) Full name, Alabama residential address, telephone number, and email address.

(b) If the applicant represents a business entity, the full name of the business, the principal Alabama business location address, the full name of the applicant who will have signing authority on behalf of the entity, title, and email address of the person;

(c) Grow plan, including the proposed acreage or greenhouse or indoor square footage to be planted;

(d) Planned source of seeds or propagules;

(e) Street address; location ID; and GPS coordinates for each field, greenhouse, building, or site where hemp will be grown, handled, or stored;

(f) Maps depicting each site where hemp will be grown, handled, or stored, with appropriate designations for entrances, field boundaries, and specific locations corresponding to the GPS coordinates.

(9) Any Grower License Application that is missing required information shall be subject to denial.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.04 Application for Grower Licensing Agreement; Criteria and Procedure for Evaluation.

(1) The department shall apply the criteria established in paragraphs (a) through (m) of this subsection in evaluating an application for the grower license.

(a) In accordance with Section 3 of this administrative regulation, the applicant shall submit a complete application with all required components and attachments.

(b) The applicant shall comply with the responsibility to submit:

1. Hemp Grow Plan Outdoor Report and Hemp Grow Plan Greenhouse/Indoor Report, incorporated by reference;

2. Harvest/Destruction Report, incorporated by reference;

3. Post-Harvest Production reports, incorporated by reference; and

4. Any other reports deemed necessary by the department to which

the applicant has agreed.

(c) The applicant's growing sites, handling sites, storage sites, and primary residence shall be located in the State of Alabama.

(d) The applicant shall affirm that the applicant resides in Alabama at the primary residence or within 50 miles of at least one of the applicant's Alabama grow sites listed on the Grower License Application form.

(e) The criminal background check report indicates that, within ten (10) years from the date when the background check was issued, the applicant or any key participant shall not have:

1. A felony conviction related to a controlled substance under State or Federal law; or

2. Any other felony or misdemeanor conviction which affects the grower's competency to hold a license to grow, handle or process hemp.

(g) The research or grow plan shall be compliant with state and federal law.

(h) The applicant shall have a seed or propagule acquisition form.

(i) In the past, including those times when the applicant was not a participant in the department's program, the applicant shall have demonstrated a willingness to comply with the department's rules, instructions from department staff, and instructions from representatives of ALEA and other law enforcement agencies.

(j) 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 program or other programs within the department.

(k) The applicant shall not have any unpaid fines or civil penalties owed to the department.

(l) The applicant shall not have and shall not make any false statements or representations to a representative of the department or a law enforcement agency.

(2) The department may conditionally approve an application for a grower licensing agreement if the application satisfies the criteria established in this administrative regulation.

(3) The department may approve an applicant to grow an acreage or square footage that is equal to, greater than, or less than the acreage or square footage stated in the application.

(4) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved. A person shall not be a participant in the department's program until the applicant and the department have executed a grower licensing agreement following the applicant's completion of the department's mandatory orientation session as required by this administrative regulation.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.05 Land Use Restrictions for Licensed Growers.

(1) A licensed grower shall not plant or grow any cannabis that is not hemp.

(2) A licensed grower shall not plant or grow hemp or other cannabis on any site not listed in the grower licensing agreement.

(3) A licensed grower shall not grow hemp or other cannabis in any structure that is used for residential purposes.

(4) A licensed grower shall not handle or store leaf or floral material from hemp or other cannabis in any structure that is used for residential purposes.

(5) Hemp shall be physically segregated from other crops unless prior approval is obtained in writing from the department.

(6) A licensed grower shall not plant hemp or other cannabis plants in an outdoor growing location of less than one acre and 1,000 plants unless prior approval is received in writing from the department.

(7) A licensed grower shall not grow hemp or other cannabis in any outdoor field or site that is located within 1,000 feet of a school or a public recreational area without prior approval from the department.

(8) An applicant or licensed grower shall not include any property on his or her application or Site Modification Form to grow or cultivate hemp that is not owned or completely controlled by the applicant or licensed grower.

(9) A licensed grower shall not grow, handle, or store hemp or other cannabis on property owned by, leased from, or previously submitted in a license application by any person who is ineligible or was terminated, or denied admission to the 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.

(10) A licensed grower shall not plant hemp or other cannabis plants in an indoor growing location of less than 1500 square feet and 500 plants unless prior approval is received in writing from the department.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

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.

(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, Post-Harvest Reports and Production Reports, and any other reports required by the department 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.

(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:

80-10-21-.07 Licensing Fees; Participation Fee, Secondary Pre-Harvest Sample Fee, Post-Harvest Retest Fee.

(1) Participation fee.

(a) The licensed grower shall pay a participation fee.

(b) The participation fee for each growing address shall be in the amount established in these regulations.

(c) Participation fees shall be paid in full prior to the execution of the grower licensing agreement in a manner prescribed by the Alabama Department of Agriculture and Industries.

(2) Secondary Pre-Harvest Sample fee.

(a) If a licensed grower fails to complete the harvest within fourteen (14) days after the department collects the pre-harvest sample, the licensed grower shall submit a new Harvest/Destruction Form for each additional pre-harvest sample.

(b) After the initial pre-harvest sample from each grow area or lot, the licensed grower will be required to pay a secondary pre-harvest sample fee for each additional sample taken.

(c) Each secondary pre-harvest sample fee shall be paid to the department within fourteen (14) days of invoice or notification by the department. The secondary pre-harvest sample fee shall be as established in these regulations.

(d) If the licensed grower fails to pay the secondary pre-harvest sample fee within fourteen (14) days of invoice or notification, the lack of payment shall be considered a violation of the grower licensing agreement.

(e) The licensed grower shall not harvest the remaining crop until the department collects a secondary pre-harvest sample if one is required as established in paragraph (a) or (b) of this subsection.

(3) Post-harvest retest fee.

(a) The department shall order post-harvest THC testing of a plot if the results of an initial THC test on the pre-harvest sample indicate a total delta-9-THC concentration in the pre-harvest sample in excess of what is permitted by the department.

(b) A licensed grower shall pay the post-harvest retest fee if

post-harvest testing is ordered by a representative of the department.

(c) The post-harvest retest fee shall be as established in these regulations.

(d) The fee shall be paid prior to the department collecting the post-harvest sample.

(e) If a licensed grower fails to request a retest or to pay a post-harvest retest fee within fourteen (14) days of notification of pre-harvest results on a harvest from the department, then the pre-harvest sample or secondary pre-harvest test result shall stand, and the department shall destroy or seize, without compensation, all hemp or other cannabis from the plot.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.08 Planting Reports for Outdoor Plantings.

(1) A licensed grower shall submit to the department a complete and current Hemp Grow Plan Report, within fourteen (14) days after every planting, including replanting, of seeds or propagules in an outdoor location.

(2) Each Grow Plan Report shall identify the:

(a) Correct variety name as designated upon approval of the acquisition request or as approved by the department;

(b) Field location ID as listed in the grower licensing agreement; and

(c) Primary intended use of the harvest for each planting.

(3) A licensed grower who does not plant hemp in an approved outdoor site listed in the grower license agreement shall submit a Grow Plan Report, on or before July 31, stating that hemp has not and shall not be planted at that site.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.09 Planting Reports for Indoor Plantings.

(1) A licensed grower shall submit to the department a complete and current Hemp Grow Plan Report within fourteen (14) days after establishing plants at an indoor location.

(2) Each Grow Plan Report shall identify the:

(a) Correct hemp variety name as designated in the Domestic Seed/Propagule Request form or International Seed Request form and approved by the department;

(b) Greenhouse or indoor growing location ID as listed in the grower licensing agreement; and

(c) Primary intended use for the harvest of each planting.

(3) In addition to the initial Grow Plan Report, a licensed grower with an approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to the department. Grow Plan Reports shall be due no later than March 31, June 30, September 30, and December 31.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.10 Pesticide Use.

(1) A licensed grower shall only apply pesticide products registered and approved for use on Hemp by EPA and in accordance with all state and federal laws.

(2) A licensed grower shall not use any pesticide in violation of the product label.

(3) A licensed grower who uses a pesticide on a site where hemp will be planted shall comply with the longest of any planting restriction interval on the product label prior to planting the hemp.

(4) The department may perform pesticide testing on a random basis or if representatives of the Department have reason to believe that a pesticide may have been applied to hemp in violation of the product label.

(5) Hemp seeds, plants, and materials bearing pesticide residue in violation of the label shall be subject to forfeiture or destruction without compensation.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.11 Responsibility of a Licensed Grower Prior to Harvest of Hemp Plots.

(1) The department may collect samples of any hemp material prior to harvest at any time.

(2) A licensed grower shall submit a complete and current Harvest/Destruction Report form to the department at least fourteen (14) days prior to the intended harvest date or intended destruction of a failed crop.

(3) The department's receipt of a Harvest/Destruction Report shall trigger a sample collection by the department.

(4) During the department's scheduled sample collection, the grower or an authorized representative shall be present at the growing site.

(5) Representatives of the department shall be provided with complete and unrestricted access to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage

of all hemp and other cannabis plants; and all locations listed in the grower licensing agreement.

(6) The licensed grower shall harvest the crop not more than fourteen (14) days following the date of sample collection by the department, unless specifically authorized in writing by the department.

(7) If the licensed grower fails to complete harvest within fourteen (14) days, the department may order a secondary pre-harvest sample of the plot, and the licensed grower shall be assessed a secondary pre-harvest sample fee per plot in the amount established in these regulations prior to the department collecting the sample.

(8) Harvested materials from varieties of concern shall not be commingled with other harvests without prior written permission from the department.

(9) Floral materials harvested for phytocannabinoid extraction shall not be moved outside the State or beyond a processor, nor commingled, nor extracted, until the department releases the material in writing.

(10) A licensed grower who fails to submit a Harvest/Destruction Report, or who does submit a Harvest/Destruction Report, and proceeds to harvest a crop prior to a sample being collected by the department shall be subject to license revocation.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.12 Collection of Samples; THC Testing; Post-Testing Actions.

(1) The hemp to be selected for sampling shall be determined by a representative of the department.

(2) The department shall collect and retain samples from each plot in accordance with the procedures established by the department.

(3) The department shall receive, prepare, and release hemp samples in accordance with the procedures established by the department.

(4) The department shall measure total delta-9-THC concentration of each hemp sample in accordance with the procedures established by the department.

(5) The department shall undertake post-testing actions in accordance with the procedures established by the department.

(6) All samples shall become the property of the department and shall not be returnable. Compensation shall not be owed by the department.

(7) If the department is not able to provide THC testing services required by these regulations, the department may identify and

contract with a third-party lab to perform THC testing services.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.13 Restrictions on Sale or Transfer.

(1) A licensed grower selling or transferring, or permitting the sale or transfer, of floral or plant extracts (including CBD), shall retain testing data or results for at least three (3) years demonstrating that the extract's total delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(2) A licensed grower may transfer up to one (1) pound of hemp per transfer to testing laboratories, both within and outside the State, for the purpose of measuring THC, CBD, or other phytocannabinoid profile levels. The licensed grower shall ensure compliance with laws in other states.

(3) Licensed growers 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 regulations relating to product development, product manufacturing, consumer safety, and public health.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.14 Other Prohibited Activities.

(1) A licensed grower shall not plant or grow hemp on any site not listed in the grower licensing agreement.

(2) A licensed grower shall not allow unsupervised public access to hemp plots, including activities such as a hemp maze.

(3) A person shall not ship or transport, or allow to be shipped or transported, live hemp plants, cuttings for planting, or viable seeds from a variety that is currently designated by the department as a prohibited variety or variety of concern to any location outside the State.

(4) A person shall not ship or transport, or allow to be shipped or transported, any hemp product with a total delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.15 Other Required Reports.

(1) A licensed grower shall submit a completed Grower Post Harvest Production Report annually, any report required by this regulation and any report required by USDA, in the form and manner stated.

(2) For at least three (3) years, license holders shall maintain and make available for inspection by the department during reasonable business hours:

(a) Records regarding acquisition of hemp plants;

(b) Records regarding production and handling of hemp plants;

(c) Records regarding storage of hemp plants; and

(d) Records regarding disposal of all cannabis plants that do not meet the definition of hemp.

(3) A licensed grower's failure to submit an accurate and complete report that is required by the department before the deadline established by the department shall constitute grounds for the department to terminate the grower licensing agreement and deny future applications for licensure.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.16 Processor or Handler License Application.

(1) Any person who wishes to engage in the processing, handling, or storing of hemp at any location in the State shall submit to the department annually a complete Processor/Handler License Application, incorporated by reference as part of the Processor/Handler License Application Packet.

(2) Any person who does not hold a license from the department shall not grow, cultivate, handle, store or process hemp or other cannabis.

(3) A person under the age of eighteen (18) years of age shall not apply for or hold a processor or handler license.

(4)(a) Completed Processor/Handler License Application forms shall be postmarked or received by the department on or before the end of the application period established in the application.

(b) Completed Processor/Handler License Application forms shall be delivered to the Alabama Department of Agriculture and Industries, as stated in the application package.

(c) The department may deny any Processor/Handler License Application that is not received by the deadline established in the application.

(5) The department shall require each applicant to pay a processor or handler application fee in the amount established in by these regulations.

(6) Application fees shall not cover or include the cost of criminal background checks required by this regulation. Applicants and license holders shall pay criminal background check fees directly to ALEA or any other law enforcement agency designated by the department.

(7) The department may deny any Processor/Handler License Application that is received without the application fee

established by the department.

(8) With the Processor/Handler License Application form, the applicant shall submit, at a minimum:

(a) Full name, mailing address, telephone number, and email address;

(b) If the applicant represents a business entity, the full name of the business, the principal Alabama business location address, the full name of the applicant who will have signing authority on behalf of the entity, title, and email address of the person;

(c) Processing or handling plan;

(d) Planned source of hemp; and

(e) Maps and the street address, location ID, and GPS coordinates for each building or site where hemp will be processed, handled, or stored.

(9) Any Processor/Handler License Application that is missing required information shall be grounds for license denial.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.17 Application for Processor or Handler Licensing; Criteria and Procedure for Evaluation.

(1) The department shall apply the criteria established in paragraphs (a) through (n) of this subsection in evaluating applications for a processor or handler licensing agreement:

(a) In accordance with this administrative regulation, the applicant shall submit a complete application with all required components and attachments.

(b) An applicant who has been a program participant previously, the applicant shall comply with the responsibility to submit any reports required by these regulations.

(c) All involved business entities shall be registered and in good standing with the Alabama Secretary of State.

(d) The applicant's processing sites, handling sites, and storage sites, shall be located in the State of Alabama.

(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 relating to a controlled substance under State or Federal law; or

2. Any other felony or misdemeanor conviction which affects the grower's competency to hold a license to grow, handle or process hemp.

(f) The processing or handling plan shall be compliant with state and federal law.

(g) The applicant's planned activities shall remain compliant with state law and the department policy.

- (h) The applicant shall have a hemp acquisition plan.
- (i) The applicant shall have a marketing plan that is compliant with state and federal law.
- (j) The applicant shall have adequate facilities, or plans to acquire adequate facilities sufficiently soon enough, to comply with the issuance of a license.
- (k) In the past, including those times when the applicant was not a participant in the department's program, the applicant shall have demonstrated a willingness to comply with the department's rules, instructions from department staff, and instructions from representatives of ALEA and other law enforcement agencies.
- (l) 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 program or other programs within the department.
- (m) The applicant shall not have any unpaid fines or civil penalties owed to the department.
- (n) 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.
- (2) The department may conditionally approve an application for a processor or handler licensing agreement if the application satisfies the criteria established in this administrative regulation.
- (3) The department shall notify applicants whether the application has been denied or conditionally approved. A person shall not be a participant in the department's program until the applicant and the department have executed a processor or handler licensing agreement following the applicant's completion of the department's mandatory orientation session.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.18 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 any structure that is used for residential purposes.
- (2) A licensed processor or handler shall not process hemp or other cannabis in a site that is located within 1,000 feet of a school or a public recreational area without prior approval of the department.
- (3) 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.
- (4) 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 or was terminated or denied admission to the 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.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.19 Processor or Handler 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 processor or handler licensing agreement following the applicant's completion of the department's mandatory orientation session.

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

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

(a) Acknowledge that licensed processors or handlers are acting 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 in these administrative rules;

(c) Consent to entry onto, and inspection of, all premises where hemp or other cannabis 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. Material located in an area that is not licensed by the department; or

3. Material not properly accounted for in required reporting to the department;

(e) Acknowledge that no hemp shall be processed, handled, or stored in any location other than the location listed in the processor or handler licensing agreement;

(f) Acknowledge that licensed processors or handlers shall

comply with restrictions established by the department limiting the movement of hemp plants and plant parts;

(g) Acknowledge that the risk of financial or other loss shall be borne solely by the licensed processor or handler;

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

(i) Agree to immediately produce a copy of the processor or handler licensing agreement for inspection upon request from a representative of the department or a law enforcement agency;

(j) Agree to submit reports required by the department on or before the deadlines established by the department;

(k) 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

(l) Agree to notify the department of any theft of hemp materials.

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

(5) A person who has been expelled from the program is not 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 processor or handler licensing agreement shall terminate conditional approval and no licensing agreement shall be executed.

(7) A licensed processor or handler shall:

(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 these regulations;

(d) Update all registered addresses, location IDs, and GPS coordinates with the department; and

(e) Agree to comply with the department's program policies as established in these regulations.

(8) 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:

80-10-21-.20 Processor or Handler Licensing Fee.

(1) The licensed processor or handler fee for processing one (1) or more fiber harvests shall be the amount established in these regulations.

(2) The licensing fee for processing one (1) or more grain harvests shall be the amount established in these regulations.

(3) The Licensing fee for processing floral material (for example, CBD) shall be the amount established in these regulations.

(4) A licensed processor or handler that processes more than one (1) crop type (for example, fiber, grain, and CBD) shall pay the licensing fee in the amount established in these regulations.

(5) A handler that does not engage in processing (for example, a seed cleaner, or laboratory) shall be subject to a licensing fee in the amount established in these regulations.

(6) The licensed processor or handler fee shall be paid annually in full prior to the execution of the processor or handler licensing agreement in a manner prescribed by the Alabama Department of Agriculture and Industries.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.21 Collection and Retention of Cannabis Samples.

(1) The department shall have the authority to collect and retain samples of hemp or other cannabis, and products derived from all 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.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.22 Other Prohibited Activities.

(1) A licensed processor or handler shall not process or store hemp on any site not listed in the processor or handler licensing agreement.

(2) A person shall not ship or transport, or allow to be shipped or transported, live hemp plants, cuttings for planting, or viable seeds from a variety that is currently designated by the department as a prohibited variety or variety of concern to any location outside the State of Alabama.

(3) A person shall not ship or transport, or allow to be shipped or transported, any hemp product with a total delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

(4) A licensed processor or handler shall not possess live hemp or other cannabis plants without a grower licensing agreement.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.23 Required Reports.

(1) A licensed processor or handler shall submit a completed Production Report annually, any report required by this regulation, and any report required by USDA, in the manner and form stated.

(2) For at least three (3) years, license holders shall maintain and make available for inspection by the department during reasonable business hours:

(a) Records regarding acquisition of hemp plants;

(b) Records regarding production and handling of hemp plants;

(c) Records regarding storage of hemp plants; and

(d) Records regarding disposal of all cannabis plants that do not meet the definition of hemp.

(3) A licensed processor or handler's failure to submit an accurate and complete report that is required by these administrative regulations on or before the deadline established by the department shall constitute grounds for the department to terminate the processor or handler licensing agreement and deny future applications for licensure.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.24 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 State of Alabama.

(2) An institution of higher education shall not conduct hemp research under the authority of the department's program at a campus or other site that is located outside the State of Alabama.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.25 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, incorporated by reference as part of the University/College Affiliation Application Packet, annually.

(2) An institution of higher education shall not 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 submitted 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 or college affiliation confirmation letter to grow, cultivate, and process hemp in accordance with:

(a) The institution's research plan;

(b) State and federal law; and

(c) This administrative regulation.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.26 Affiliation Application Form; Required Components.

(1) A university/college affiliation application form shall contain, at a minimum, the full name of each person authorized by the institute of higher education who shall be responsible for overseeing the academic research project;

(2) The full name of each person who will be involved in growing, processing, storing or handling hemp;

(3) An academic research plan summary;

(4) The full name of the landowner, 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.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.27 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 (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.

(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 (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.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.28 Fees; Sampling and THC Testing Services.

(1) The department shall assess fees on affiliated institutions of higher education as established in these regulations.

(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 testing the samples.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.29 Seed Acquisition.

(1) An institution of higher education shall not acquire hemp seeds or propagules from a source outside the State of Alabama except as established in subsection (2) of this section.

(2) A representative of an affiliated institution of higher education shall obtain hemp seeds or propagules from a source outside the State 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 3,000 ppm on a dry weight basis.

(4) 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.

(6) A Seed/Propagule Request shall be required for the acquisition of seeds or propagules from a source inside the State.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.30 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 responsible for overseeing the research project shall submit to the department a summary of the research's objectives and findings. The results of research that is proprietary in nature need not be reported to the department.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.31 Criminal Background Check.

(1) Each licensed grower, processor, handler or applicant shall undergo and pay for an annual criminal background check.

(2) A licensed grower, processor, handler or applicant shall, following completion of the background check, ensure delivery of the report to the department not more than fourteen (14) days after the application deadline.

(3) The department shall not accept a report from a criminal background check that is dated more than 60 days prior to the application submission date.

(4) Failure to submit the background check by the deadline stated in subsection (2) of this section 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 signing authority.

(6) A license shall not be issued unless the criminal background check submitted with the license application confirms that all key participants to be covered by the license have not been convicted of a felony, under State or Federal law, relating to a controlled substance with the past ten (10) years.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.32 Mandatory Orientation Session.

(1) Conditionally approved applicants shall complete a mandatory orientation session as required by the department

(2) The department may require in-person attendance or other method.

(3) The department may not allow any person to attend in lieu of the conditionally approved applicant or designated contact.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.33 Site Access for Representatives of the Department and Law Enforcement Section Agencies.

(1) The department shall provide information about approved growing, handling, and storage site locations to representatives of ALEA, DEA, and other law enforcement agencies whose representatives request registered site information, including GPS coordinates.

(2) Licensed growers, processors, handlers or universities 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 grower licensing agreement.

(3) A licensed grower, processor, handler or university, 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, and any premises listed in the grower licensing agreement with or without cause and with or without advanced notice.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.34 Site Modifications and Site Modification Surcharge Fees.

(1) A licensed grower, processor, handler or university who elects to grow hemp in a new growing location or store or handle at a site other than the sites specified by the GPS coordinates listed in the grower licensing agreement, shall submit a Site Modification Request Form, as established by these regulations, and obtain written approval from a representative of the department, prior to planting or storing at the proposed location.

(2) Any request for a new growing location shall comply with the land use restrictions established in this administrative

regulation.

(3) The land or growing structure being requested 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:

(a) Failure to obtain an acceptable criminal background check;
or

(b) Failure to comply with an order from a representative of the department.

(4) The department shall charge a site modification surcharge fee for each new growing location, be it an individual field or greenhouse or indoor structure, where hemp will be planted. The amount of the site modification surcharge fee shall be as established in these regulations.

(5) The department shall not approve a site modification request for a new growing location until the department has received the site modification surcharge fee. Surcharge fees shall be submitted to the department with a check or money order payable to the department.

(6) The department shall not assess a site modification surcharge for changes to storage-only locations.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.35 Seed Acquisition from a Source in a U.S. Territory, Tribal Land, the State of Alabama or another State.

(1) A person shall not acquire seeds or propagules from a source in a U.S. territory, tribal land, or state without first:

(a) Submitting a complete Seed/Propagule acquisition form, incorporated by reference in these regulations, and all required attachments; and

(b) Obtaining written approval of the Seed/Propagule acquisition from a representative of the department.

(2) The department shall not approve a Seed/Propagule acquisition unless the licensed grower affirms in writing that the requested seed acquisition plan shall not infringe on the intellectual property rights of any person.

(3) A person submitting a Seed/Propagule acquisition form shall submit to the department documentation showing that mature plants grown from that seed variety or strain have a floral material total delta-9-THC content of not more than 3,000 ppm on a dry weight basis from an independent third-party laboratory.

(4) A person submitting a Seed/Propagule acquisition form shall submit to the department documentation verifying the seed or propagule source as a current legal hemp operation in the state of origin.

(5) All seed distribution sources or other seed distribution entities proposing to sell seeds into Alabama are required to obtain an annual Seed Dealer Permit from the department.

(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.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.36 Seed Acquisition from a Source Outside the United States.

(1) A person seeking to obtain seeds from an international source shall submit a complete International Seed acquisition form, incorporated by reference in these regulations, to the department.

(a) If approved, the department shall request the Permit to Import under any existing current regulations.

(b) A person shall not acquire seeds from a source outside the United States unless the department first obtains a Permit to Import.

(2) A person shall not acquire propagules other than seeds from outside the United States.

(3) The department shall not approve an International Seed acquisition form for any purpose other than seeds for planting in Alabama. All licensed growers intending to plant the requested seed shall be listed on the acquisition form.

(4) The department shall not approve an International Seed acquisition form unless the licensed grower affirms in writing that the licensed grower's planned activities shall not infringe on the intellectual property rights of any person.

(5) A person submitting an International Seed acquisition form shall submit to the department documentation showing that mature plants grown from that seed variety have a floral material total delta-9-THC content of not more than 3,000 ppm, or 0.3000%, on a dry weight basis.

(6) A person acquiring seeds or propagules from a source outside the United States shall arrange for the seeds or propagules to arrive at the department's facility, for inventory and distribution.

(7) Upon request from a representative of the department, a licensed grower shall provide a distribution list showing locations where and to whom the imported hemp seeds were distributed.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.37 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 first 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 first 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 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 advance written permission from the department shall be subject to suspension or revocation of his or her license and forfeiture without compensation of his or her materials.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.38 Information Submitted to the Department Subject to Open Records Act.

(1) Except as established in subsection (2) of this section, information and documents generated or obtained by the department in connection with the program shall be subject to disclosure pursuant to the Alabama Open Records Act.

(2) Personal identifiable information including physical address, mailing address, driver's license numbers, background checks, GPS coordinates, telephone, and email addresses shall be shielded by the department to the maximum extent permitted by law; provided, however, the department shall provide this information to law enforcement agencies and other regulatory agencies upon request.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.39 Immediate License Suspension.

(1) The department shall immediately suspend a license, without an opportunity for a hearing, if the licensed person pleads guilty to, or is convicted of, any felony or drug-related misdemeanor.

(2) The department may immediately suspend a license, without an opportunity for a hearing, if the licensed person or his or her agent admits to having:

(a) Violated any provision of an administrative regulation;

(b) Made any false statement to the department or its representative; or

(c) Failed to comply with any instruction or order from the department, a representative of the department, ALEA, or any law enforcement officer.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.40 Temporary License Suspension Procedures.

(1) The department shall notify a licensed grower, processor, handler or university in writing that the grower licensing agreement has been temporarily suspended if a representative of the department receives information supporting an allegation that a licensee has:

(a) Engaged in conduct violating a provision of this administrative regulation, or the licensing agreement;

(b) Made a false statement to a representative of the department or a law enforcement agency;

(c) Been found to be growing or in possession of hemp with a measured total delta-9-THC concentration at or above .05 percent; or

(d) Failed to comply with an order from a representative of the department or a law enforcement agency.

(2) A person whose licensing agreement has been temporarily suspended shall not harvest, process, or remove cannabis from the premises where hemp or other cannabis was located at the time when the department issued its notice of temporary suspension, except as authorized in writing by a representative of the department.

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

(4) The department shall schedule a license revocation hearing for a date as soon as practicable after the notification of temporary suspension, but in any event not later than sixty (60) days following the notification of temporary suspension.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.41 License Revocation Hearings and Consequences of Revocation.

(1) The department shall notify a person whose licensing agreement 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 the same as an administrative appeal from denial of an application of a license.

(3) If a decision is reached in favor of revoking the licensing agreement, then a representative of the department or a law enforcement agency shall destroy or confiscate all cannabis, hemp, and hemp products that are in the person's possession.

(4) A person whose property is destroyed or confiscated by a representative of the department or a law enforcement agency shall be owed no compensation or indemnity for the value of the cannabis, hemp, or hemp products that were destroyed or confiscated.

(5) A person whose licensing agreement has been revoked shall be barred from participation in the program in any capacity for a minimum period of five (5) years.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.42 Administrative Appeal from Denial of Application.

(1) An applicant wishing to appeal the department's denial or partial denial of an application or other adverse decision concerning these administrative rules 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 the Alabama Department of Agriculture and Industries, Industrial Hemp Program, 1445 Federal Drive, Montgomery, Alabama 36107-1123.

(3) Appeals shall be heard by an impartial hearing officer designated by the Commissioner or his designee.

(4) Notice of the time and date of the appeal hearing will be given for preparation of the hearing.

(5) The applicant may request that the date of the hearing be rescheduled one time.

(6) 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.

(7) Applicants will have the opportunity to confront the person or entity that denied their application.

(8) The basis of the hearing officer's decision will be delivered to the applicant in writing.

(9) If the disqualification is substantiated, the applicant will automatically be disqualified.

(10) Applicants may request a judicial review at their own expense.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.43 Schedule of Fees for Growers.

- (1) The fees established in this section shall be nonrefundable.
- (2) The Grower License Application fee shall be \$200 for each application.
- (3) The annual grower participation fee shall be \$1000 for each growing location.
- (4) The secondary pre-harvest sample fee shall be \$250 for each sample.
- (5) The post-harvest retest fee shall be \$250 for each sample.
- (6) The site modification surcharge fee shall be \$1000 for each GPS coordinate location change for each growing site after the grower licensing agreement has been executed.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.44 Schedule of Fees for Processors or Handlers.

- (1) The fees established in this section shall be nonrefundable.
- (2) The Processor/Handler License Application fee shall be \$200 per application.
- (3) The annual participation fee for processing the grain component of hemp shall be \$1000.
- (4) The annual participation fee for processing the fiber component of hemp shall be \$1000.
- (5) The annual participation fee for processing the floral material component of hemp (such as CBD) shall be \$1,000.
- (6) The annual participation fee for a handler (such as a seed cleaner or laboratory) shall be \$1000.
- (7) The site modification surcharge fee shall be \$1000 for each GPS coordinate location change for each processing site after the processor or handler licensing agreement has been executed.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.45 Schedule of Fees for Eligible Institutions of Higher Education

- (1) The fees established in this section shall be nonrefundable.
- (2) The Institute of Higher Education Application fee shall be \$200 per application.
- (3) The annual participation fee shall be \$500 per application.
- (4) The site modification surcharge fee shall be \$500 for each GPS coordination location change for each growing site

after the licensing agreement has been executed.

(5) Sampling and THC testing shall be \$200 for each sample.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.46 Department to collect and retain information about growing locations. The Department shall collect and retain for a period of at least three calendar years, Location ID information for every site or location where the department has approved hemp to be grown.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.47 Ineligibility of persons found to have negligently violated rules three 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) 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.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.48 Corrective action plans for negligent violations.

(1) In addition to being subject to the license suspension, license revocation, and monetary civil penalty procedures, 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 total delta-9-THC concentration of more than 0.5 percent on a dry weight basis.

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

(a) A reasonable date by which the person shall correct his or her 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.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.49 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, 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 set forth 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 Attorney General of Alabama

(c) The Alabama Law Enforcement Agency

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.50 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 it 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 the person's license is currently in good standing.

(e) any other information required by USDA pursuant to the USDA Domestic Hemp Restoration program.

(2) The Department shall provide real-time updates to the information that the Department previously submitted pursuant to Section (1) of this administrative regulation.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.51 Department Testing Procedures.

(1) Through its DEA registration and pursuant to USDA guidelines, the ADAI Food and Drug Laboratory will sample, analyze and evaluate hemp using reliable methodology for testing the total delta-9-THC level.

(2) The department shall collect and handle hemp samples in accordance with the department and USDA Procedures for Sampling, THC Testing, and Post-Testing Actions. The department shall perform total delta-9-THC testing in accordance with the department's Food and Drug Laboratory standard operating procedures.

(3) ADAI shall receive, prepare, and release hemp samples in accordance with the ADAI Procedures for Receiving, Preparing and Releasing Hemp Samples.

(4) ADAI shall measure total delta-9-THC content in accordance with the department's Food and Drug Laboratory SOP Analytical Method: Total THC in Cannabis on a Dry Weight Basis by UPLC-MS-MS or by UPLC-Fluorescence Detection.

(5) Following the delivery of THC testing results from ADAI, the department shall undertake post-testing actions in accordance with the department Standard Operating Procedures for Sampling, THC Testing, and Post-Testing Actions.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.52 Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Procedures for Sampling, THC Testing, and Post-Testing Actions, December 14, 2017 edition;

(b) Procedures for Measuring Delta 9 THC Content in Industrial Hemp by Gas Chromatography with Flame Ionization Detection, August 1, 2017 edition; and

(c) Procedures for Receiving, Preparing and Releasing Hemp Samples,

(2) These materials may be inspected, copied, or obtained, subject to applicable copyright law, upon advanced request, at the Alabama Department of Agriculture and Industries, Richard Beard

Building, 1445 Federal Dr., Montgomery, Alabama 36107, Monday through Friday, 8:00 a.m. to 4:30 p.m.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.53 Disposal Procedures.

(1) If any hemp plants or material produced under these regulations do not meet the requirements set forth by the Department or USDA, then such plants or material will be disposed of by using one of the methods or procedures set forth in this administrative regulation or USDA regulation. The costs of disposal, if any are incurred by the department, may be charged to the license holder.

(2) Disposal by on-site destruction with department supervision. Without removing the harvested material from the license holder's premises or other licensed premises where the material is located, a department employee shall personally observe the material's destruction using one of the department's approved methods.

(3) Disposal by on-farm transfer to a person who is registered or authorized by the department or USDA to accept controlled substances for the purposes of destruction.

(4) Disposal by vehicle transport to a department and law enforcement approved location and destroyed by a person duly authorized by federal, state or local law to handle and destroy such material.

(5) No destruction may occur unless a destruction plan is submitted and approved by the department and department personnel are present to witness the destruction unless an exception is submitted and approved in writing by the department.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.54 Incorporation by Reference.

(1) The following forms and materials are incorporated by reference:

(a) Grower Application

(b) Grower License Agreement

(c) Hemp Grow Plan (Indoor and Outdoor)

(d) Harvest/Destruction Report

(e) Grower Add Site form

(f) Grower Amend Site Form

(g) Grower Property Owner Affirmation

(h) Harvest Destruction Form

(i) Release/Movement Form

- (j) Secondary Sample(s) Invoice
- (k) Grower Post-Harvest Report Form
- (l) Marketing Plan
- (m) Material Transfer Form
- (n) Processor/Handler Application
- (o) Processor/Handler Licensing Agreement
- (p) Processor Add Site Form
- (q) Processor Amend Site Form
- (r) Processor Year-End Report
- (s) University/Research Application
- (t) University Add Site Form
- (u) University Amend Site Form
- (v) University Year End Research Report Form
- (x) Seed or Propagule Acquisition Form

(2) These materials may be inspected, copied, or obtained, subject to applicable copyright law, and upon advanced request, at the Alabama Department of Agriculture and Industries, Plant Division Office, 1445 Federal Drive, Montgomery, Alabama 36107, Monday through Friday, 8:00 a.m. to 4:30 p.m.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed:

80-10-21-.55 Severability

This administrative regulation includes a severability provision. This section provides that if any provision of this Hemp regulation is found to be invalid, the remainder of the regulation shall not be affected.

Author: N. Gunter Guy, Jr.

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

History: New Rule Filed: