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Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
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Phone: 615-741-2650
Email: publications.information@tn.gov

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Sequence Number: 01-06-15
Rule ID(s): 5866
File Date: 1/15/15
Effective Date: 4/15/15

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Department of Agriculture
Division:	Division of Consumer & Industry Services
Contact Person:	David Waddell
Address:	Post Office Box 40628, Nashville, Tennessee 37204
Phone:	(615) 837-5331
Email:	david.waddell@tn.gov
Agency/Board/Commission:	Department of Agriculture

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0080-06-28	Industrial Hemp
Rule Number	Rule Title
0080-06-28-.01	Definitions
0080-06-28-.02	Licensing
0080-06-28-.03	Reports
0080-06-28-.04	Inspections
0080-06-28-.05	Violations

New Rules

Chapter 0080-06-28
Industrial Hemp

- 0080-06-28-.01 Definitions
0080-06-28-.02 Licensing
0080-06-28-.03 Reports
0080-06-28-.04 Inspections
0080-06-28-.05 Violations

0080-06-28-.01 Definitions.
SS-7039 (November 2014)

- (1) "Act" means Tennessee Public Acts of 2014, Chapter 916.
- (2) "Applicant" means a person that is an individual residing in Tennessee or an institution of higher education as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. § 1001), 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.
- (3) "Commissioner" means the Commissioner of Agriculture and any employee of the Department of Agriculture associated with the Industrial Hemp Regulatory Program.
- (4) "Sample" means parts taken as representative of the combined total number of plants in the growing area.
- (5) "Department" means the Tennessee Department of Agriculture.
- (6) "Growing Area" means the land area on which industrial hemp is grown.

Authority: T.C.A. § 43-26-103(e)

0080-06-28-.02 Licensing.

- (1) Each applicant for an industrial-hemp license shall submit a signed, complete, accurate, and legible application form provided by the Commissioner by April 1 of the year in which the applicant plans to grow industrial hemp, which includes the following:
 - (a) the applicant's name, mailing address, and phone number in Tennessee and, if applicable, their electronic-mail 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 Tennessee;
 - (d) the cultivated variety that will be sown;
 - (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 the 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;
 - (k) if the applicant is cultivating for certified seed, evidence of membership in the Tennessee Crop Improvement Association;
 - (l) the address of the place in Tennessee where the applicant will keep the records, books, electronic data, or other documents that are required by these regulations;

- (m) 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
- (n) the applicant's acknowledgment and agreement to the following terms and conditions:
 1. Any information obtained by the Department may be publicly disclosed and 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, as the case may be, and indicate that all information and documents submitted in support of the application are correct and complete to the best of his knowledge.
- (3) Any application for a license received after April 1, or that is not complete by April 1, will be denied.
- (4) In addition to the application form, each applicant for a license shall submit the fee set by the Commissioner. If the fee does not accompany the application, the application for a license will be deemed incomplete.
- (5) The annual license fee for production of industrial hemp shall be \$250 plus \$2.00/acre.
- (6) All licenses shall be valid for one year from the date of issuance.
- (7) 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 an updated address, Global Positioning System location, and map specifying the proposed alterations.

Authority: T.C.A. § 43-26-103(e)

0080-06-28-.03 Reports.

- (1) At least seven days prior to harvest, each industrial-hemp licensee shall file a report with the Commissioner that includes documentation that the licensee has entered into a purchase agreement with an industrial-hemp processor. If the licensee has not entered into such an agreement, the licensee 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 ten days of the change.
- (3) Two 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.

Authority: T.C.A. § 43-26-103(e)

0080-06-28-.04 Inspections.

- (1) All licensees are subject to sampling of their industrial-hemp crop to verify that the THC concentration does not exceed 0.3% on dry-mass basis.
- (2) During the inspection, the licensee or authorized representative shall be present at the growing area. 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 areas at the Department'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 contains a THC concentration over the limit allowed for industrial hemp and that the licensee of that growing area 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 in accordance with T.C.A. § 4-5-320. The Commissioner shall furnish to the licensee a portion of the violative sample if the licensee requests it within thirty days of notification.
 - (d) Test results from an institution of higher education may, at the Commissioner's discretion, be accepted in lieu of Department sampling.
- (4) Fees
 - (a) Licensees shall pay a charge of \$35 dollars per hour per inspector for actual drive time, mileage, inspection, and sampling time.
 - (b) Licensees shall reimburse the Department for all laboratory-analysis costs incurred.

Authority: T.C.A. § 43-26-103(e)

0080-06-28-.05 Violations.

In addition to any other violations of T.C.A. § 43-26-103 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 a registration, may be imposed by the Commissioner in accordance with T.C.A. §§ 4-3-204 and 4-5-320:

- (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 for purposes of T.C.A. § 43-26-103 or this Chapter.
- (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 for purposes of T.C.A. § 43-26-103 or this Chapter.
- (4) Failure to submit any required report in accordance with Tenn. Comp. R. & Regs. 0080-06-28-.03.
- (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.

Authority: T.C.A. § 43-26-103(e)

I certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 09/18/14

Rulemaking Hearing(s) Conducted on: (add more dates). (11/18/14)

Date: January 5, 2015

Signature: *Julius Johnson*

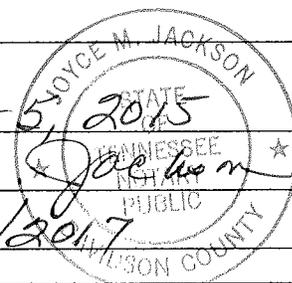
Name of Officer: Julius Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: January 5, 2015

Notary Public Signature: *Joyce M. Jackson*

My commission expires on: 09/11/2017



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
1/12/2015
Date

Department of State Use Only

Filed with the Department of State on: 1/15/15

Effective on: 4/15/15

Tre Hargett
Tre Hargett
Secretary of State

SECRETARY OF STATE
RECEIVED

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Public Hearing Comments

The department of Agriculture held a public hearing on November 18, 2014. Both comments received during the hearing and written comments are summarized below along with the response of the department

Mr. Alan Shaffield of Hendersonville commented on the value of this program as a replacement for tobacco. He stated he intends to grow certified seed. Certified seed are now available only in Canada and Europe.

Departmental Response: The department appreciates Mr. Shaffield's support and acknowledges the requirement for certified seed. The department is committed to assist producers obtain imported seed and to work with Tennessee Crop Improvement Association to provide a permanent source for certified seed in Tennessee.

Ms. June Griffin of Rhea County encouraged the department to refrain from imposing any rules or regulations or requiring licenses or inspections on farmers who grow hemp.

Departmental Response: The department appreciates Ms. Griffin's comments, but is bound by the statutory requirements of the Industrial Hemp Act to license hemp producers and promulgate regulations for that purpose. This department always strives to impose regulations that are minimally required to carry the programs and to be as little a burden as possible.

Ms. Stacy Griffin of Rhea county expressed similar comments as Ms. June Griffin on the lack of need for regulation of any kind.

Departmental Response: The department respectfully makes the same response as made previously.

Ms. Colleen Sauv  representing the Tennessee Hemp Industries Association testified at the hearing and provided her comments in written form by email to the hearing officer. Ms. Sauv  indicated her association members include Crescive, RWM Technologies, Shauna's Application Hemp Farm and Rasmussen Farms. Her first comment pertained to the definition of "agricultural pilot program" contained in Section 7606 of the 2014 Farm Bill. She recommended including this definition in the Tennessee rules to make working with the DEA move as smoothly as possible.

Next Ms. Sauv  sought clarification on the phrase "Any information obtained by the department may be publically disclosed and provided to law enforcement agencies without further notice to the applicant or licensee." Her next concern regarded the section of the rules that require applicants to state on their application form that 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. She suggested a time limit of ten years be placed on this requirement so that convictions over ten years old would not be reported.

Another concern was the requirement that the producer file a report seven days prior to harvest that includes documentation of an agreement to sell the crop to an in state hemp processor. She prefers we omit the words "in state" so that producers may market their products in other states such as Kentucky.

The next area addressed concerned the acceptance of test results from a certified testing entity in addition to institutes of higher education.

The inspection fee of \$35 per hour was also a concern. She suggested a cap of \$100 per inspection.

Departmental Response: The department appreciates the thoughtful and helpful comments of THIA. This program is unique in that although legal in Tennessee, industrial hemp is still illegal in the eyes of the DEA. Section 7606 of the farm bill was enacted to relieve some of the tension. Continuing efforts are being made to further resolve this conflict at the federal level and is eventually thought to be resolved at some point in the future. The department has intentionally left references to the federal situation out of these rules so that no revision to state rules will be necessary when the federal situation is resolved. The necessary requirements to comply with the DEA to import seed will be contained in the application form and memorandum of understanding that each producer will be required to sign in order to obtain seed. Mou's will limit activities to those provided in the farm bill language.

All records of the department of agriculture are subject to the Open Records Act and subject to inspection by any citizen of Tennessee. This information was included in rules as a reminder to the applicants.

Industrial hemp is still a controlled substance under federal law and is very similar in many ways to plants that produce a higher THC level are illegal in TN as well. In order to protect innocent Tennessee producers from

unintentional involvement in illegal drug activity, any one formerly involved in illegal drug activity at the felony level should be barred from this program. Other states and countries have similar provisions. Most just say any felony or any criminal conviction bars participation. The department has narrowed this provision to include only felony drug convictions. The department considers this appropriate for this program.

Ms. Sauv e's comments regarding limiting producers to "in state" processors are well taken and is deleted in this final version of the rules. If exporting hemp outside the state is still a problem with the DEA or other federal agency at the time the crop is harvested the producer filing the report will be notified.

The department will not be able to accept test results from private labs unless the samples are collected by and submitted to a private laboratory selected by the department. Further review of lab certification requirements to test for THC content will be made.

The legislation requiring the promulgation of these rules also requires the program to be self-sufficient. The department has inspectors stationed in every area of the state and will not be travelling long distances to make inspections. The costs of operating this program will be closely monitored and fees can be adjusted at a later time if revenue is sufficient to operate the program. The cost of compliance should be a consideration for all applicants before they participate in this program.

Mr. Harold Jarboe testified at the hearing in support of the program. He supports a rigorous inspection and testing program because of the proximity of the level of THC in legal hemp compared marijuana. He recommends testing early and often so that a crop with a higher level of THC could be caught and destroyed before significant resources are devoted to that crop.

Departmental Response: The department is concerned as well about determining possible illegal crops as early as possible so that producers and departmental resources will not be expended on an ultimately worthless crop.

Ms. Gretta Gaines of Nashville testified at the hearing about her company, The Hempory. She supports the program and hopes to utilize Tennessee grown products in her business. She is concerned about the lack of hemp processors in Tennessee and whether high CBD hemp will be grown in Tennessee.

Departmental Response: The department is interested in helping existing companies in Tennessee take advantage of Tennessee grown products of any kind including hemp. Our statute addresses industrial hemp. Hemp with medicinal properties was not mentioned. As this program develops further action by the legislature or Congress may be needed to permit medicinal uses.

Ms. Jenn Mures of Nashville testified at the hearing about her business, Tennessee Canna Distributors and her product Canna Energy. Their product is made with Canadian hemp, but they hope to use Tennessee hemp in the future.

Departmental Response: Like other businesses the department is supportive of local companies using our state's products.

Ms. Cathy Jolley of Williamson county representing her employer Framewell. This company provides software for tracking marijuana enforcement activities in Colorado. She offered herself and her company as a resource as the program develops.

Departmental Response: The department appreciates all resources made available in the development of this program.

Mr. John Quinnan of Goodlettsville testified at the hearing. Mr. Quinnan supports the growing of hemp in the state, but wants regulation of the practice to be kept at a minimum.

Departmental Response: The department agrees that only those rules that are absolutely necessary should be adopted.

Ms. Tena Everett-Cleghorn from Wilson county questioned the omission of any reference to greenhouses in the regulations.

Departmental Response: The department supports the use of greenhouses for this crop. The identification of

greenhouses growers will be accomplished in the application process.

Fred Cole and Shauna Ray Queener of Campbell County submitted joint written comments. Their comments provided valuable commentary and information about the value and importance of growing hemp in the state. They also expressed concern about the reporting of felony drug convictions more than ten years old. They also made many good points about the need for more information and research on the viability of hemp as a money crop in the state.

Departmental Response: The department appreciates the content of the comments provided, but would make the same response concerning drug convictions as made above to other testimony.

Mr. Danny Felts submitted comments by email. He objected to the \$35 per hour inspection fee contained in the rules.

Departmental Response: The statute, as stated above, requires the program to be self-sufficient. Fees will be monitored and lowered if sufficient revenue is generated.

Mr. Skip Ramsaur of Highland Hemp Farms in Cookeville provided email comments in support of the comments of THIA.

Departmental Response: The response to Ms. Sauv e and THIA apply here as well.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

- (1) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

Farmers who wish to grow industrial hemp and businesses who wish to process or manufacture hemp products will be affected by these rules and will bear the cost.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

There are no reliable estimates of the number of growers who will eventually apply to be licensed to grow hemp. Approximately 50 people have expressed varying levels of interest.

- (3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

As industrial hemp is still considered an illegal drug by the DEA significant recordkeeping by the growers as well as the department will be significant. It is estimated that each grower will have to pay to the department about \$1,200 in fees to be licensed and inspected. They will have to make reports on all product they plant and produce.

- (4) Statement of the probable effect on impacted small businesses and consumers:

Hemp is used in many ways all over the world and is in great demand. If hemp is grown in sufficient quantity to attract processors or markets there will be a significant opportunity for small businesses and farms to profit.

- (5) Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:

Because of the highly regulated controlled substances involved less intrusive regulations are not possible.

- (6) Comparison of the proposed rule with any federal or state counterparts:

A few states like Kentucky and Colorado have started industrial hemp programs and our program is modeled after them. The federal government considers industrial hemp to be marijuana.

- (7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The law authorizing these regulations makes no provisions for exemptions. Under the federal government supervision of this program every ounce of the product will have to be accounted for.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

There will no expected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This is an entirely new program in Tennessee. Industrial hemp has previously been considered marijuana and treated that way. This legalizes that plant and establishes a regulatory program, including licensing and inspection of growers to maintain the integrity of the crop so that it will not be confused or intermingled with illegal cannabis plants.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

There is no federal law mandating these regulations. In fact industrial hemp is still considered a controlled substance under federal drug laws enforced by the DEA.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

A growing national movement is encouraging states to implement programs to allow hemp to be grown for industrial uses across the country as a new money crop for farmers. Many of those people are in this state. There have been groups opposing this attempt at a new crop.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

There are no attorney general or court decision in this state that affect this program.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The enacting legislation of this program mandates that it be self sustaining. Fees will charged to the regulated producers to support the program so that there will be no cost to the state.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

K. David Waddell, Administrative Manager, Consumer and Industry Services Division, TDA

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

K. David Waddell, Administrative Manager, Consumer and Industry Services Division, TDA

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

436 Hogan Road, Nashville, TN 37220 (615) 837-5331 david.waddell@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

New Rules

Chapter 0080-06-28
Industrial Hemp

0080-06-28-.01 Definitions

0080-06-28-.02 Licensing

0080-06-28-.03 Reports

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 - (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 Tennessee;
 - (d) the cultivated variety that will be sown;
 - (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 the 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;
- (k) if the applicant is cultivating for certified seed, evidence of membership in the Tennessee Crop Improvement Association;
- (l) the address of the place in Tennessee where the applicant will keep the records, books, electronic data, or other documents that are required by these regulations;
- (m) 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
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 - 1. Any information obtained by the Department may be publicly disclosed and provided to law-enforcement agencies without further notice to the applicant or licensee.
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 - 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, as the case may be, and indicate that all information and documents submitted in support of the application are correct and complete to the best of his knowledge.

(3) Any application for a license received after April 1, or that is not complete by April 1, will be denied.

(4) In addition to the application form, each applicant for a license shall submit the fee set by the Commissioner. If the fee does not accompany the application, the application for a license will be deemed incomplete.

(5) The annual license fee for production of industrial hemp shall be \$250 plus \$2.00/acre.

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

(7) 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 an updated address, Global Positioning System location, and map specifying the proposed alterations.

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

(3) Two 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.

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- (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 areas at the Department'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 contains a THC concentration over the limit allowed for industrial hemp and that the licensee of that growing area 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 in accordance with T.C.A. § 4-5-320. The Commissioner shall furnish to the licensee a portion of the violative sample if the licensee requests it within thirty days of notification.
 - (d) Test results from an institution of higher education may, at the Commissioner's discretion, be accepted in lieu of Department sampling.
- (4) Fees
 - (a) Licensees shall pay a charge of \$35 dollars per hour per inspector for actual drive time, mileage, inspection, and sampling time.
 - (b) Licensees shall reimburse the Department for all laboratory-analysis costs incurred.

Authority: T.C.A. § 43-26-103(e)

0080-06-28-.05 Violations.

In addition to any other violations of T.C.A. § 43-26-103 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 a registration, may be imposed by the Commissioner in accordance with T.C.A. §§ 4-3-204 and 4-5-320:

- (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 for purposes of T.C.A. § 43-26-103 or this Chapter.
- (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 for purposes of T.C.A. § 43-26-103 or this Chapter.
- (4) Failure to submit any required report in accordance with Tenn. Comp. R. & Regs. 0080-06-28-.03.
- (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.

Authority: T.C.A. § 43-26-103(e)