

09-33-14



TENNESSEE DEPARTMENT OF AGRICULTURE

DIVISION OF CONSUMER & INDUSTRY SERVICES

JULIUS JOHNSON  
COMMISSIONER

ELECTRONIC MAIL ([cody.york@tn.gov](mailto:cody.york@tn.gov))

September 25, 2014

Cody York, Director  
DIVISION OF PUBLICATIONS  
Tennessee Secretary of State  
312 Rosa L. Parks Avenue  
Snodgrass Tower, 8<sup>th</sup> Floor  
Nashville, Tennessee 37243

RE: Notice of Rulemaking Hearing -- Industrial Hemp

Dear Mr. York:

On September 18, 2014, the Department of Agriculture filed with the Secretary of State's Office a Notice of Rulemaking Hearing regarding rules for industrial hemp. The Notice contained a chapter number description of 0080-06-27 with corresponding rule numbers, e.g. 0080-06-27-.01, etc.

It has come to the attention of the Department that the chapter number 0080-06-27 has already been used by the Department for rules related to worker protection. The industrial hemp notice is completely unrelated to the worker protection rules, and the Department's use of the 0080-06-27 chapter number is solely a typographical error. The Department intended to identify the industrial hemp rules in the Notice under chapter number 0080-06-28.

Please advise if the Division of Publications is willing and able to correct the error to reflect the appropriate chapter and rule numbers within the Notice filed for industrial hemp. Thank you for your consideration.

Sincerely,

Jason B. Miller, Esq.  
Counsel for Department of Agriculture  
Division of Consumer & Industry Services

Cc: David Waddell, Administrative Director  
Stephanie Bennett, Division of Publications

**Department of State**  
**Division of Publications**  
 312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower  
 Nashville, TN 37243  
 Phone: 615.741.2650  
 Email: publications.information@tn.gov

**For Department of State Use Only**

Sequence Number: 09-17-14  
 Notice ID(s): 2225  
 File Date: 9-18-14

# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Department of Agriculture
<b>Division:</b>	Division of Consumer & Industry Services
<b>Contact Person:</b>	David Waddell
<b>Address:</b>	Post Office Box 40627, Nashville, Tennessee 37204
<b>Phone:</b>	(615) 873-5331
<b>Email:</b>	david.waddell@tn.gov

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Liz Sneed
<b>Address:</b>	Post Office Box 40627, Nashville, Tennessee 37204
<b>Phone:</b>	(615) 837-5116
<b>Email:</b>	liz.sneed@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Ed Jones Auditorium, Ellington Agricultural Center		
Address 2:	416 Hogan Road		
City:	Nashville, Tennessee		
Zip:	37220		
Hearing Date:	11/18/2014		
Hearing Time:	10:00 am	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
0080-06-27	Industrial Hemp
Rule Number	Rule Title
0080-06-27-.01	Definitions
0080-06-27-.02	Licensing

0080-06-27-.03	Reports
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Chapter Number	Chapter Title
0080-06-27	Industrial Hemp
Rule Number	Rule Title
0080-06-27-.04	Inspections
0080-06-27-.05	Violations

New Rules

Chapter 0080-06-27  
Industrial Hemp

- 0080-06-27-.01 Definitions
- 0080-06-27-.02 Licensing
- 0080-06-27-.03 Reports
- 0080-06-27-.04 Inspections
- 0080-06-27-.05 Violations

0080-06-27-.01 Definitions.

- (1) "Act" means Public Chapter 916 of 2014.
- (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 the combined total number of hemp samples taken from the 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: 2014 Pub. Acts, c. 916, §5.

0080-06-27-.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 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 that he or she is a member of 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 be 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 date of issuance.
  - (7) Any licensee that wishes to alter the growing area(s) 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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Authority: 2014 Pub. Acts, c. 916, §5.

0080-06-27-.02 Licensing.

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  - (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 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 that he or she is a member of 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 be 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 date of issuance.
  - (7) Any licensee that wishes to alter the growing area(s) 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: 2014 Pub. Acts, c. 916, §5.



0080-06-27-.03 Reports.

- (1) At least 7 days prior to harvest, each commercial industrial hemp licensee shall file a report with the Commissioner that includes documentation that the licensee has entered into a purchase agreement with an in-state 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. Such 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: 2014 Pub. Acts, c. 916, §5.

0080-06-27-.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 growing 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(s) 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 (30) 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: 2014 Pub. Acts, c. 916, §5.

0080-06-27-.05 Violations.

In addition to any other violations of T.C.A. § 43-26-103 or this Chapter, the following acts and omissions by SS-7037 (July 2014)

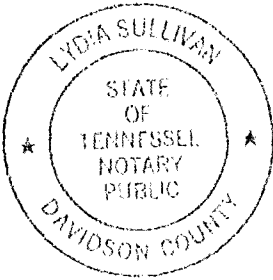
any licensee or authorized representative thereof constitute violations for which civil penalties up to \$500 and disciplinary sanctions, including revocation of a registration, may be imposed by the Commissioner in accordance with T.C.A. §§ 4-3-204 and 4-5-320:

- (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 0080-06-27-.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: 2014 Pub. Acts, c. 916, §5.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: Sept. 18, 2014  
 Signature: Jimmy Hopper  
 Name of Officer: Jimmy Hopper  
 Title of Officer: Assistant Commissioner  
 Subscribed and sworn to before me on: 9/18/14  
 Notary Public Signature: Lydia Sullivan  
 My commission expires on: 11/3/15



**Department of State Use Only**

Filed with the Department of State on: 9-18-14

Tre Hargett  
 Tre Hargett  
 Secretary of State

2014 SEP 18 AM 11:28  
 CLERK OF THE STATE