

**RULES  
OF  
THE TENNESSEE DEPARTMENT OF AGRICULTURE  
DIVISION OF CONSUMER AND INDUSTRY SERVICES**

**CHAPTER 0080-06-28  
INDUSTRIAL HEMP**

0080-06-28-.01	Scope	0080-06-28-.06	Movement Permits
0080-06-28-.02	Definitions	0080-06-28-.07	Sampling and Inspections
0080-06-28-.03	License Application and Fees	0080-06-28-.08	Agronomic Reports
0080-06-28-.04	Acquisition of Seed and Propagules	0080-06-28-.09	Violations
0080-06-28-.05	Crop Distribution, Destruction, and Return		

**0080-06-28-.01 SCOPE.**

- (1) This chapter applies to any person who cultivates, processes, or distributes industrial hemp.
- (2) All distribution of industrial hemp and industrial hemp products in commerce is permissible to the extent of the department's authority under the Act and is conducted for the purpose of researching the marketability of industrial hemp through the department's industrial hemp pilot program. This research initiative includes the distribution of any industrial hemp cultivated or processed by a person licensed under this chapter and the distribution in this state of any industrial hemp or hemp product lawfully cultivated or processed under the jurisdiction of a foreign state.
- (3) Neither the Act nor this chapter exempt any person from enforcement of other regulations applicable to particular uses of industrial hemp, including but not limited to food safety regulations for food products and feed regulations for commercial feed products.
- (4) Persons licensed under this chapter shall be responsible for operations conducted under their license until either the applicable license expires or the department receives written notification from the licensee desiring to terminate the license. The department shall not refund fees for early termination of any license issued under this chapter.
- (5) Licenses issued under this chapter are not transferable from person to person.
- (6) Licenses issued under this chapter are not transferable from location to location without prior written authorization from the department. Once a license is issued for a particular growing area, the department shall not authorize changes to increase or relocate the growing area absent extraordinary circumstances.

**Authority:** T.C.A. §§ 4-3-203, 43-26-103, and 43-26-103(e). **Administrative History:** Original rule filed January 15, 2015; effective April 15, 2015. Amendments filed July 31, 2018; effective October 29, 2018. Emergency rules filed June 3, 2019; effective through November 30, 2019. Emergency rules expired effective December 1, 2019, and the rules reverted to their previous statuses.

**0080-06-28-.02 DEFINITIONS.**

- (1) Terms in this chapter share those meanings of terms set forth in the Tennessee Right to Farm Act, T.C.A. §§ 43-26-101, et seq.
- (2) When used in this chapter, unless the context requires otherwise:
  - (a) Act means the Tennessee Right to Farm Act, compiled at T.C.A. §§ 43-26-101, et seq.;

(Rule 0080-06-28-.02, continued)

- (b) Cannabis plant means any plant or any part of a plant of the genera Cannabis and includes industrial hemp;
- (c) Certified seed, grown from certified seed, or words of similar import mean:
  - 1. Grown from industrial hemp seed certified by a certifying agency as defined in T.C.A. § 43-10-103; or,
  - 2. Grown from a lineage of mother plants that originated by growth from seed certified by a certifying agency as defined in T.C.A. § 43-10-103;
- (d) Commerce or words of similar import mean involving payment for an item or payment for services incident to production of the item;
- (e) Growing area means any contiguous land area for the growth of industrial hemp. Bifurcation of a growing area by roads, thoroughfares, fencing or the like shall not render the area non-contiguous under this definition;
- (f) Landrace varieties, seed or propagules derived from landrace varieties, or words of similar import mean any plant material grown from an industrial hemp variety found within the continental United States that is not traceable to growth from certified seed;
- (g) License or words of similar import mean a valid license or registration issued under this chapter;
- (h) Mother plant means an industrial hemp plant from which propagules are cultivated;
- (i) Move, distribute, transport, or words of similar import mean to relocate in any manner an item from one real property to another;
- (j) Nonviable means unable to regenerate, reproduce, or survive;
- (k) Person means an individual, partnership, corporation, or any other form of legal entity;
- (l) Process industrial hemp means to treat or transform harvested industrial hemp from its natural state for distribution in commerce;
- (m) Propagule means any viable plant material cultivated from a mother plant;
- (n) Sample or sampling means any cannabis plant or other material taken by the department from a location licensed for the cultivation or processing of industrial hemp;
- (o) Stop movement order means a written directive issued by the department to prohibit or limit the movement of plants or plant parts;
- (p) THC means delta-9 tetrahydrocannabinol; and,
- (q) University means an institution of higher education as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C.A. § 1001), located within the state that offers one or more baccalaureate or post-graduate level programs of study in agricultural sciences.

**Authority:** T.C.A. §§ 4-3-203, 43-26-103, and 43-26-103(e). **Administrative History:** Original rule filed January 15, 2015; effective April 15, 2015. Emergency rule filed May 18, 2018; effective through June 2, 2018. Emergency rule expired effective June 3, 2018, and the rule reverted to its previous status. Amendments filed July 31, 2018; effective October 29, 2018. Emergency rules filed June 3, 2019;

(Rule 0080-06-28-.02, continued)

*effective through November 30, 2019. Emergency rules expired effective December 1, 2019, and the rules reverted to their previous statuses.*

**0080-06-28-.03 LICENSE APPLICATION AND FEES.**

- (1) All persons to whom these rules apply shall obtain a license in accordance with this chapter prior to conducting any activity for which a license is required.
- (2) To be eligible for a license, an applicant must either be selected by the department for participation in the department's industrial hemp pilot program or be a university conducting agricultural or academic research.
  - (a) Non-university applicants may obtain licensure for participation in the department's industrial hemp pilot program. The department may select or limit in its discretion all participants in the program for the improvement or design of agricultural research related to industrial hemp and its growth, cultivation, or marketability. The department shall not select for participation in this program any person who has been convicted of a felony drug-related offense within the previous ten years. Non-university applicants in the industrial hemp pilot program shall sign a memorandum of understanding with the department regarding the parameters and manner of research conducted within the program.
  - (b) A university applicant shall submit with its application a statement of research goals and parameters related to its cultivation or processing of industrial hemp and proof of its status as an institution of higher education as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C.A. § 1001). University applicants are not required to sign a memorandum of understanding with the department.
- (3) Application for any license under this chapter shall be made on forms provided by the department, which shall be completed in full and may include:
  - (a) Name of the applicant;
  - (b) Date of birth of any applicant who is an individual or a partner in a general partnership;
  - (c) Proof of one of the following for any applicant that is not an individual or a partner in a general partnership:
    1. Applicant's registration in its state of incorporation; or,
    2. Applicant's business license issued by a local governmental authority;
  - (d) Contact information for applicant, to include name of person legally responsible for applicant's operations, telephone number, email address, and address of the principal place of business;
  - (e) Address of any location to be licensed for growth of industrial hemp and description of all growing areas at the location, including total number of growing acres and Global Positioning System (GPS) coordinates from the areas' central most points;
  - (f) Address of any location to be registered for fixed processing of industrial hemp;
  - (g) Vehicle identification number of any facility to be registered for mobile processing of industrial hemp;

(Rule 0080-06-28-.03, continued)

- (h) Address of any location where the applicant intends to store industrial hemp or hemp products;
  - (i) Intended disposition of any industrial hemp cultivated or processed under the license;
  - (j) A statement signed by an owner of the real property or facility submitted for licensure, indicating the owner's consent for its use to cultivate or process industrial hemp;
  - (k) A statement signed by an owner of the real property or facility submitted for licensure, indicating the owner's consent for the department to enter those premises as necessary for departmental inspection, sampling, and enforcement of the Act and this chapter;
  - (l) Quantity, form, and location of any viable industrial hemp carried over as inventory from a prior licensure year; and,
  - (m) Other information as required by the department.
- (4) An applicant may identify up to one authorized reporting agent for each license. Authorized reporting agents and licensees shall be the only persons authorized to report information or data to the department regarding a license, to request sampling or sampling results, to receive movement permits, and to otherwise communicate with the department regarding the license or licensed activity. A licensee shall be responsible for all activity conducted by an authorized reporting agent with respect to the license. To authorize a reporting agent, the applicant must include the reporting agent's name, telephone number, and email address in application records.
- (5) Licensees shall notify the department of any changes to the information or contents of an application within 30 days after the change takes place.
- (6) Applicants for licensure shall include with their application payment of an annual license fee as appropriate for the following categories of licenses.
- (a) Industrial Hemp Grower License. An industrial hemp grower license is required per person for each physical address where the person cultivates industrial hemp. There is no limit to the number of growing areas a licensee may cultivate at a licensed address. No grower license shall be issued for a growing area within ten miles of a certified seed license growing area without the certified seed licensee's consent. The annual fee for an industrial hemp grower license is assessed under T.C.A. § 43-1-703(f) and is determined according to the total size of growing area(s) at the licensed address as follows:
    - 1. Less than 5 acres: Tier 6 fee;
    - 2. 5 acres to 20 acres: Tier 7 fee;
    - 3. More than 20 acres: Tier 8 fee.
  - (b) Industrial Hemp Certified Seed License. An industrial hemp certified seed license is required for any person who cultivates industrial hemp for certified seed. There is no limit to the number of locations or growing areas a licensee may cultivate for certified seed, provided that the growing areas are identified at the time of application for the license including address, size, and GPS coordinates from the areas' central most points. No certified seed license shall be issued for a growing area within ten miles of another certified seed license growing area without the consent of both certified seed licensees. An applicant for a certified seed license must submit evidence of

(Rule 0080-06-28-.03, continued)

membership with the Tennessee Crop Improvement Association. The fee for an industrial hemp certified seed license is a Tier 8 annual fee under T.C.A. § 43-1-703(f).

- (c) Industrial Hemp Processor Registration. Any person who processes industrial hemp for distribution in commerce shall annually register with the department each processing facility where the person processes industrial hemp. There is no fee for a processor registration; however, exemption from fee requirements shall not exempt any person from other regulations applicable to the cultivation, processing, possession, or distribution of industrial hemp, including but not limited to requirements regarding record keeping and availability for inspection.
  - (d) University License. A university license may be issued to qualified university applicants in lieu of any license or registration otherwise required under this chapter. There is no annual fee for a university license.
- (7) Applicants for licensure shall submit an application and the appropriate annual license fee to the department between November 15 and February 15 of each year. All licenses issued under this chapter shall be valid from the following March 1 through February 28 (February 29 in leap years). Licenses issued under this chapter shall not renew automatically, and therefore are not subject to late renewal charges. If payment of the appropriate annual license fee is not received by the department by February 15, the application for a license shall be deemed incomplete and denied.
- (8) The department may deny any application for licensure that is not completed in accordance with this rule.

**Authority:** T.C.A. §§ 4-3-203, 43-26-103, and 43-26-103(e). **Administrative History:** Original rule filed January 15, 2015; effective April 15, 2015. Amendments filed July 31, 2018; effective October 29, 2018. Emergency rules filed June 3, 2019; effective through November 30, 2019. Emergency rules expired effective December 1, 2019, and the rules reverted to their previous statuses.

#### **0080-06-28-.04 ACQUISITION OF SEED AND PROPAGULES.**

- (1) Acquisition.
  - (a) 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:
    1. A copy of the industrial hemp license for which the propagating material is requested;
    2. The scientific or common name for the variety requested;
    3. The name, address, telephone number, and email address of the person providing the requested material;
    4. Evidence that the source of the variety is:
      - (i) A university;
      - (ii) 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 this requirement; or,

(Rule 0080-06-28-.04, continued)

- (iii) A lawful vendor of industrial hemp in the jurisdiction where it is distributed;
  - 5. The form of material to be acquired (e.g. seed, seedlings, cuttings, etc.);
  - 6. The quantity in pounds of seed or number of propagules to be acquired;
  - 7. 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,
  - 8. Evidence that the licensee is authorized to propagate industrial hemp from the material, if applicable.
- (b) Completion of a seed acquisition request for a landrace variety shall fulfill its registration requirement under the Act.
  - (c) Prior to cultivation by any licensee, all propagating material acquired through the department's controlled substance registration or acquired for growth by non-university licensees shall first be inventoried by the department at: Tennessee Department of Agriculture, Industrial Hemp Pilot Program, 436 Hogan Road, Nashville, Tennessee 37220.
  - (d) Acquisition of all industrial hemp shall comply with movement requirements of this chapter.
- (2) 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. These costs may be incurred in the sole discretion of the department and are payable by licensees to the department or the department's designee upon reasonable notice. Failure to pay these costs in accordance with a departmental directive shall be grounds for cancellation of any seed or propagule procurement order and revocation of any license issued under this chapter.
  - (3) Pilot program design. The department may select or limit any propagating material used in the industrial hemp pilot program for compliance with this chapter or for the improvement or design of agricultural research related to industrial hemp and its growth, cultivation, or marketability.
  - (4) Use agreements. Licensees shall not use or possess seed or propagules unless expressly authorized by and in conformity with any applicable use agreement with the mother plant's seed breeder.
  - (5) Each cannabis plant cultivated from material acquired not in conformance with this rule shall constitute a separate violation of this chapter.

**Authority:** T.C.A. §§ 4-3-203, 43-26-103, and 43-26-103(e). **Administrative History:** Original rule filed January 15, 2015; effective April 15, 2015. Amendments filed July 31, 2018; effective October 29, 2018. Emergency rules filed June 3, 2019; effective through November 30, 2019. Emergency rules expired effective December 1, 2019, and the rules reverted to their previous statuses.

#### **0080-06-28-.05 CROP DISTRIBUTION, DESTRUCTION, AND RETURN.**

- (1) Distribution.

(Rule 0080-06-28-.05, continued)

- (a) Nonviable. Any person—with or without a license issued under this chapter—may distribute or store nonviable industrial hemp or hemp products if the industrial hemp was grown or processed by a person licensed under this chapter or the industrial hemp was acquired from a person in a foreign jurisdiction where distribution of the material or product was lawful.
  - (b) Viable. Only the department and licensees may distribute viable industrial hemp material.
    1. Unlicensed possession of viable industrial hemp material is prohibited and shall be considered possession of marijuana under the Act.
    2. Licensees may distribute viable industrial hemp material only to persons licensed under this chapter, out-of-state universities, or out-of-state departments of agriculture authorized to conduct industrial hemp pilot programs in their states.
    3. Prior to shipment of viable industrial hemp material out-of-state, the material must first be inventoried by the department at: Tennessee Department of Agriculture, Industrial Hemp Pilot Program, 436 Hogan Road, Nashville, Tennessee 37220.
  - (c) Distribution of all industrial hemp and hemp products shall comply with movement requirements of this chapter.
- (2) Destruction. 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.
  - (3) 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 the industrial hemp pilot program. The department may destroy any industrial hemp that is not retrieved by its intended recipient or return sender in a timely manner.
  - (4) Costs. Licensees shall pay all costs incurred for distribution, delivery, destruction or return of any cannabis plant or plant product. These costs may be incurred in the sole discretion of the department and are payable by licensees to the department or the department's designee upon reasonable notice. Failure to pay these costs in accordance with a departmental directive shall be grounds for revocation of any license issued under this chapter.

**Authority:** T.C.A. §§ 4-3-203, 43-26-103, and 43-26-103(e). **Administrative History:** Original rule filed January 15, 2015; effective April 15, 2015. Amendments filed July 31, 2018; effective October 29, 2018. Emergency rules filed June 3, 2019; effective through November 30, 2019. Emergency rules expired effective December 1, 2019, and the rules reverted to their previous statuses.

#### **0080-06-28-.06 MOVEMENT PERMITS.**

- (1) All movement of industrial hemp must comply with acquisition and distribution requirements of this chapter. 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.
- (2) Any person may move nonviable industrial hemp or hemp products without a movement permit.
- (3) Only licensees may move viable industrial hemp or hemp products. Licensees shall not move viable industrial hemp without a valid movement permit issued by the department.

(Rule 0080-06-28-.06, continued)

- (4) When required by this rule, industrial hemp movement permits are required per vehicle per day the vehicle is used to move industrial hemp or hemp products. Movement permits authorize only the movement that occurs within the state. To receive a movement permit, the licensee shall submit a movement permit request on forms provided by the department, which may require:
  - (a) The industrial hemp license number for which movement is requested;
  - (b) Origin and destination of movement;
  - (c) Date and time of intended movement;
  - (d) Description of industrial hemp parts or hemp products to be moved;
  - (e) Weight, volume, or number of units of material to be moved;
  - (f) Names of individuals moving the material; and,
  - (g) Make, model, color, and license plate number of vehicle(s) to be used in moving the material.
- (5) Requests for movement permits must be submitted to the department at least three business days prior to movement.
- (6) The department may deny any application for a movement permit that is not completed in accordance with this rule.
- (7) Each cannabis plant or plant product moved not in conformity with this rule shall constitute a separate violation of this chapter.

**Authority:** T.C.A. §§ 4-3-203 and 43-26-103. **Administrative History:** Original rules filed July 31, 2018; effective October 29, 2018. Emergency rules filed June 3, 2019; effective through November 30, 2019. Emergency rules expired effective December 1, 2019, and the rules reverted to their previous statuses.

#### **0080-06-28-.07 SAMPLING AND INSPECTIONS.**

- (1) Scope of inspections. The department may enter during normal business hours any location licensed by the department, for purposes of inspecting any cannabis plant, record, or other material as necessary for the efficient enforcement of the Act and this chapter. Inspections of processors under this chapter are limited to sampling of cannabis plants or plant products and observation of record keeping requirements; the inspections do not evaluate or endorse in any manner the chemical or physical processes used by the processor or the safety of those processes in the workplace.
- (2) Sampling. The department may conduct sampling of any cannabis plant or other material at a location licensed by the department. A sample collected according to uniform protocols approved by the commissioner shall be deemed representative of the location, growing area, or lesser lot from which the sample was obtained. 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 sample tests no higher than 0.3% THC on a dry mass basis.
- (3) Test results exceeding 0.3% THC. Any sample test result higher than 0.3% THC concentration on a dry mass basis shall be conclusive evidence that one or more cannabis plants or plant products from the area represented by the sample contain a THC concentration in excess of that allowed under the Act and shall be grounds for issuance of



(Rule 0080-06-28-.07, continued)

stop movement and destruction orders for any plants or materials within the area represented by the sample.

- (4) Destruction of any plants or plant products under this rule shall be performed in accordance with a directive from the department, which may include destruction by any means necessary for reasonable assurance 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. Any licensee aggrieved by an order issued under this chapter may petition the department for review of the order under the Uniform Administrative Procedures Act. Petitions for review of the order must be submitted to the department in writing within ten days of the order being issued. If no petition is filed with the department within the ten 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.
- (5) Laboratory analysis costs. Licensees shall pay a Tier 4 laboratory analysis fee under T.C.A. § 43-1-703(f) for each sample collected by the department.

**Authority:** T.C.A. §§ 4-3-203 and 43-26-103. **Administrative History:** Original rules filed July 31, 2018; effective October 29, 2018. Emergency rules filed June 3, 2019; effective through November 30, 2019. Emergency rules expired effective December 1, 2019, and the rules reverted to their previous statuses.

#### **0080-06-28-.08 AGRONOMIC REPORTS.**

- (1) Prior to the end of each licensure year or upon reasonable notice from the department, each non-university licensee shall submit a completed agronomic report on forms provided by the department. Reports may require information on various points of research interest and shall include description of any known commercial distributions of industrial hemp or hemp products.
- (2) University licensees are not required to submit an agronomic report.

**Authority:** T.C.A. §§ 4-3-203 and 43-26-103. **Administrative History:** Original rules filed July 31, 2018; effective October 29, 2018. Emergency rules filed June 3, 2019; effective through November 30, 2019. Emergency rules expired effective December 1, 2019, and the rules reverted to their previous statuses.

#### **0080-06-28-.09 VIOLATIONS.**

- (1) Industrial hemp shall be considered marijuana when distributed or possessed by any person not authorized under the Act or this chapter.
- (2) In addition to other requirements of this chapter, licensees shall:
  - (a) Upon request by the department, provide full and accurate information regarding the person's cultivation or processing of industrial hemp;
  - (b) Comply with any order issued by the department regarding cultivation, processing, distribution, research, or destruction of industrial hemp;
  - (c) Pay all fees associated with licensure, participation in the department's industrial hemp pilot program, and costs arising out of procurement, distribution, sampling, or destruction of cannabis plants or plant products;

(Rule 0080-06-28-.09, continued)

- (d) Pay all required fees within the time prescribed by the Act or this chapter. If time for payment of costs and fees is not prescribed by the Act or this chapter, licensees shall pay such fees upon reasonable notice issued by the department; and,
  - (e) Participants in the department's industrial hemp pilot program shall conduct themselves in a professional manner befitting a representative of the department.
- (3) In addition to other requirements of this chapter, licensees shall not:
- (a) Knowingly provide any false, misleading, or incorrect information regarding the person's cultivation or processing of cannabis plants;
  - (b) Cultivate, process, move, or distribute cannabis plants other than industrial hemp;
  - (c) Interfere with an authorized representative of the department in the performance of his duties;
  - (d) Market or represent industrial hemp or hemp products to be marijuana or any illicit substance in any form;
  - (e) Violate any quarantine, stop movement order, or destruction order issued by the department;
  - (f) Violate any memorandum of understanding to which the licensee is a party;
  - (g) Violate any applicable seed or use agreement;
  - (h) Move industrial hemp in conflict with any movement permit issued by the department; or,
  - (i) Cultivate or process industrial hemp in an area not licensed by the department.
- (4) A person is responsible for violations of the Act or this chapter when committed by either the person or his agent.
- (5) Each violation of the Act or this chapter is grounds for issuance of stop movement or destruction orders against any cannabis plant held by the violator or his agent; denial or revocation of any license issued under this chapter; actions for injunction; and imposition of civil penalties or criminal charges against the violator.

**Authority:** T.C.A. §§ 4-3-203 and 43-26-103. **Administrative History:** Original rules filed July 31, 2018; effective October 29, 2018. Emergency rules filed June 3, 2019; effective through November 30, 2019. Emergency rules expired effective December 1, 2019, and the rules reverted to their previous statuses.