

State of Kansas**State Fire Marshal****Notice of Public Hearing on Proposed Administrative Regulations**

A public hearing will be conducted by the State Fire Marshal at 10:00 a.m. on May 11, 2021, to consider the adoption on a permanent basis of proposed new rules and regulations concerning commercial processing of industrial hemp. Due to continuing concerns over COVID-19, the hearing will be held via Microsoft Teams conferencing. Remote access information will be provided upon request to any person wishing to observe, participate in, or listen to the hearing. Requests for access information must be submitted prior to May 11, 2021, via email to KSFM_Hemp@ks.gov.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the State Fire Marshal, 800 SW Jackson, Suite 104, Topeka, Kansas 66603 or by email to KSFM_Hemp@ks.gov. All interested parties will be given a reasonable opportunity during the public hearing to present their views orally regarding the adoption of the proposed regulations. In order to provide all parties an opportunity to present their views, it may be necessary to require that each participant limit any oral presentation to a reasonable time as announced at the meeting.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Jill Bronaugh at (785) 296-3403 or jill.bronaugh@ks.gov. Individuals with a hearing and/or speech impairment may contact the Kansas Relay Center at 800-766-3777 for communication accommodations.

Summaries of the proposed new regulations and their estimated economic impact follow.

Each of these regulations is new because processing of industrial hemp for commercial (instead of research) purposes is new in Kansas. The authority to adopt rules and regulations concerning commercial hemp processing was originally given to the Kansas Department of Agriculture but was effectively transferred to the Office of the State Fire Marshal by Senate Bill 66 (L. 2020, ch. 5, sec. 106), after consideration of a bill to amend K.S.A. 2-3907 was terminated when the Legislature adjourned in March 2020. The 2021 House Bill 2244, which will codify the transfer of authority, is pending in the Legislature.

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K.A.R. 22-26-1. Definitions. This regulation defines terms used in the regulations, including four materials resulting from the processing of industrial hemp: “intermediate substances,” which contain tetrahydrocannabinol (THC) and other cannabinoids; “by-products,” which is biomass remaining after processing that can be further processed into lawful products; “finished products,” an example of which is cannabidiol (CBD) oil; and “hemp waste,” a substance containing THC that cannot be further processed into a lawful product. This regulation defines the term “allowable THC content” as describing the upper limit of THC concentration allowed by state and federal law for industrial hemp plants and products, so there would be no need to amend these regulations if the allowable concentration is later changed by statute.

K.A.R. 22-26-2. Hemp processor registration; renewal. This regulation identifies the information required in an application and requires submission of a policies and procedures manual and a “code footprint” of the building(s) for review for compliance with national building safety codes. This regulation implements K.S.A. 2-3907 that requires fingerprint-based state criminal history record checks. The annual fee is \$1,000. The fee will be prorated for persons filing between the effective date of the regulations and April 1, 2021 because annual renewals are due on each April 1.

K.A.R. 22-26-3. Compliance with laws; denial, revocation, or conditioning of a registration; appeals. This regulation requires processors to comply with all local, state, and federal laws and regulations related to industrial hemp and makes the processor responsible for the actions of its employees, contractors, and agents related to any hemp processing activities. It lists the bases on which the State Fire Marshal may deny or revoke a registration based on certain types of convictions of the owner or an officer, proprietor, or partner in a processing business, or the owner of more than a 10% interest in the processing business. Person crimes are included, in addition to drug crimes, because the KBI has advised that there is a correlation between involvement in illegal drug activities and violent crime, and the criminal records of people who commit both drug crimes and violent crimes often do not show the drug charges, because during prosecution, the drug charges were dropped and the conviction was based on the higher-level person crime.

K.A.R. 22-26-5. Policies and procedures manual. This regulation requires hemp processors to develop and abide by a set of policies and procedures to ensure that all hemp, by-products, intermediate substances, and hemp waste are handled in a manner to prevent diversion, theft, or loss of materials containing high amounts of THC. The manual must be submitted to and approved by the State Fire Marshal.

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K.A.R. 22-26-6. Processing records. This regulation requires processors to make and retain records of their acquisition of hemp, processing activities, transportation activities, and inventory and security system records, by weight per batch. The records will provide tracking of hemp throughout all stages of processing and will help prevent or detect diversion, theft, or loss of materials that could be attractive for illicit uses. The tracking will also ultimately benefit consumers because it would help track the source materials for a given finished product. (But note that finished products/consumer products are outside the scope of the State Fire Marshal's authority.)

K.A.R. 22-26-7. Access to records and property. This regulation addresses the need for oversight of the processors because of the high THC content in intermediate substances and waste and because of the inherent safety hazards relating to methods used for extraction. Subsection (a) states that by accepting a hemp processor registration, the processor grants consent for the State Fire Marshal or designee to have immediate access to inspect records, premises, and motor vehicles to determine compliance with the Act and these regulations. It requires processors and employees to consent to a search of their vehicles, personal effects, and persons while on the premises, but only if an inventory discrepancy is discovered or there is reason to believe that the processor or employee is in possession of hemp materials for purposes other than lawful processing under the Act.

K.A.R. 22-26-8. Facilities; exemptions. This regulation requires that facilities meet the adopted national codes and standards for life safety and property protection, such as fire alarm systems, multiple exits, handling of flammable materials, etc., and allows the State Fire Marshal to grant variances, upon request, from code sections that impose unnecessary hardship on a processor, so long as it would not constitute a distinct hazard to life or property.

K.A.R. 22-26-9. Security measures; reportable events; recordkeeping. This regulation requires a perimeter alarm with motion detector providing coverage of all entrances and exits, windows, and storage rooms. It states that video recordings must be maintained for at least the preceding 90 days. It also requires processors to notify the State Fire Marshal of any interaction between law enforcement and the processor or its employees, contractors, or agents that is related to participation in the hemp processing industry and of charges or investigations related to the crimes listed in K.A.R. 22-26-3(b).

K.A.R. 22-26-10. Acquisition of hemp, by-products, intermediate substances, or seeds for processing. This regulation establishes that processors shall obtain hemp materials only from lawful sources and only if the material is accompanied by documentation of its source. This regulation applies to both in-state and out-of-state sources of hemp. The processor is required to assign a batch number at the time of acquisition.

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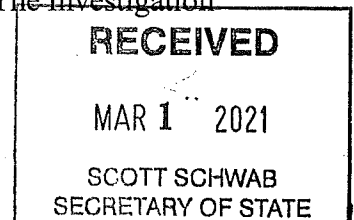
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K.A.R. 22-26-11. Inventory control; reports. This regulation establishes that processors must make a daily inventory and location of hemp in all stages of processing – hemp plant material, by-products, intermediate substances, hemp waste, and finished products. The processor shall submit these inventories to the State Fire Marshal electronically and shall notify the State Fire Marshal immediately of any inventory discrepancies or unauthorized alteration of records related to inventory, security, employment, or transportation. Records shall be maintained for three years.

K.A.R. 22-26-12. Disposal of hemp waste. This regulation concerns hemp waste, which is any substance that contains THC and that cannot be further processed into a lawful product. Treatment of these substances is governed by K.S.A. 2-3909, which requires that hemp waste that “can be used in the same manner as, or has the appearance of, a controlled substance . . . shall be rendered unusable and unrecognizable before the waste is transported or disposed.” This regulation lists types of materials (such as cardboard waste or soil) that hemp waste can be ground into to render it unusable and unrecognizable. It also allows processors to use other methods of disposal approved by the State Fire Marshal.

K.A.R. 22-26-13. Transportation. Under this regulation, any form of industrial hemp materials that a processor transfers must be accompanied by a harvest certificate, a certificate of analysis, or a similar document, and a signed bill of lading to show to law enforcement, to distinguish hemp from marijuana. It also states that a person will be presumed to have obtained hemp materials unlawfully if they do not have appropriate documentation. It forbids persons from taking from the facility, or possessing, hemp, intermediate substances, or hemp waste unless the possession is for activities authorized under the Act.

K.A.R. 22-26-14. Chain of custody for transportation of intermediate substances. Some processors might process industrial hemp only through the extraction stage and then transfer the resulting “intermediate substance” to a finishing processor. To avoid having extracted THC from being transported around the state, this regulation states that no material having a greater than allowable THC content shall leave a processing facility. Thus, an intermediate substance would have to be diluted before it could be transported. Then the diluting agent would be removed by the finishing processor. However, this process could be done by an individual, without need of a processing facility, so even the diluted THC would be attractive for theft or diversion. The regulation sets out very specific steps that include sealing of containers and locking the cargo doors of the vehicle, and the taking of a series of digital photos. Signed certifications will be required when the intermediate substances are loaded and when they are delivered. This ensures that all individuals are identified and, in case of diversion of the substance, allows for tracking of where the diversion occurred. It requires the recipient to immediately notify the processor and the State Fire Marshal if any of the containers are missing or there are signs of tampering. The Investigation



Division of the State Fire Marshal will respond and will contact local law enforcement or the KBI for assistance if appropriate.

K.A.R. 22-26-15. Stop sale, use, or removal order; cease and desist. This regulation requires the processor to maintain the status quo of inventory of all hemp, intermediate substances, by-products, finished products, or hemp waste when there is reason to believe that any of the materials are being produced, sold, or distributed in violation of the Act or any rules and regulations issued thereunder, to allow for the state fire marshal to inventory, sample, and review inventory and security records. No such order shall be valid for longer than 7 calendar days. Additionally, this regulation incorporates the State Fire Marshal's power under K.S.A. 31-139 to issue a cease and desist order or file a criminal complaint when there are violations of the Kansas fire prevention code.

K.A.R. 22-26-16. Testing. This regulation requires the processor to submit samples of hemp materials to a testing laboratory at the request of the State Fire Marshal and to allow the State Fire Marshal to take samples of hemp materials on the premises of the processing facility. It provides that samples will be analyzed at the processor's expense.

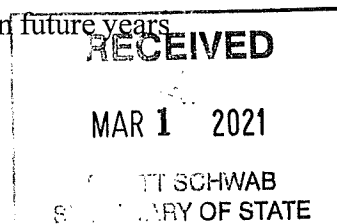
Economic Impact Statement:

These regulations enable the processing of hemp for commercial purposes. At this time, the primary product is legal cannabinoid extracts such as CBD, that can be incorporated into consumer products. Commercial processing businesses will produce jobs for workers and benefit the construction industry for building new facilities or retrofitting existing buildings. Commercial processing will benefit the Kansas agriculture industry by providing a ready market for crops. In-state commercial processing may enhance revenue for Kansas producers because transportation costs would be lower than to out-of-state processing facilities.

However, there is difficulty in quantifying the predicted enhancement to business activities and growth because the commercial hemp industry is new in Kansas. Much remains unknown regarding the methods of processing industrial hemp and what the market for products produced from hemp will be. There is no existing commercial hemp processing in Kansas, so the new rules and regulations should not restrict existing business activities in Kansas in any way.

Processors of industrial hemp and hemp producers (growers) will be directly impacted in a positive way by these regulations, as well as marketers and producers of finished hemp products and retail and wholesale operations selling CBD products and other industrial hemp products.

The amounts shown below reflect amounts that will be assessed or incurred by the State Fire Marshal during the second half of the 2021 fiscal year. The number of registrations in future years



will depend on the success of both the commercial industrial hemp growers and processors. The amount of hemp available to be processed will vary from year to year.

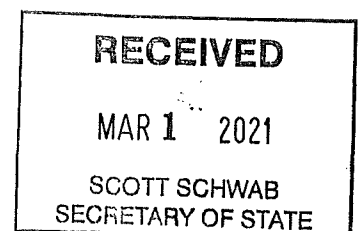
It is estimated that 12 processors may come into operation during the second half of FY 2021. The annual fee beginning April 30, 2021 is \$1,000, yielding \$12,000 in fees. Prior to that, the registration fee will be prorated at the rate of \$85/month, which would not exceed \$1,020.

The costs of implementing the proposed rules and regulations include the performance of initial inspections of each facility, repeat inspections if deficiencies are found, recordkeeping, and the review of requests for exemptions, which are likely to come from each processor. There could be compliance costs for law enforcement if processors do not comply with the regulations regarding intermediate substances or hemp waste. There are no other implementation and compliance costs reasonably expected to be incurred by other business sectors, public utilities, individuals, or local governments.

Determining an estimated cost of compliance for processors will be developed through the public hearing process. The costs for physical facility compliance will vary greatly depending on whether a processor is retrofitting an existing building or constructing a new facility. The regulations provide that the State Fire Marshal may grant exemptions from compliance with national code sections that create an unnecessary hardship on the processor. Any processor would have some costs associated with recordkeeping, and it is not known whether the records required by these regulations would impose any burden beyond that. The other significant cost to processors is the video surveillance and alarm system, but these measures are considered necessary because of the high-THC substances produced during processing.

Copies of the complete texts of the proposed regulations and the economic impact statement may be obtained electronically on the agency's website at <http://firemarshal.ks.gov> or by sending a written request via mail to the State Fire Marshal at the address above.

Doug Jorgensen
State Fire Marshal



Article 26. Commercial Industrial Hemp Processing

K.A.R. 22-26-1. Definitions. As used in this article of the state fire marshal's regulations, each of the following terms shall have the meaning specified in this regulation:

(a) "Act" means the commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et seq. and amendments thereto.

(b) "Allowable THC content" means the legal level of THC concentration allowed under state and federal law.

(c) "Batch" means a quantity of hemp, by-products, intermediate substances, or seeds acquired on the same date from the same source.

(d) "Batch identification number" means a unique, sequential number that is assigned to each batch and corresponds to a record identifying the source of the material acquired and the date of acquisition.

(e) "By-product" means the spent biomass after the extraction of cannabinoids.

(f) "CBD" means cannabidiol.

(g) "Certificate of analysis" means a document from the Kansas department of agriculture or an independent testing laboratory stating the results of laboratory testing of a sample of hemp, by-products, intermediate substances, seeds, hemp waste, or finished products.

(h) "Devitalize" means to destroy the ability of a seed to germinate under otherwise acceptable growing conditions.

(i) "Finished product" means a product that has no greater than the allowable THC content and is made by processing industrial hemp or an intermediate substance into a form suitable for lawful sale, including cannabinoids, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed meal, and seed oil.

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(j) "Hemp" means industrial hemp.

(k) "Hemp waste" means the materials resulting from hemp processing that contain THC and cannot be further processed into a finished product.

(l) "Industrial hemp" has the meaning specified in K.S.A. 2020 Supp. 2-3901, and amendments thereto.

(m) "Intermediate substance" means a substance resulting from the extraction of cannabinoids that contains greater than the allowable THC content and is subject to further processing to yield finished products and hemp waste.

(n) "KBI" means Kansas bureau of investigation.

(o) "Lot" means the quantity of hemp, by-products, intermediate substances, or seeds processed in one operation or in one continuous or semicontinuous process or cycle. A lot could consist of a single batch or batches from multiple producers.

(p) "Person" has the meaning specified in K.S.A. 2020 Supp. 2-3901, and amendments thereto.

(q) "Premises" means a hemp processing facility, the immediately surrounding areas controlled by a processor, waste receptacles, associated buildings, and parking areas.

(r) "Processor" means a person registered as a hemp processor in Kansas.

(s) "Producer" means a person lawfully engaged in the cultivation or production of industrial hemp for commercial purposes, whether inside or outside Kansas.

(t) "Stop sale, use, or removal order" means an administrative order of the state fire marshal to a processor restraining the sale, use, disposition, and movement of hemp, by-products, intermediate substances, finished products, and hemp waste in a hemp processing facility or otherwise in the processor's possession.

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(u) "THC concentration" means the combined percentage of delta-9 tetrahydrocannabinol and its optical isomers, their salts and acids, and salts of their acids, reported as free THC and measured on a dry-weight basis for any part of the plant *Cannabis sativa L.* and on a percentage-by-weight basis in intermediate substances, by-products, hemp waste, or other materials resulting from the processing of industrial hemp.

(v) "Treated hemp waste" means hemp waste that has been treated as required by K.S.A. 2020 Supp. 2-3909, and amendments thereto, and this article of the state fire marshal's regulations to render the hemp waste unusable and unrecognizable. (Authorized by and implementing L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-2. Hemp processor registration; renewal. (a) No person shall process industrial hemp in Kansas without a valid registration issued by the state fire marshal or a valid research processor license issued by the secretary of the Kansas department of agriculture.

(b) Each individual wanting to register as a hemp processor shall submit an application on a form provided by the state fire marshal, which shall include the following information:

- (1) Full legal name;
- (2) telephone number;
- (3) electronic-mail address;
- (4) residential mailing address;
- (5) date of birth; and
- (6) any other identifying information required by the state fire marshal.

(c) If the applicant is not an individual, the applicant shall designate one or more individuals to be responsible for all activities relating to hemp processing and submit an application on a form provided by the state fire marshal, which shall include the information required in subsection (b) for the applicant and for the following individuals:

- (1) Each officer, proprietor, or partner of the entity; and
 - (2) each owner of more than a 10 percent interest in the processing operations.
- (d) The application shall also include the following:
- (1) The street address, or a legal description, and the global positioning system coordinates of any premises that will serve as a part of the applicant's processing operations;
 - (2) a brief description of the industrial hemp processing methods that will be used, activities that will be undertaken, and finished products planned for production;

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(3) a policies and procedures manual, as specified in K.A.R. 22-26-5, for approval by the state fire marshal;

(4) a code footprint meeting the requirements of K.A.R. 22-1-7; and

(5) any other relevant information required by the state fire marshal.

(e) The application shall also include the information required in subsection (b) for the following persons:

(1) Each owner of land, structures, and buildings where any processing activities or storage of hemp will be conducted; and

(2) each owner of each motor vehicle that will be used to distribute or transport hemp or intermediate substances from the premises.

(f) Each applicant shall be fingerprinted and submit to a criminal history record check, and each processor shall ensure that each individual wanting to engage in the extraction of cannabinoids or the disposal of hemp waste is fingerprinted and submits to a criminal history record check.

(g) Each registration shall expire annually on April 30. Each renewal application shall be submitted on or before April 1.

(h) Except as specified in subsection (i), the annual registration fee shall be \$1,000. The fee shall be nonrefundable.

(i) The fee for an initial registration after the effective date of this regulation but before April 1, 2021 shall be prorated at the rate of \$85 per month through April 30, 2021.

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(j) No registration shall be approved for hemp processing activities in or within an area zoned for residential use or within one-quarter mile of any public or private K-12 school or public recreational area, except with the state fire marshal's written permission.

(k) Acceptance of a hemp processor registration shall constitute a grant of authority by the processor allowing the state fire marshal to provide the registration number, full legal name of the processor, and descriptions of all locations and facilities identified for processing industrial hemp, including any later modifications, to the United States drug enforcement agency, the KBI, the sheriff of the county where the premises are located, and any other law enforcement agency.

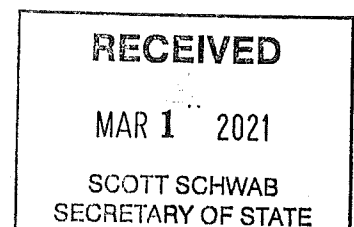
(l) A registration issued pursuant to this article of the state fire marshal's regulations shall not relieve the processor from the responsibility to obtain any other registrations, licenses, or permits required by law.

(m) An application may be denied by the state fire marshal for any lawful reason, including any of the reasons stated in K.A.R. 22-26-3. (Authorized by and implementing K.S.A. 2019 Supp. 2-3907 and L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-3. Compliance with laws; denial, revocation, or conditioning of a registration;

appeals. (a) Each processor shall comply with all local, state, and federal laws and regulations related to industrial hemp and with the act and the implementing regulations. Each processor shall be responsible for the actions of its employees, contractors, and agents in their performance of any activities relating to the acquisition, possession, sale, distribution, processing, or transportation of hemp, by-products, intermediate substances, seeds, finished products, and hemp waste.

(b) Each of the following shall constitute a basis for the state fire marshal to deny an initial or renewal application or to impose conditions on a registration or revoke a registration:

- (1) Knowingly providing any false, misleading, or incorrect information on the registration application or to the state fire marshal;
- (2) failure to provide any information that the state fire marshal requests;
- (3) failure to cooperate with the state fire marshal or law enforcement agencies in administration and enforcement of the act and the implementing regulations;
- (4) failure to maintain or submit any forms or reports as required;
- (5) violation of any provision of the act or the implementing regulations;
- (6) revocation of a registration, license, permit, or certificate to practice in the hemp industry by the state fire marshal, the Kansas department of agriculture, the United States department of agriculture, another state, or any Indian nation or U.S. territory within the three years preceding the application;
- (7) any conviction related to growing, cultivating, processing, or distributing hemp or marijuana;

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(8) failure to ensure that fingerprint-based criminal history record checks are conducted as required by the act or the implementing regulations;

(9) conviction of an individual applicant, or an officer, proprietor, or partner of the applicant entity or an owner of more than a 10 percent interest in the processing operations, within the preceding 10 years of a felony or Class A misdemeanor violation involving homicide, assault, domestic violence, or battery, or offenses that are substantially similar to these offenses under the laws of another jurisdiction or federal law, or the unlawful use, possession, or distribution of drugs;

(10) conviction of an individual applicant, or an officer, proprietor, or partner of the applicant entity or an owner of more than a 10 percent interest in the processing operations, within the preceding five years of a felony or Class A misdemeanor violation involving fraud, theft, or misappropriation of another person's money or property, or offenses that are substantially similar to these offenses under the laws of another jurisdiction or federal law; and

(11) allowing any individual to engage in any processing or transportation of hemp, by-products, intermediate substances, seeds, or hemp waste if the individual has been convicted of any of the crimes listed in paragraph (9) or (10) of this subsection.

(c) If a processor's Kansas registration is revoked, the person shall not be eligible to apply for a hemp processor registration for three years from the date of revocation. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907 and L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-5. Policies and procedures manual. Each processor shall establish, maintain, and adhere to written policies and procedures for the processing, security, storage, inventory, distribution, and transportation of hemp, by-products, intermediate substances, seeds, finished products, and hemp waste. These policies and procedures shall be specified in a manual that includes the following topics:

(a) Ensuring that all of the hemp and intermediate substances in every stage of processing and distribution are used and stored in such a manner as to prevent diversion, theft, or loss and are accessible only to the minimum number of authorized personnel essential for efficient operation;

(b) ensuring that hemp waste is kept in a secure location in such a manner as to prevent diversion, theft, or loss and is accessible only to the minimum number of authorized personnel essential for hemp waste storage and disposal; and

(c) indicating the methods of disposal of hemp waste that will be used. (Authorized by and implementing L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-6. Processing records. (a) For each lot, each processor shall make a processing record that shall include the following:

- (1) The date of processing;
 - (2) the batch identification number of each batch processed in the lot;
 - (3) the method used for processing and the type and name of any solvent or other compounds used in the processing of the lot;
 - (4) the weight of the lot processed;
 - (5) the weight of by-products and of intermediate substances from the lot that are not further processed;
 - (6) the weight and types of finished products; and
 - (7) the weight of hemp waste from the lot and the method of disposal.
- (b) Each processor shall make or obtain, as applicable, and retain a copy of each document required by K.A.R. 22-26-10 concerning the acquisition of hemp, by-products, intermediate substances, or seeds.
- (c) Each processor shall retain every document, record, and report required by this regulation for three years and make these materials available to the state fire marshal upon request. (Authorized by and implementing L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-7. Access to records and property. (a) Acceptance of a hemp processor registration shall constitute a grant of consent to allow the state fire marshal, or designee, complete, unrestricted, and immediate access to the records, premises, motor vehicles on the premises, and motor vehicles used in the transportation of hemp or intermediate substances to determine compliance with the act and the implementing regulations. Access shall be granted at reasonable times, whether the processor is present or not, without interference or obstruction, with or without cause, and with or without advance notice.

(b) Each processor shall sign, and shall require each employee to sign, a form provided by the state fire marshal granting consent for the state fire marshal or designee to search the processor's or employee's vehicle, person, or personal effects while on the premises whenever an inventory discrepancy is detected or there is reason to believe that the processor or employee is in possession of hemp, intermediate substances, by-products, seeds, or hemp waste for a purpose other than the activities authorized by the act.

(c) If a processor denies the state fire marshal, or designee, the access required by subsection (a), any court of competent jurisdiction may issue a search warrant authorizing access to the records, premises, or motor vehicles, upon application and showing of cause by the state fire marshal. (Authorized by and implementing L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-8. Facilities; exemptions. (a) Each hemp processing facility shall be inspected by the state fire marshal before the issuance of a hemp processor registration. A hemp processor registration shall be valid only for the facility that was inspected at the time of registration.

Each hemp processing facility and premises shall continue to be subject to inspection by the state fire marshal, pursuant to K.S.A. 31-139 and amendments thereto.

(b) Each processor shall ensure that the hemp processing facility complies with the national codes and standards adopted in K.A.R. 22-26-4.

(c) Upon application to the state fire marshal by a processor demonstrating that the enforcement of a specific requirement of a regulation will cause unnecessary hardship to the processor, an exemption from compliance may be granted by the state fire marshal, unless the state fire marshal determines that the condition, structure, or activity that is or would be in noncompliance constitutes or would constitute a distinct hazard to life or property. (Authorized by and implementing L. 2020, ch. 5, sec. 106, K.S.A. 2020 Supp. 31-133, and K.S.A. 2020 Supp. 31-136; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-9. Security measures; reportable events; recordkeeping. (a) Each processor shall keep all equipment and areas used for the processing of hemp, intermediate substances, or hemp waste securely locked and protected from entry by unauthorized individuals.

(b) Each hemp processing facility shall have adequate alarm and video surveillance security systems to prevent and detect diversion, theft, or loss of hemp, intermediate substances, or hemp waste, including the following:

(1) A perimeter alarm with motion detector providing coverage of all facility entrances and exits, rooms with exterior windows, roof hatches, skylights, and storage rooms; and

(2) a video surveillance system.

(c) The video surveillance system shall have video cameras in operation 24 hours each day, directed at and recording all areas that are used to contain hemp, intermediate substances, or hemp waste and all points of entry and exit. These cameras shall be angled to capture a clear and certain identification of any person within view. The date and time shall be embedded on all surveillance recordings without obscuring the picture.

(d) Each processor shall make available the video camera recordings for immediate viewing by the state fire marshal or law enforcement upon request.

(e) All alarm and video surveillance systems shall be designed to operate during power outages.

(f) All alarm and video surveillance systems shall be inspected at least annually by the vendors.

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(g) Each processor shall notify the state fire marshal of any failure of the security alarm system or surveillance system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours and shall describe any corrective measures taken.

(h) Each processor shall maintain the following records:

(1) Surveillance video camera recordings, for at least the preceding 90 days;

(2) annual inspections of the alarm and video surveillance systems, for three years; and

(3) records of any occurrence that is reportable under this regulation, for three years after the occurrence.

(i) Each processor shall immediately notify the state fire marshal of any interaction of the processor, or its employees, contractors, or agents, with law enforcement that is related to participation in the hemp processing industry. This requirement shall also apply to any contact with law enforcement related to a criminal charge or criminal investigation involving any of the offenses listed in K.A.R. 22-26-3(b)(9) or (10) or offenses in another jurisdiction that are substantially similar to the listed offenses. The processor shall provide a written follow-up statement summarizing the interaction and its outcome to the state fire marshal within three calendar days of the interaction. (Authorized by and implementing L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-10. Acquisition of hemp, by-products, intermediate substances, or seeds for

processing. (a) Each processor shall obtain hemp, by-products, intermediate substances, or seeds only from legal sources.

(b) Each processor shall accept hemp, by-products, intermediate substances, or seeds only if the material is accompanied by a harvest certificate, a certificate of analysis, or a similar document and by a signed bill of lading that includes the weight of the material transferred, the date of the transfer, and the following information:

(1) The name, address, and registration, permit, or license number of the producer of the hemp;

(2) the name, address, and registration, permit, or license number of the person from whom the processor acquired the hemp, by-products, intermediate substances, or seeds; and

(3) the name, address, and registration, permit, or license number of any prior processor.

(c) Each processor that acquires seeds that are not devitalized shall devitalize the seeds within 10 days of receipt and take appropriate security measures to ensure that the seeds cannot be diverted before being devitalized.

(d) Each processor shall assign a batch identification number to each batch at the time of acquisition.

(e) Each processor shall retain the records required by this regulation for at least three years and shall make the records available to the state fire marshal upon request. (Authorized by and implementing L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-11. Inventory control; reports. (a) Each processor shall conduct an inventory each working day and create an inventory report that shall include the locations and weights of each of the following materials:

- (1) The hemp, by-products, intermediate substances, seeds, finished products, hemp waste, and treated hemp waste on hand at the start of the day;
- (2) the hemp, by-products, intermediate substances, and seeds received;
- (3) the hemp, by-products, intermediate substances, and seeds processed, identified by batch identification numbers;
- (4) the finished products produced;
- (5) the hemp, by-products, seeds, finished products, and intermediate substances shipped from the facility;
- (6) the hemp waste produced from processing activities;
- (7) the hemp waste treated;
- (8) the hemp waste disposed of; and
- (9) the hemp, by-products, intermediate substances, seeds, finished products, hemp waste, and treated hemp waste on hand at the end of the day.

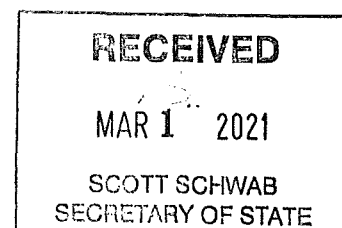
(b) Each processor shall submit the inventory report to the state fire marshal at the end of each working day.

(c) Each processor shall notify the state fire marshal immediately upon discovering any inventory discrepancies, diversion, theft, or loss of any hemp, by-products, intermediate substances, or hemp waste or of any loss or unauthorized alteration of records related to hemp processing or business activities, including inventory, security, employment, and transportation.

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The processor shall submit to the state fire marshal a signed report detailing the location and circumstances of the event, the type and amount of material involved, and an accurate inventory.

(d) Each processor shall maintain the records required by this regulation for at least three years. (Authorized by and implementing L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-12. Disposal of hemp waste. (a) For any hemp waste that is required by K.S.A. 2020 Supp. 2-3909 and amendments thereto to be rendered unusable and unrecognizable, the processor shall incorporate the hemp waste into one or more of the nonconsumable solid waste materials listed below, such that the resulting mixture is less than 50 percent hemp waste:

- (1) Paper waste materials;
- (2) cardboard waste materials;
- (3) food waste materials;
- (4) yard waste materials;
- (5) soil or other growth media; or
- (6) other materials approved by the state fire marshal.

(b) Each processor shall maintain and make available to the state fire marshal upon request a separate record of every disposal. The record shall contain the following:

- (1) The date and time of disposal;
- (2) the disposal method and procedures followed;
- (3) the volume and weight of the approved material used to render the hemp waste unusable;
- (4) the reason for disposal;
- (5) the volume and weight of hemp waste disposed of and the batch identification number of each batch from which the hemp waste was produced; and
- (6) the name, title, and signature of each person involved in the disposal.

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(c) Any processor may use any other method approved by the state fire marshal for rendering hemp waste unusable and unrecognizable.

(d) No processor shall allow hemp waste that is required by K.S.A. 2020 Supp. 2-3909, and amendments thereto, to be rendered unusable and unrecognizable to leave the premises before the hemp waste is treated as required in subsections (a) and (c).

(e) Each processor shall dispose of all hazardous waste pursuant to K.S.A. 2020 Supp. 2-3909, and amendments thereto. (Authorized by L. 2020, ch. 5, sec. 106; implementing K.S.A. 2020 Supp. 2-3909 and L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-13. Transportation. (a) Each processor that sells, trades, barter, gives away, or otherwise transfers any hemp, intermediate substances, by-products, seeds, or finished products to any other person shall ensure that the materials are accompanied by the following:

- (1) A harvest certificate, a certificate of analysis, or a similar document from the producer; and
- (2) a signed bill of lading that includes the following:
 - (A) The processor's registration number;
 - (B) the total weight of hemp, intermediate substances, by-products, seeds, or finished products transferred;
 - (C) the date of the transfer; and
 - (D) the name and other requested identifiers of the person acquiring the materials.

If the processor received these materials from a prior processor, the processor shall include a signed bill of lading from the prior processor.

(b) No processor, or contractor, employee, or agent of a processor, shall take from the premises or possess any hemp, intermediate substances, by-products, seeds, finished products, or hemp waste unless the individual's possession is for activities authorized by the act and is in accordance with state and federal law and this article of the state fire marshal's regulations.

(c) Any individual in possession of hemp, intermediate substances, seeds that have not been devitalized, or hemp waste without a valid hemp producer's license, a valid processor's registration, or an appropriate signed bill of lading or a similar document from the producer and any prior processor may be presumed to have gained possession of the material in violation of the act and the implementing regulations.

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(d) Each processor shall comply with the act and the implementing regulations and with all local, state, and federal laws, regulations, and ordinances related to the possession and transportation of hemp, intermediate substances, by-products, seeds, finished products, and hemp waste. (Authorized by and implementing L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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22-26-14. Chain of custody for transportation of intermediate substances. (a) No material having greater than the allowable THC content shall leave a hemp processing facility.

(b) Each processor shall package all intermediate substances leaving a hemp processing facility in a container that is sealed with tamper-evident tape. The processor shall take a digital photo of the seals on the containers after sealing the containers and again after placing the containers in the transport vehicle.

(c) The doors of the cargo area of the transport vehicle shall be closed with a lock and a metal tamperproof seal, or other fastener approved by the state fire marshal, that can be removed only by cutting. The processor shall take a digital photo of the fastener on the doors after securing the doors.

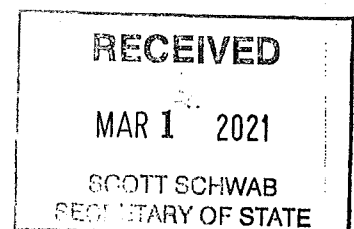
(d) When intermediate substances leave a hemp processing facility, the processor shall record the following information on a form provided by the state fire marshal:

- (1) Number of containers in the shipment;
- (2) batch identification numbers for the intermediate substances in each container;
- (3) weight of each container;
- (4) date and time of transfer;
- (5) name and driver's license or state-issued identification card number of each individual in the transport vehicle;
- (6) signature of each individual in the transport vehicle; and
- (7) delivery address, recipient name, and any other identifying information about the recipient required by the state fire marshal.

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(e) A copy of the form specified in subsection (d) shall be retained by the driver and shall be shown to any law enforcement officer upon demand, to demonstrate that the driver is authorized to transport intermediate substances.

(f) Upon delivery of the intermediate substances, each individual in the transport vehicle shall sign the form, record the date, time, and place of delivery, and record the name and title of the person taking delivery and any other identifying information requested by the state fire marshal.

(g) The recipient shall record the date and time of delivery, take a digital photo of the fastener on the doors, and take an inventory of the containers inside. The recipient shall take a digital photo of each seal and inspect each container and seal for any indication of tampering.

(1) If the fastener, a container, or a seal shows any sign of tampering, the recipient shall take possession of the delivery and shall immediately notify the processor and the state fire marshal.

(2) If the recipient detects no tampering, the recipient shall sign the delivery form acknowledging that both the fastener and each seal and container were intact upon delivery.

(h) Within three days of receipt, the recipient shall submit the information and photos required by this regulation to the state fire marshal in the manner specified by the state fire marshal. The recipient shall retain the originals for three years. (Authorized by and implementing L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-15. Stop sale, use, or removal order; cease and desist. (a) For the purpose of allowing the state fire marshal to inventory and sample materials on the premises and review the inventory and security records whenever there is reason to believe that hemp, intermediate substances, by-products, seeds, finished products, or hemp waste is being produced, sold, or distributed in violation of the act or any implementing regulations, a stop sale, use, or removal order may be issued. No hemp, intermediate substances, by-products, seeds, finished products, or hemp waste shall be processed, sold, distributed, used, or relocated within or removed from the premises until the stop sale, use, or removal order is revoked in writing by the state fire marshal. No stop sale, use, or removal order shall be valid for more than seven days.

(b) A cease and desist order may be issued or a criminal complaint may be filed, pursuant to K.S.A. 31-139 and amendments thereto, for any violation of the Kansas fire prevention code. (Authorized by L. 2020, ch. 5, sec. 106 and K.S.A. 2020 Supp. 31-133; implementing L. 2020, ch. 5, sec. 106 and K.S.A. 31-139; effective, T-_____, _____; effective P-_____.)

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K.A.R. 22-26-16. Testing. (a) Each processor shall allow the state fire marshal or designee to inspect and take samples of any hemp, intermediate substances, by-products, seeds, or finished products on the premises to determine compliance with the act and implementing regulations. Each sample shall be analyzed at the processor's expense.

(b) When requested by the state fire marshal, a processor shall provide a representative sample of any material specified in subsection (a) to a testing laboratory acceptable to the state fire marshal for analysis at the processor's expense.

(c)(1) If testing is done pursuant to subsection (a) or (b), a certificate or analysis from the testing laboratory shall be provided directly to the state fire marshal.

(2) If testing is done at the processor's request, the processor shall retain a copy of the certificate of analysis for at least three years and shall make this copy available to the state fire marshal upon request. (Authorized by and implementing L. 2020, ch. 5, sec. 106; effective, T-_____, _____; effective P-_____.)

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Proposed

**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Office of the State Fire Marshal
Agency

Doug Jorgensen
Agency Contact

785-296-3401
Contact Phone Number

22-26-1 through 22-26-16 (Permanent Regs)
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

The Kansas Commercial Industrial Hemp Act (Act), K.S.A. 2019 Supp. 2-3901 *et seq.*, gave the Kansas Department of Agriculture the authority to adopt rules and regulations concerning the commercial production (growing) and processing of industrial hemp. However, the authority to regulate commercial hemp processing was transferred to the State Fire Marshal for FY 2021 by Senate Bill 66 (L. 2020, ch. 5, sec. 106). A bill to amend K.S.A. 2019 Supp. 2-3907 to reflect this change, and others, was pending at the time the Legislature adjourned in March. The Office of the State Fire Marshal is simultaneously proposing temporary rules and regulations and permanent rules and regulations for the administration of the processing of industrial hemp under the Act. The temporary and permanent versions are exactly the same.

K.A.R. 22-26-1. Definitions. This regulation defines four materials resulting from the processing of industrial hemp: "intermediate substances," which contain THC and other cannabinoids; "byproducts," which is biomass remaining after processing that can be further processed into lawful products; "finished products," an example of which is CBD oil; and "hemp waste," a substance typically containing THC that cannot be further processed into a lawful product. This regulation defines the term "allowable THC content" as describing the upper limit of THC concentration allowed by state and federal law for industrial hemp plants and products, instead of specifying the current allowable concentration of 0.3%. Thus, there would be no need to amend these regulations if the current allowable concentration is later raised by statute. Other definitions are also provided.

K.A.R. 22-26-2. Hemp processor registration; renewal. This regulation establishes the requirements for obtaining and renewing an annual hemp processing registration, including fingerprint-based state and national criminal history record checks. Subsection (i) concerns prorating for applications filed prior to April 1, 2021. By April 1, 2021, all processors would need to file renewal applications and pay the full annual fee of \$1,000 for the full 12-month period from April 2021 to April 2022.

K.A.R. 22-26-3. Compliance with laws; denial, revocation, or conditioning of a registration; appeals. This regulation requires processors to comply with all local, state, and federal laws and regulations related to industrial hemp and also places responsibility on the hemp processor for the actions of its employees, contractors, and agents related to any hemp processing activities. It lists the bases on which the State Fire Marshal can deny or revoke a registration, including conviction of the processor of class A or felony drug crimes and

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person crimes and felony theft/property crimes. Person crimes are included because the KBI has advised that criminal records of people involved in illegal drug activities and violent crime often do not show the drug charge, because the drug charge was dropped and the conviction was based on the higher-level person crime. Theft or diversion of substances containing THC is a significant concern, so theft crimes are included in this list.

K.A.R. 22-26-4. Adopted codes and standards. This regulation adopts the relevant codes from the National Fire Protection Association (NFPA) including NFPA Chapter 38, "Marijuana Growing, Processing, or Extraction Facilities," but provides that the term "marijuana" is replaced by "industrial hemp."

K.A.R. 22-26-5. Policies and procedures manual. This regulation requires hemp processors to develop and abide by a set of policies and procedures to ensure that all hemp, byproducts, intermediate substances, and hemp waste are handled in a manner to prevent diversion, theft, or loss. The manual must be submitted to and approved by the State Fire Marshal.

K.A.R. 22-26-6. Records to be maintained. This regulation requires processors to make and retain records of their acquisition of hemp, processing activities, transportation activities, and inventory and security system records. The records will provide tracking of hemp throughout all stages of processing and will help prevent or detect diversion, theft, or loss of materials.

K.A.R. 22-26-7. Access to records and property. This regulation states that by accepting a hemp processor registration, the processor grants consent for the State Fire Marshal or designee to have immediate access to records and property of the processor and acknowledges that he or she has no reasonable expectation of privacy in the records, processing facility, premises, and motor vehicles thereon or used in the transportation of hemp materials. It also states that a court may grant a search warrant to the State Fire Marshal if the processor refuses access.

K.A.R. 22-26-8. Facilities. This regulation requires that facilities meet the adopted national codes and standards. It requires processors to follow the procedure of submitting a "code footprint," an architectural document that shows that the facility meets NFPA code requirements for life safety, such as sprinkler systems, alarm systems, multiple exits, etc., and allows variances to be given on an individual basis for particularly burdensome code requirements under certain conditions where life safety and the security of substances containing THC is not compromised.

K.A.R. 22-26-9. Security measures; reportable events; records to be maintained. This regulation requires that processing facilities store hemp, byproducts, intermediate substances, and hemp waste in secured areas accessible only to authorized personnel, and under security video surveillance. It also requires a perimeter alarm providing coverage of all entrances and exits, windows, etc. It states that video recordings must be maintained for at least the preceding 90 days. It also requires processors to notify the State Fire Marshal of any interaction between law enforcement and the processor or its employees, contractors, or agents that is related to participation in the hemp processing industry and of a criminal charge or criminal investigation of theft, person crimes, and drug crimes.

K.A.R. 22-26-10. Acquisition of hemp for processing. This regulation establishes that processors shall obtain hemp materials only from lawful sources and only if the material is accompanied by documentation of its source. This regulation applies to both in-state and out-of-state sources of hemp. It also states that if a processor acquires hemp seeds that are not devitalized, it must devitalize them within 10 days of receipt and ensure proper security measures are taken during that time.

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K.A.R. 22-26-11. Inventory control; reports to state fire marshal. This regulation establishes that processors must make a daily inventory of hemp in all stages of processing – hemp plant material, byproducts, intermediate substances, hemp waste, and finished products. The processor shall submit these daily inventories to the State Fire Marshal electronically, and shall notify the State Fire Marshal immediately of any inventory discrepancies or unauthorized alteration of records related to inventory, security, employment, or transportation.

K.A.R. 22-26-12. Disposal of hemp waste. This regulation concerns waste, which is any substance leftover from processing that contains THC and cannot be further processed into a lawful product. K.S.A. 2-3909 requires that hemp waste that “can be used in the same manner as, or has the appearance of, a controlled substance . . . shall be rendered unusable and unrecognizable before the waste is transported or disposed.” This regulation lists types of waste materials that hemp waste can be ground into to render it unusable and unrecognizable and allows processors to use other methods of disposal approved by the State Fire Marshal.

K.A.R. 22-16-13. Transportation. This regulation states that documentation must accompany hemp in any stage of processing that is being transported and lists the information required in the documentation. It forbids persons from taking from the facility, or possessing, hemp, intermediate substances, or hemp waste unless the possession is for activities authorized under the act. For purposes of enforcement of this provision, the processor and employees give consent to a search of their vehicles and persons and personal effects while on the premises. It also states that a person will be presumed to have obtained hemp materials unlawfully unless they have appropriate documentation.

K.A.R. 22-26-14. Chain of custody for transportation of intermediate substances. This regulation sets out very specific steps that must be taken if intermediate substances are being transported from one processor to another because intermediate substances contain THC. Because no substances having greater than the allowable THC content may be transported, intermediate substances must be diluted before leaving a processing facility, but the THC could be extracted by relatively simple means from that diluted product and thus, intermediate substances are attractive for theft or diversion. This regulation requires sealing of containers and the cargo doors of the vehicle and requires processors and transporters to take a series of digital photos and sign certifications when the intermediate substances are loaded and when they are delivered, and it requires the recipient to immediately notify the State Fire Marshal if any of the containers are missing or there are signs of tampering. The Investigation Division of the State Fire Marshal will respond and will contact local law enforcement or the KBI for assistance as appropriate.

K.A.R. 22-26-15. Stop sale, use, or removal order; cease and desist. This regulation requires the processor to maintain the status quo of inventory of all hemp, intermediate substances, byproducts, finished products, or hemp waste when there is reason to believe that any of the materials are being produced, sold, or distributed in violation of the act or any rules and regulations issued thereunder, to allow for the state fire marshal to inventory, sample, and review inventory and security records. No such order shall be valid for longer than 7 days. Additionally, this regulation incorporates the State Fire Marshal’s power under K.S.A. 31-139 to issue a cease and desist order or file a criminal complaint when there are violations of the Kansas fire prevention code.

K.A.R. 22-26-16. Testing. This regulation requires the processor to submit samples of hemp materials to a testing laboratory at the request of the State Fire Marshal and to allow the State Fire Marshal to take samples of hemp materials on the premises of the processing facility. It provides that samples will be analyzed at the processor’s expense.

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II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

These rules and regulations are not required by federal law. The regulations of several other states, including Missouri and Colorado, were considered in the drafting of these regulations, and, where sensible, these rules and regulations mirror those of Missouri, but Missouri and Colorado have less restrictive approaches to marijuana than does Kansas. The regulations will be specifically aligned to the Kansas Criminal Code and the new Commercial Industrial Hemp Program.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The hemp/CBD oil industry estimates that commercial processing of industrial hemp into consumer products could offer job growth and enhance the revenue for hemp farmers in Kansas as well as hemp processors. It would keep industrial hemp in-state as opposed to being transported out of state, so the income to farmers could be higher since transportation costs would be lower. There is difficulty in predicting the enhancement to business activities and growth due to the newness of the program. Much remains unknown regarding the methods of processing industrial hemp and what the market for those products will be. The new rules and regulations should not restrict existing business activities in Kansas in any way.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

The amounts shown below reflect the costs that will be assessed or incurred during the second half of the 2021 fiscal year. The current research processors may continue processing on their Department of Agriculture registrations that expire April 30, 2021. Renewal fees of \$1,000 are due on April 1, 2021. Registration fees for new processors applying prior to then will be prorated at the rate of \$85 per month through March 31, 2021. Our office has received only one request for a new processor not already under the KDA program. The number of estimated registrations is based on the current active processors in the KDA program. There are approximately 20 processors registered with KDA and only about a dozen actually in operation.

Registration Fee - $\$1,000 \times 12 = \$12,000$

There would be no implementation and compliance costs incurred by other business sectors or local governments.

RECEIVED

MAR 1 2021

**SCOTT SCHWAB
SECRETARY OF STATE**

DOB APPROVAL STAMP

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

C. Businesses that would be directly affected by the proposed rule and regulation;

Processors of the industrial hemp. Hemp producers could be benefitted by having in-state processing available.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

Will bring some structure and direction to a new industry and make sure that they are operating within current state statutes. There will be costs to the OSFM of administering these regulations, including inspections and record keeping. Overall, the potential economic benefit of these regulations far outweigh the costs that they present.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

Our agency reached out to other states that have legalized hemp and/or marijuana and are already regulating the processing of industrial hemp. We adopted rules and regulations from a number of those states that fit Kansas and our current illicit drug statutes.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

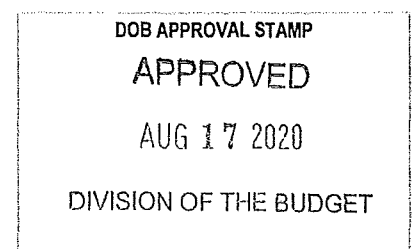
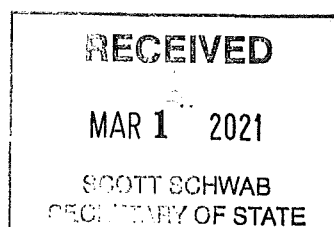
No costs would be passed on to local governments or members of the public. Processors will pay \$1,000 per year for a registration and, as in any new business, will have the costs of building and/or outfitting their facilities. Current total estimate for registrations is \$12,000 for FY 2021. Following years will depend on the success of the industrial hemp program and the amount of hemp available to be processed.

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0.00

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES ☐ NO ☒



Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The amounts shown above reflect the costs that will be assessed or incurred during the second half of the 2021 fiscal year. The number of estimated registrations is based on the current active processors in the KDA program. There are approximately 20 that are registered with only about a dozen actually in operation. Renewal fees of \$1,000 are due on April 1, 2021. Registration fees for new processors applying prior to then will be prorated at the rate of \$85 per month through March 31, 2021. Our office has received only one request from a new processor not already under the KDA program, but the requestor has not further pursued his inquiry.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES ☐ NO ☒

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.**

These rules and regulation will not affect revenues of other state, county and local agencies, or school districts.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).**

We consulted with the Department of Agriculture, the Kansas Attorney General's Office and the Kansas Bureau of Investigation in the forming of the rules and regulations to make sure they did not contradict any current state statutes or other rules and regulations. All three agencies also provided guidance and input in the forming of the rules and regulations to make sure the processing would be safe and secure.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).**

N/A.

