KDA-0919873077: James Blackwell – Grower (Cloud Co., KS)

Kansas Department of Agriculture

KDA-0689321855: Andrew Renyer – Grower (Dickinson Co., KS)

KDA-0758881888: Jade Marcum – Grower (Reno Co., KS)

2019 Kansas Industrial Hemp Program Update

Hempucation
Mechanized Concepts
Russell, KS
November 6, 2019

Dana Ladner
Compliance Education and Outreach
Kansas Department of Agriculture
Dana.Ladner@ks.gov

Federal Farm Bill Comparisons

2014 Federal Farm Bill

1. Research projects/pilot programs only
2. Commercial restrictions, lack of interstate commerce clarification
3. Only allowed by states that adopted programs;
4. Fairly undefined testing standards
    - inconsistent among states and private laboratories.

2018 Federal Farm Bill

1. Legalizes hemp production
2. Lifts commercial restrictions (commerce) once rules and regulations are adopted
3. Extended the 2014 Farm Bill provisions for 12 months after the 2018 Farm Bill provisions come into effect
4. Program based on state proposal as accepted by USDA

Kansas Department of Agriculture

Federal Farm Bill Comparisons

2018 Federal Farm Bill

5. Requires testing to be post-decarboxylated THC or equivalent standard
6. Requires all lots planted to be sampled within 15 days prior to anticipated harvest
7. Requires all growers to submit state growers license number and GPS information to the USDA Farm Services Agency (FSA);
8. Interim Final Rule sunsets after two years, which allows time to make it through a full crop cycle and to deliver a final rule.

Kansas Department of Agriculture

Intent of the Industrial Hemp Research Program

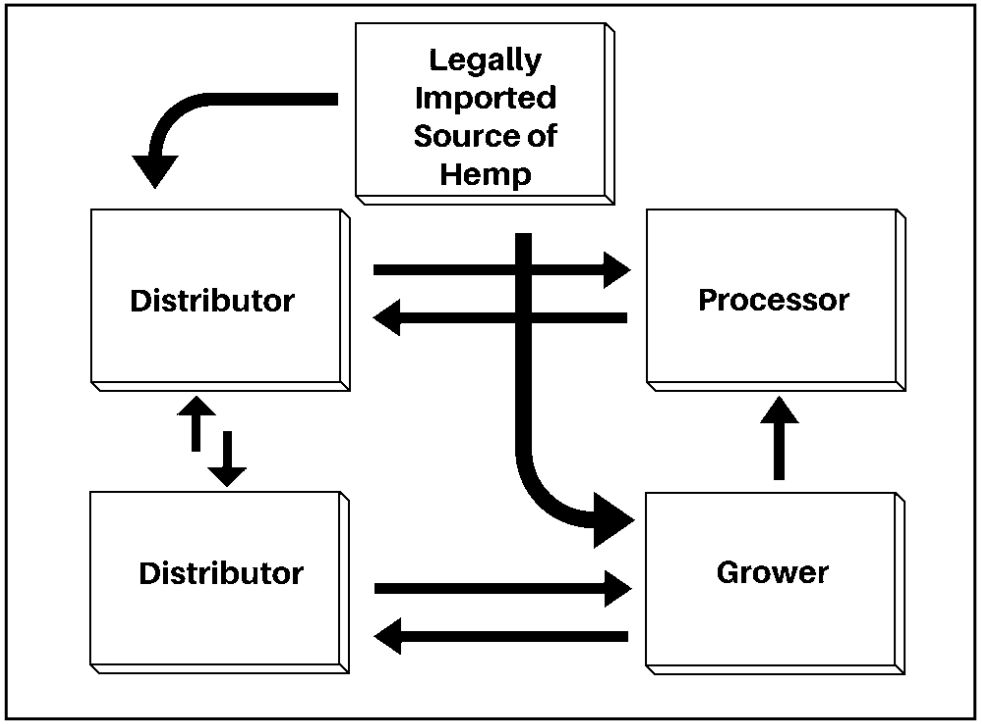
- Research and analysis of:
  - required soils; growing conditions
  - harvest methods relating to the production of various varieties
  - Seed research on various types of industrial hemp that are best suited for KS
- Analysis on the economic feasibility of developing an industrial hemp market
- Analysis on the estimated value-added benefits, including environmental benefits
- A study on the agronomy research conducted worldwide relating to industrial hemp varieties, production and utilization;
- A study on the feasibility of attracting federal and private funding for industrial hemp research.

Kansas Department of Agriculture

Activities Conducted by Licensed Individuals in Kansas

Total Active Licenses (Excluding Administrative Licenses); October 16, 2019.	
License Type	**License Count**
Grower	196
Distributor	20
Processor	35
University	9
Total Active Licenses	**260**

82 licensees voluntarily withdrew from the program.



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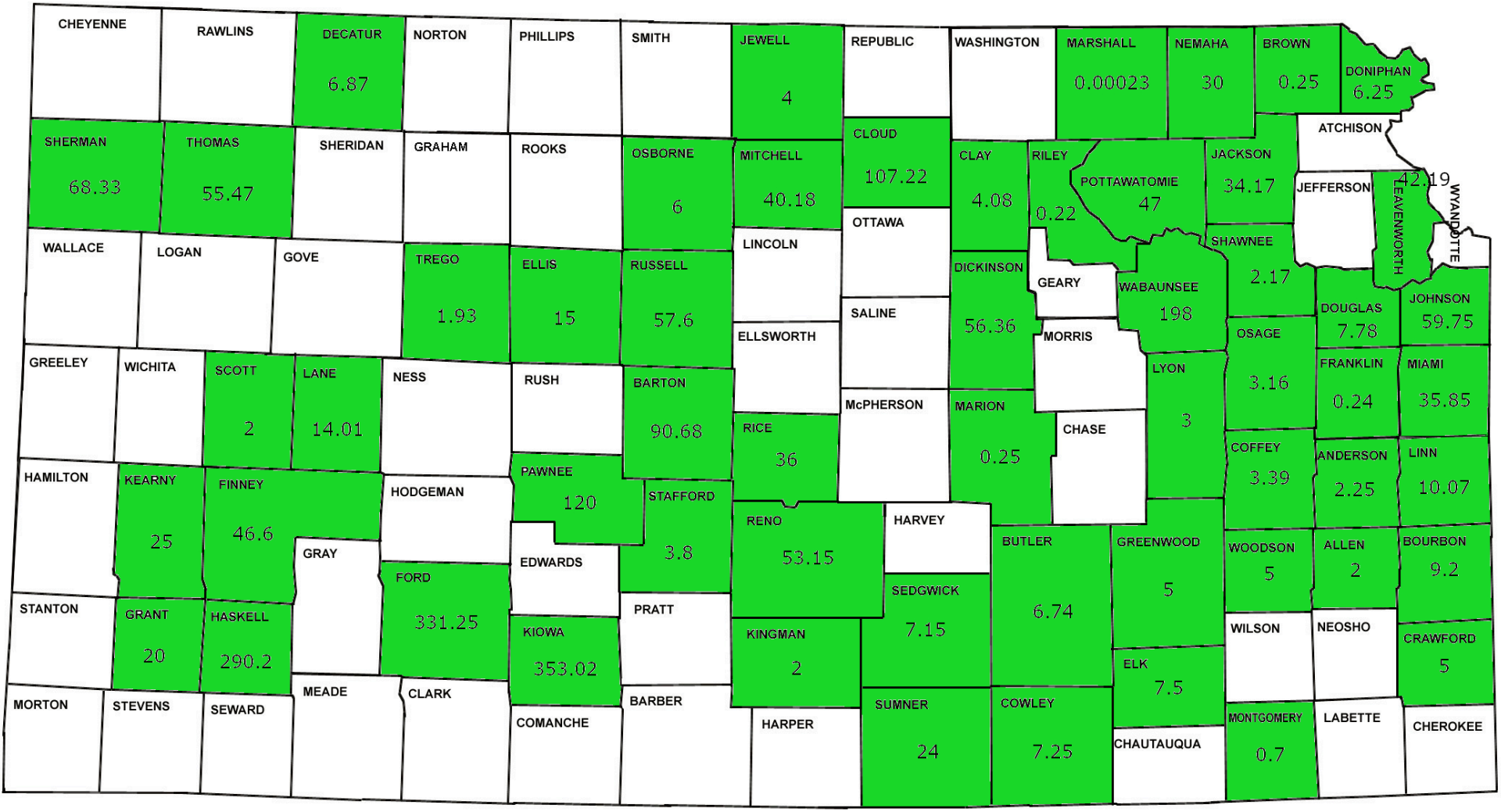
Summary of Planted Acres



2376.27 acres planted in 57 Kansas counties as of August 27, 2019; acres planted may not be indicative of potentially harvestable acres. Roughly 5,700 acres over 70 counties were licensed for industrial hemp production.

Summary of Planted Acres Continued

10 Kansas Counties with the greatest indicated planted acres August 27, 2019.		
Rank	**County**	**Acres Planted[1]**
1	Kiowa	353.02
2	Ford	331.25
3	Haskell	290.20
4	Wabaunsee	198.00
5	Pawnee	120.00
6	Cloud	107.22
7	Barton	90.68
8	Sherman	68.33
9	Johnson	59.75
10	Russell	57.60
[1]Acres planted may not be indicative of potentially harvestable acres		

Kansas Department of Agriculture

Summary of Planted Acres Continued

Acres planting by intended end-use in the 2019 Industrial Hemp Research Program as of August 27, 2019.

End-Use	Seed/Grain	Floral	Fiber	Seed/Grain, Floral	Seed/Grain, Fiber	Floral, Fiber	Seed/Grain, Floral, Fiber	Total
Planted Acres	12.58	1458.82	13.80	438.49	206.35	9.25	236.98	**2376.27**

Acres planting by research area type in the 2019 Industrial Hemp Research Program as of August 27, 2019.

Research Area Type	Field	Greenhouse	High Tunnel	Other	Total
Planted Acres	2360.66	8.09	1.20	6.32	**2376.27**

- 2376.27 acres planted which is roughly 47% of current licensed acreage. Approximately 90% of all planted acreage has been indicated as being grown floral material (CBD production)
- 99% of the planted acreage in industrial hemp are field plantings
- Of the 196 active grower licenses
  - 160 planted (not all will harvest)
  - 28 did not plant
  - 5 no indication;
- 28 licensees indicated they did not plant hemp on their license
  - Too wet, could not find seed, too late, using for storage.

Kansas Grower License

- The 2020 growing season will follow the same format as the 2019 growing season
- Application deadline is November 30, 2019;
- A Grower's License will be called a Hemp Producer License when the commercial program is implemented.

Kansas Department of Agriculture

CBD Varietals

- Goal- Maximize CBD production while not exceeding 0.3% THC
  - Large quantities of high quality biomass
- Bred/selected from recreational and medicinal marijuana lines
  - CBD varietals are/were phenotypes selected to contain low concentrations of THC and high concentrations of CBD;
- Generally, short and stocky plants.

CBD Production

Kansas Department of Agriculture

Summary of Harvested Acres

- The KDA has reports indicting roughly 1,100 acres harvested
- Expecting to receive harvest reports through the end of November;
- Harvestable acres is not indicative of quantity or quality of harvested materials (capture through production reports)
  - lbs. grain or seed/acre
  - lbs. of fiber/acre
  - lbs. of floral material/acre.

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Pre-Harvest Inspection, Sample Collection, Testing, and Post-Testing Actions K.A.R. 4-34-18

- Sample tested to determine delta-9-tetrahydrocannabinol concentration [Total THC (delta 9-THC-acid and delta 9-THC-neurtral)]
  - Must not exceed 0.3% THC to warrant a passing report of analysis.
  - If exceeding 0.3% THC, it warrants a failing report or analysis.
- By state and federal definition *Cannabis* plants become a controlled substance once they exceed 0.3% THC.

Kansas Department of Agriculture

Report of Analysis

- THC quantitation conducted by the KDAL.
- Reports were sent electronically to growers.

Table 1- Pre-Harvest Report of Analysis Summary for 2019 Industrial Hemp Research Program October 16, 2019.

STATUS	# of Samples	% of Samples
PASS (≤0.3% THC)	141	91.6
QUEUE	4	2.6
FAIL (>0.3% THC)	9[Z]	5.8
SUM	**154**	**100**

[Z] Failing Reports of Analyses encompass six licensees

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Certificate of Harvest

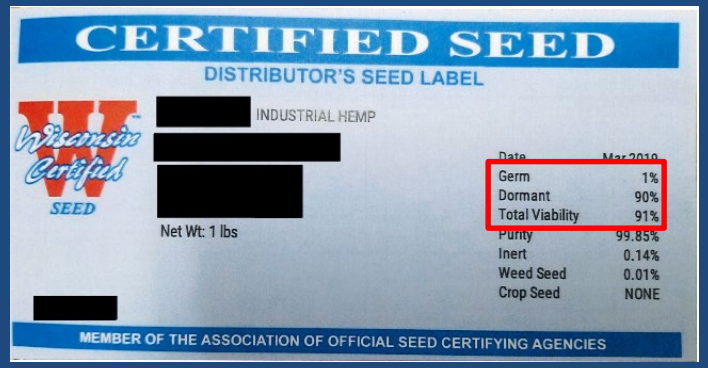
- Issued when the crop has been harvested and in compliance.
- Harvest Certificate must stay with the product once harvested, to include transportation to the processor.

Kansas Department of Agriculture

2019 Roadblocks

Licensed growers

- Untimely and frequent precipitation delayed plantings
- Water rights issues
- Sourcing germplasm from a reputable source may have proved difficult
- Cost of germplasm may have been too prohibitive
- Weed pressure and herbicide drift issues
- Financial risks associated with participation; “hot crops”
- Labor intensive
  - Some growers may not of had the labor to handle an operation
- Harvesting;
- Established relationships for purchase and transportation of the crop.



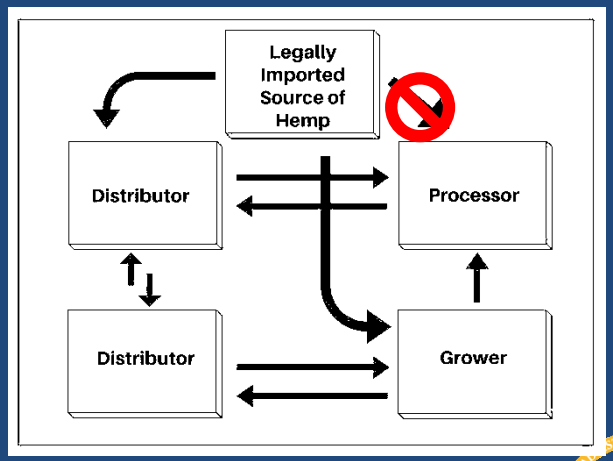
Labeling and label interpretation is crucial to understand.

May require modifications to harvesting equipment.

Kansas Department of Agriculture

2019 Roadblocks Continued

- Licensed distributors
  - All individuals transporting and distributing must be licensed
- Licensed processors
  - Acquiring materials from other states that would not meet the Kansas requirement
  - Legality processing through intermediate steps to isolate CBD oil?



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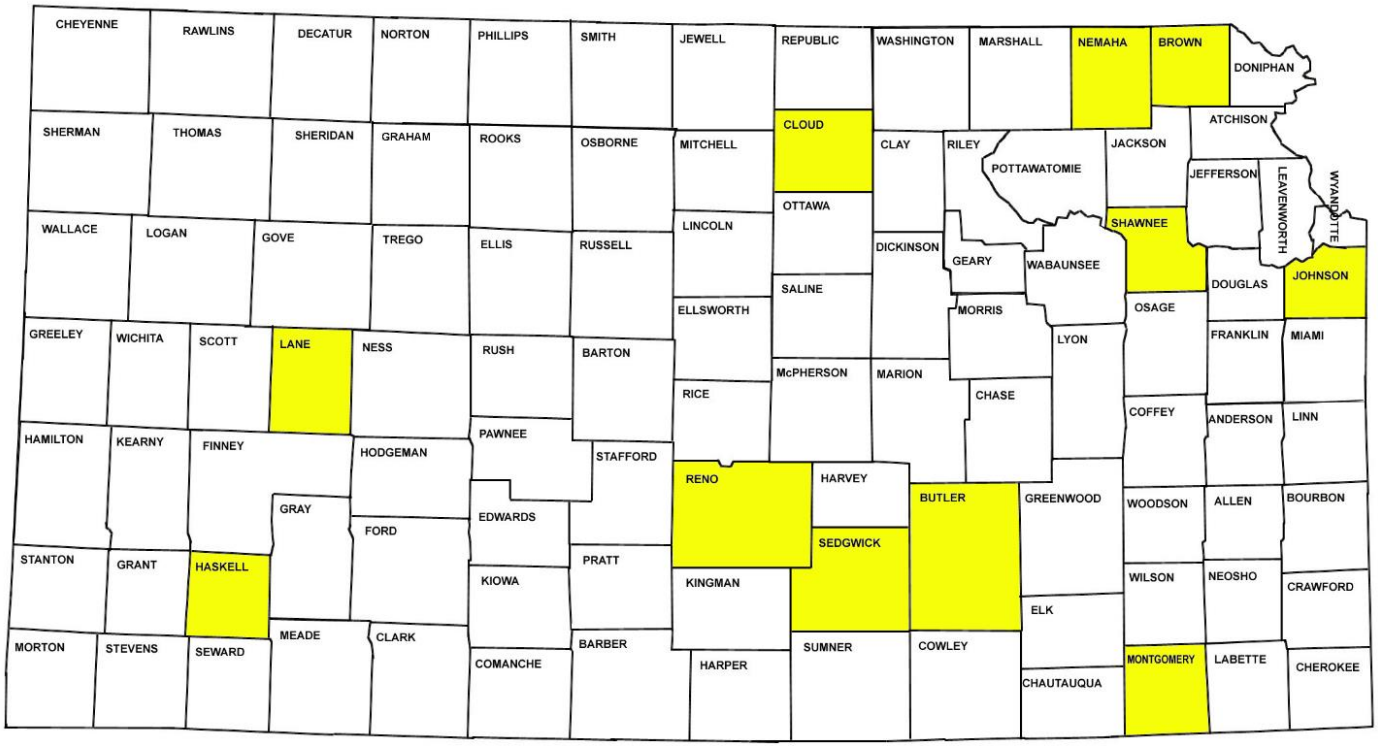
Counties with Licensed Distributors



Kansas counties with active distributor licenses as of July 26, 2019; this figure may have changed as licenses were voluntarily withdrawn from the program.

Kansas counties with active distributor licenses as of July 26, 2019.

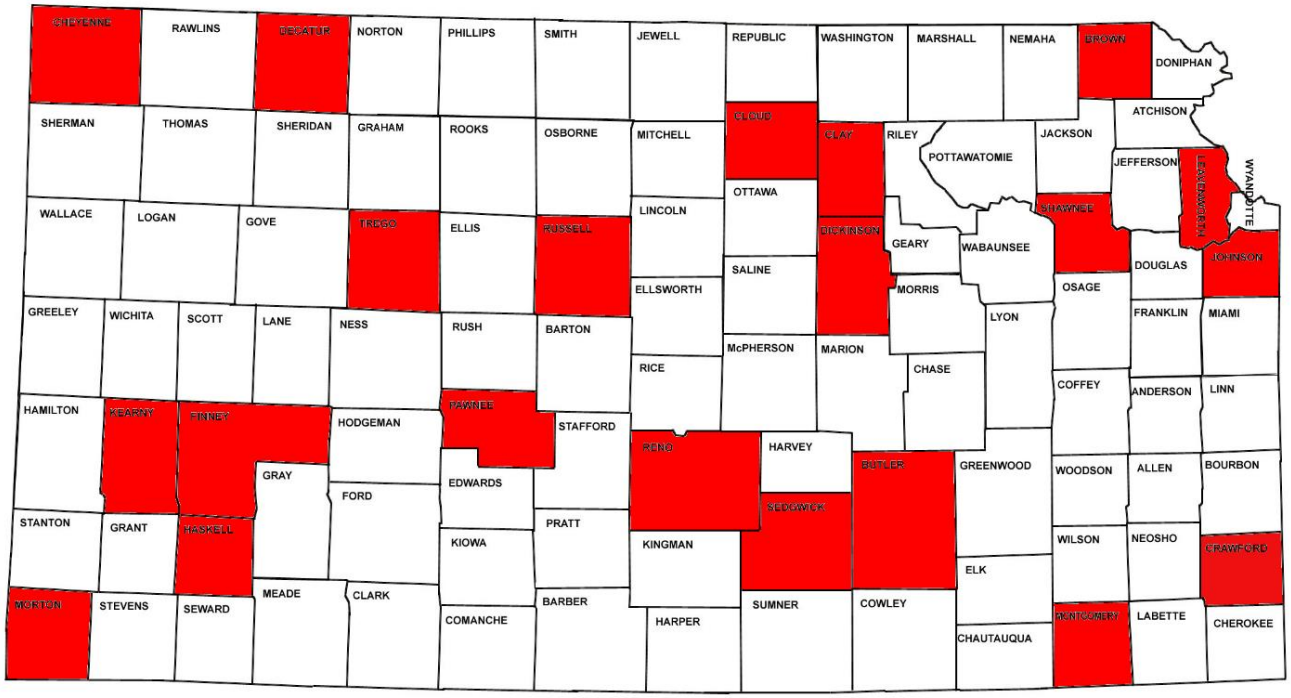
County	Licenses
Brown	1
Butler	2
Cloud	1
Haskell	2
Johnson	3
Lane	1
Montgomery	1
Nemaha	1
Reno	5
Sedgwick	2
Total	**20**

Kansas Distributor License

- Until the Kansas rules and regulations have been "triple stamp" approved, a Distributor License is still needed to complete the same responsibilities as the 2019 growing season.
- Once the new rules are effective, then a Distributors License will no longer be needed in Kansas.
- This will assist those working with growers on transportation, lab testing, crop consulting, etc.

Kansas Department of Agriculture

Counties with Licensed Processors



Kansas counties with active processor licenses as of July 26, 2019; this figure may have changed as licenses were voluntarily withdrawn from the program. Not all processors will have operational capacity considering the magnitude of infrastructure development involved with an these activities.

Kansas counties with active processor licenses as of October 17, 2019.

County	Licenses	County	Licenses
Brown	1	Kearny	1
Butler	2	Leavenworth	2
Cheyenne	1	Montgomery	1
Clay	1	Morton	1
Cloud	1[z]	Pawnee	1
Crawford	1	Reno	5
Decatur	1	Russell	1[y]
Dickinson	2	Sedgwick	3
Finney	1	Shawnee	1
Haskell	1	Trego	1
Johnson	5	Osage	1
		Total	**35**

[z]grain and floral processor
[y]fiber processor

*Roughly 97% of all active processor licenses are for floral material

Kansas Distributor License

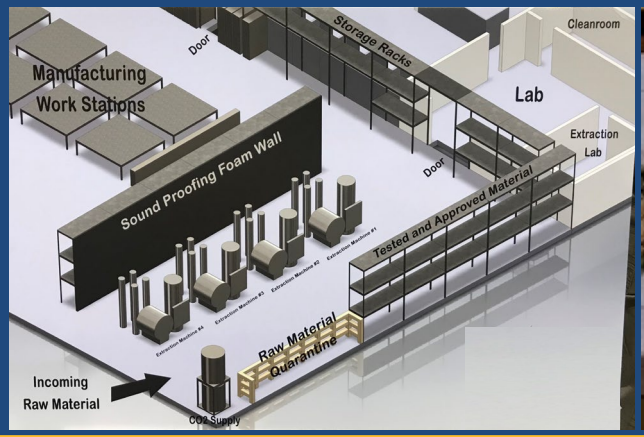
- Until the Kansas rules and regulations have been "triple stamp" approved, a Processor License is still needed to complete the same responsibilities as the 2019 growing season.
- If a current Processor license holder will have any type of plant material, seed, etc. on site when the current license expires on January 31, 2020 they MUST have a Processor license to continue business on February 1, 2020.

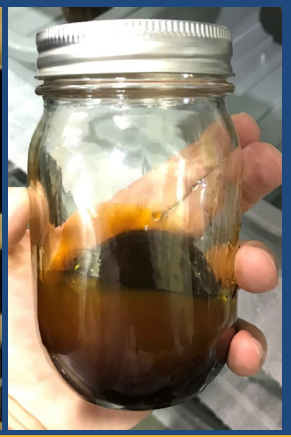
Kansas Department of Agriculture

Types of Processors

Floral processor- Cannabidiol (CBD)

- Currently, largest market for industrial hemp products
- Production in leading states (NASDA 2018 Farm Bill Implementation Hemp Provisions Briefing, May 15, 2019)
  - 2018 Montana- approx. 95% IH production (19,000 acres) was for floral material
  - 2019 Kentucky- projecting approx. 75% IH production (22,500 acres) for floral material.





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Types of Processors

Grain processor

- Hemp seed oil, hulled seed, and hemp protein
- Infrastructure in U.S. not currently established compared to CBD;
- Grain processors are slowly entering the market for hemp grown in Kansas.

Kansas Department of Agriculture

Types of Processors

Fiber processor

- Biomass for building materials, fabrics, animal bedding, injected molds, plastics
- A lack of processing infrastructure exists;
- Kansas is beginning to see long-term opportunities for hemp grown for fiber.

Kansas Department of Agriculture

Hemp and the 2018 Farm Bill

1. Legalizes industrial hemp production- removed industrial hemp from Schedule I of the Controlled Substances Act

2. **Lifts commercial restrictions and industrial hemp producers are eligible for federal crop insurance programs (RMA) and certain USDA research grants (NRCS).**

3. Program based on state proposal as accepted by USDA
   - Maintain information regarding land on which IH is produced in a state record for >3 years

4. Requires testing to be post-decarboxylated THC or equivalent standard

5. A procedure for the effective disposal of products that are produced in violation;

6. Violations; rough guideless are provided; ultimately decided by the state.

Kansas Department of Agriculture

AAFCO Guidelines on Hemp in Animal Food (Association of American Feed Control Officials)

- **The 2018 Farm Bill did not grant the right to use hemp and hemp products for human or animal consumption. The FDA has regulatory authority over food products.**

- As of April 2019, hemp and hemp products may not be used in animal or pet food in the U.S.

- AAFCO is asking for research/information on:
  - Hemp seed oil
  - Hemp seed meal
  - Whole hemp seeds.

Kansas Department of Agriculture

FDA

- Authority over foods, dietary supplements, human and veterinary drugs, and cosmetics
- **Hemp seed products that do not contain CBD- hulled hemp seed, hemp seed protein powder, and hemp seed oil can be legally used in the U.S. food supply**
- Hemp products that contain CBD
  - Unlawful under FD&C Act to introduce into interstate commerce
- CBD cannot be marketed as a dietary supplement, because it is an active ingredient in the FDA approved Drug Epidiolex;
- 2018 Farm Bill created a misconception that all products made from or containing hemp, including those made with CBD are legal to sell in interstate commerce.

Kansas Department of Agriculture

FDA Continued

- Biggest concern is the marketing of CBD products that make unsubstantial therapeutic claims to prevent, diagnose, mitigate, treat, or cure serious diseases
- The FDA indicates CBD is not a risk free substance
- Manufacturing issues- CBD products may contain potentially dangerous compounds not listed on the label from the extraction and manufacturing process;
- Rulemaking for hemp products that contain CBD and CBD products can take anywhere from 3-5 years.

Kansas Department of Agriculture

EPA

- Only approved pesticides are plant growth regulators (rooting hormones) and insecticide synergists (piperonyl butoxide)
- Currently 10 product registration requests under review at the EPA for use on industrial hemp (July 25, 2019)
- Pending requests involve biological and microbial chemicals, which tend to be very low impact on the environment;
- EPA is in discussion with Health Canada Pest Management. Regulatory Agency for pesticides, labels and approaches to regulating hemp.

Kansas Department of Agriculture

Crop Insurance

- The 2018 Farm Bill allows FCIC (Federal Crop Insurance Corporation) to offer policies for industrial hemp
- Sen. Majority Leader Mitch McConnell revealed that an insurance policy for the crop won't be ready for the 2020 planting season. In the short term, starting in **2020, USDA aims to cover hemp through a whole-farm crop insurance pilot program, a type of coverage used for diversified farms;**
- 2020 USDA- RMA -Whole Farm Revenue Protection policy
  - Will not cover crops exceeding 0.3% THC limit or replanting
  - Requirements such as a farming history for 5 years.

Kansas Department of Agriculture

Interim Final Rule on Domestic Hemp Production

- Draft released- October 29, 2019

  U.S. Domestic Hemp Production Program

- Effective- October 31, 2019

- USDA will be begin reviewing states' submissions November 30, 2019 and respond within 60 days of a submission.

Kansas Department of Agriculture

U.S. Domestic Hemp Production Program Requirements

1. Maintain relevant producer and land information
   - Collect, maintain and provide real-time information of each hemp producer to USDA contact.
2. Accurate and effective sampling and testing
   - Procedures for how, where, and when to collect samples
   - Sampling be conducted by an authorized representative
   - Post-decarboxylation or similar testing must not exceed 0.3% THC on a dry weight basis to classify as hemp
   - Procedures that prohibit handling, processing, or entering commerce when hemp noncompliant;
   - Procedures that require hemp testing labs to conform to standards and register with DEA.

Kansas Department of Agriculture

U.S. Domestic Hemp Production Program Requirements Continued

3. Disposal
   - Procedures for dispose of non-compliant plant
   - Procedures to notify USDA of non-compliant plants.

4. Inspection Procedures
   - Annual inspections required to gather a sample of licensed lots to ensure compliance.

5. Collection and dissemination of information with USDA-AMS and FSA
   - Hemp producer information (contact, etc.)
   - Licensed, planted, harvested and disposed acreage.

Kansas Department of Agriculture

U.S. Domestic Hemp Production Program Requirements Continued

6. Compliance with enforcement procedures
   - Corrective action plan and procedures to provide correction for negligent violations (failure to provide records, obtain license, growing *Cannabis* in exceedance to acceptable limit
   - Procedures for addressing controlled substance felonies and individuals' eligibilities.

7. Certification that a state has resources and personnel to carry out the federal requirements.

Kansas Department of Agriculture

Senate Substitute for HB 2167

Effective April 15, 2019

1. Commercial Industrial Hemp Program in Kansas (not yet implemented)
   - Senate Substitute for HB 2167 establishes a means to create a Commercial Industrial Hemp Program
   - Requires the Kansas Department of Agriculture (KDA), in consultation with the Governor and Attorney General, to submit a plan to the U.S. Department of Agriculture (USDA) how the KDA will monitor and regulate the commercial production of industrial hemp within the state, in accordance with federal law.
   - For growing season 2020, in addition to certified seed, "Authorized seed or clone plants" can be used. See https://agriculture.ks.gov/docs/default-source/statutes-ppwc/industrial-hemp-regulations.pdf

     page 1 (11) – page 2 (C) for all additional information.

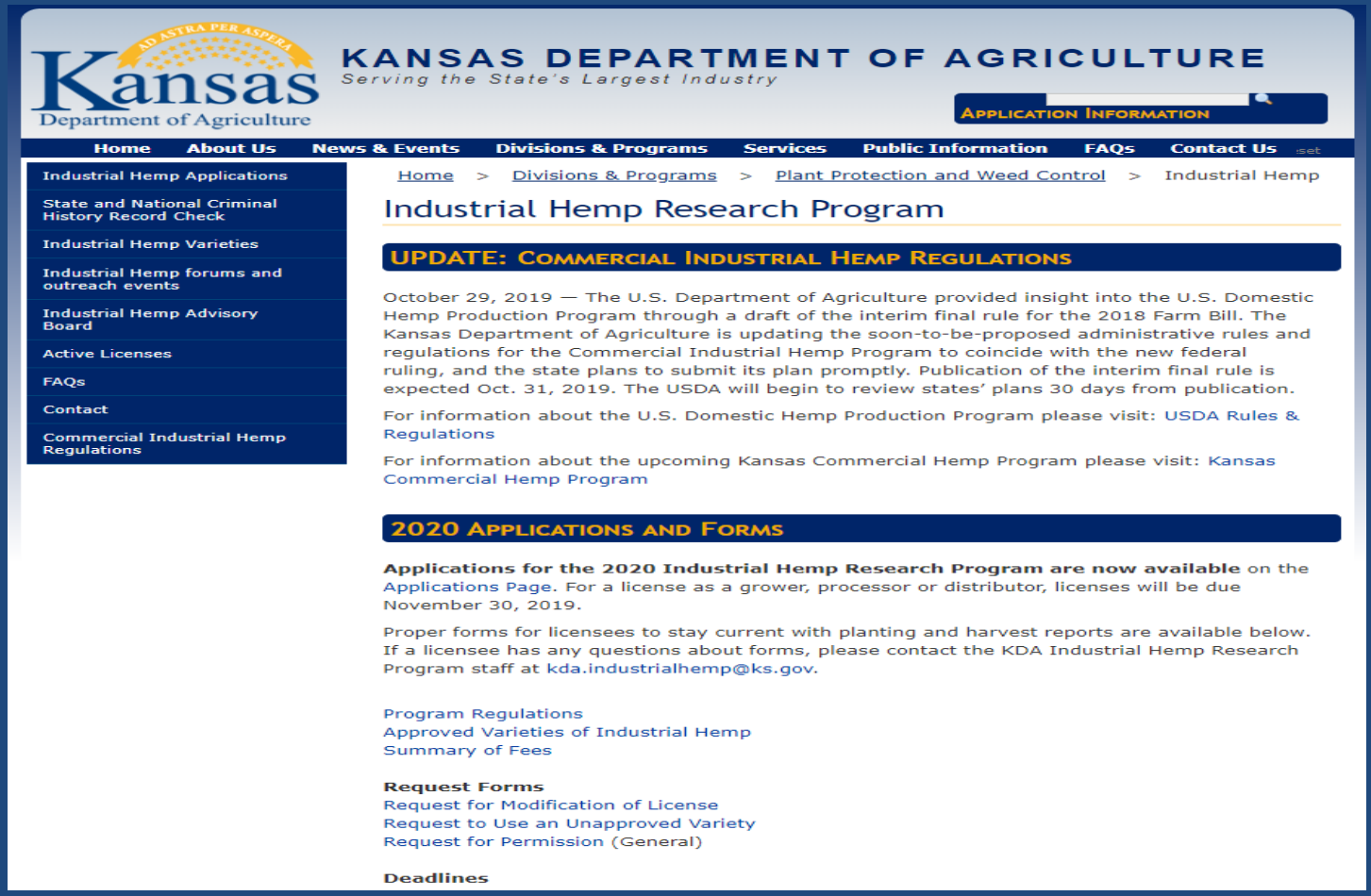
Kansas Department of Agriculture

Commercialization Summary

- **Draft Regulations**
  - KDA is working internally this week to create the best plan for Kansas to go forward to meet the requirements of the USDA Interim Final Rule.
- Submission to Kansas Division of Budget, Department of Administration, Attorney General and Joint Committee on Administrative Rules
- Submission to USDA simultaneously;
- Public meeting.
- This follows the same regulatory process as previously presented at outreach meetings.

Kansas Department of Agriculture

Resources agriculture.ks.gov/industrialhemp



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- Industrial Hemp Applications
- State and National Criminal History Record Check
- Industrial Hemp Varieties
- Industrial Hemp forums and outreach events
- Industrial Hemp Advisory Board
- Active Licenses
- FAQs
- Contact
- Commercial Industrial Hemp Regulations

Home > Divisions & Programs > Plant Protection and Weed Control > Industrial Hemp

Industrial Hemp Research Program

UPDATE: Commercial Industrial Hemp Regulations

October 29, 2019 — The U.S. Department of Agriculture provided insight into the U.S. Domestic Hemp Production Program through a draft of the interim final rule for the 2018 Farm Bill. The Kansas Department of Agriculture is updating the soon-to-be-proposed administrative rules and regulations for the Commercial Industrial Hemp Program to coincide with the new federal ruling, and the state plans to submit its plan promptly. Publication of the interim final rule is expected Oct. 31, 2019. The USDA will begin to review states' plans 30 days from publication.

For information about the U.S. Domestic Hemp Production Program please visit: USDA Rules & Regulations

For information about the upcoming Kansas Commercial Hemp Program please visit: Kansas Commercial Hemp Program

2020 Applications and Forms

Applications for the 2020 Industrial Hemp Research Program are now available on the Applications Page. For a license as a grower, processor or distributor, licenses will be due November 30, 2019.

Proper forms for licensees to stay current with planting and harvest reports are available below. If a licensee has any questions about forms, please contact the KDA Industrial Hemp Research Program staff at kda.industrialhemp@ks.gov.

Program Regulations
Approved Varieties of Industrial Hemp
Summary of Fees

Request Forms
Request for Modification of License
Request to Use an Unapproved Variety
Request for Permission (General)

Deadlines

Kansas Department of Agriculture

Resources agriculture.ks.gov/industrialhemp

Kansas Department of Agriculture

Resources ams.usda.gov/rules-regulations/hemp

Kansas Department of Agriculture

Email Contact

For specific questions on the 2020 growing season, email:

KDA.Industrialhemp@ks.gov

Thank you for your time this evening.

Kansas Department of Agriculture