Kansas Department of Agriculture

KDA: Looking at 2019 & Ahead to 2020

Lyon County Farm Bureau
February 12, 2020

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Status of Industrial Hemp- Where we are now.

- 2014 Federal Farm Bill (Feb. 2014)
  - authorized state departments of ag and educational institutions the ability to conduct activities with industrial hemp in pilot or research programs
  - Did not authorize the commercial sale of industrial hemp
- Senate Bill 263 (Apr. 2018)- Kansas
  - Alternative Crop Research Act authorized KDA to develop a "research program"
- Administrative Rules and Regulations- Research Program (Feb. 2019)- Kansas
  - K.A.R. 4-34-1 – 4-34-21

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Authorized activities with industrial hemp in Kansas (current program)

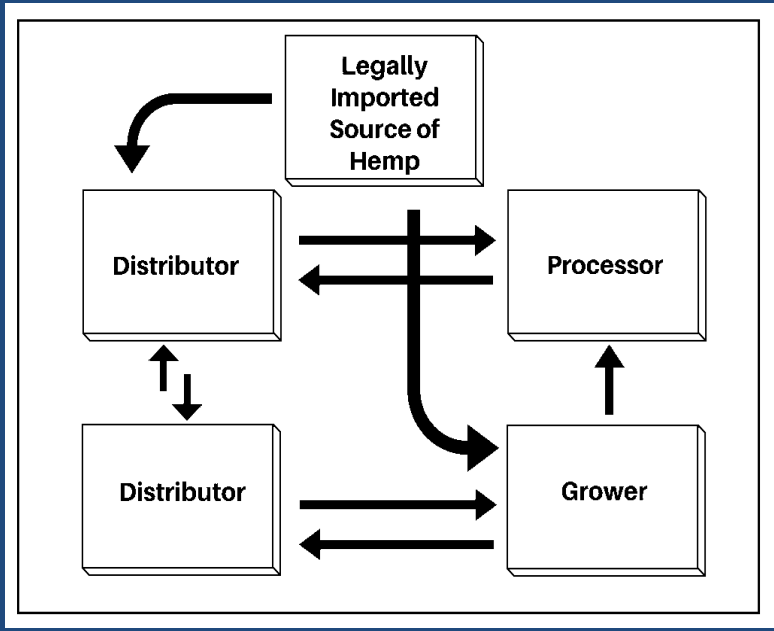

Figure 1: Activities authorized by 2018 Supp. K.S.A. 02-3902. (research, growing, cultivation, distribution, transportation, handling, storing, processing, etc.)

Table 1: Active licenses by type program; 2019 program licenses expire 02/03/2020.

License Type	2019	2020**
Grower	190*	168
Distributor	20	20
Processor	35	21
University***	9	5
TOTAL	**254**	**214**

*There were 213 active grower licenses for 2019, but 23 licensees withdrew.
**KDA is still licensing for 2020
***Kansas State University Research and Extension (KSRE).

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Industrial Hemp License Information and Fees Schedule

agriculture.ks.gov/industrialhemp (KDA Industrial hemp homepage)

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Active Licenses

Lists of expired and active license holders in the Industrial Hemp Research Program as of February 1, 2020, are available below for public reference.

Since 2020 grower, distributor, processor, and state educational institution licenses for the Kansas Industrial Hemp Research Program are still being issued by the Kansas Department of Agriculture, and licenses may be withdrawn from the program, these lists are subject to change and will be updated periodically throughout the license term.

For regulations governing the issuing of licenses, please see K.A.R. 4-34-5: Licenses issued by the department; general requirements for licensees for general license rules and regulations.

Please click on the year for which you would like to view the licensing information.

Expired and Active Industrial Hemp Program Licenses (active lists updated 02-01-2020)

License Type	Expired*	Active
Grower	2019	2020
Distributor	2019	2020
Processor	2019	2020
State Educational Institution	2019	2020

* 2019 Licenses expired 01-31-2020

SEARCH OPTION:
Access to names and license numbers for all active licensees (primary and secondary) in the Industrial Hemp Research Program may be found accessing the Industrial Hemp Licensee Search. You may search via a licensee's last name to view all licenses associated with that individual; an individual may be associated with multiple licenses. Furthermore, you may search via license number to view all individuals associated with a license.

Please access the portal following the link below:

https://portal.kda.ks.gov/ihrp/ihrpreport/individualsearch

The Kansas Department of Agriculture will not provide contact information for the individuals listed without completion of an open records request and a confirmation of a confidentiality agreement. Please do not solicit information from these individuals. PROHIBITED USES: K.S.A.

Figure 2: Kansas Department of Agriculture Industrial Hemp Research Program license information

KDA Industrial Hemp Research Program 2020 Fees

Fee Type	Program Fees*	Fee Due Date
KBI Fingerprint Fee	**$47** (nonrefundable; This is the KBI's standard fingerprint-based criminal history record check fee. It will be collected by KDA and submitted to the KBI.)	At the time the research license application is submitted
Application Fee	**$200** (nonrefundable; does NOT apply to License Fee)	At the time the research license application is submitted
License Fee – GROWER	**$1,000 License Fee**	Within 15 days of receipt of notice of conditional approval
License Fee – DISTRIBUTOR	**$2,000** (for each licensed research section)	Within 15 days of receipt of notice of conditional approval
License Fee – PROCESSOR	**Fees per Processing Type** • **Fiber Processor — $3,000** for each processing facility in a licensed research section and for each mobile processing facility • **Grain Processor — $3,000** for each processing facility in a licensed research section and for each mobile facility • **Floral Material Processor — $6,000** for each processing facility in a licensed research section and for each mobile facility	Within 15 days of receipt of notice of conditional approval
Each license fee shall include the cost for the department's initial sample collection and initial laboratory test.		
Subsequent Sampling Fee	**Transportation and inspection time at $45 per hour, and mileage at the rate fixed and established by the Department of Administration**	
Testing Fees	**$250 per laboratory test**	
Modification Fee	**$50 for each requested change to a license previously issued by the department**	

Figure 3: License fee schedule

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Activities conducted by licensed growers in Kansas

Table 2: Acreage licensed, planted, and harvested as of 02/03/2020.

	2019		2020*	
Activity	Acreage	# of counties	Acreage	# of counties
Licensed	~5,700	70	7,044	63
Planted	2,770	58	?	?
Harvested*	1,755	52	?	?

- Approximately 90% of the planted acreage in 2019 was grown for the floral material [cannabidiol (CBD) production]
- 99% of the planted acreage was grown outdoors.
- Approximately one-third of the Kansas growers have sold their product as of 01/08/2020

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2019 Summary of Planted Acreage in KS

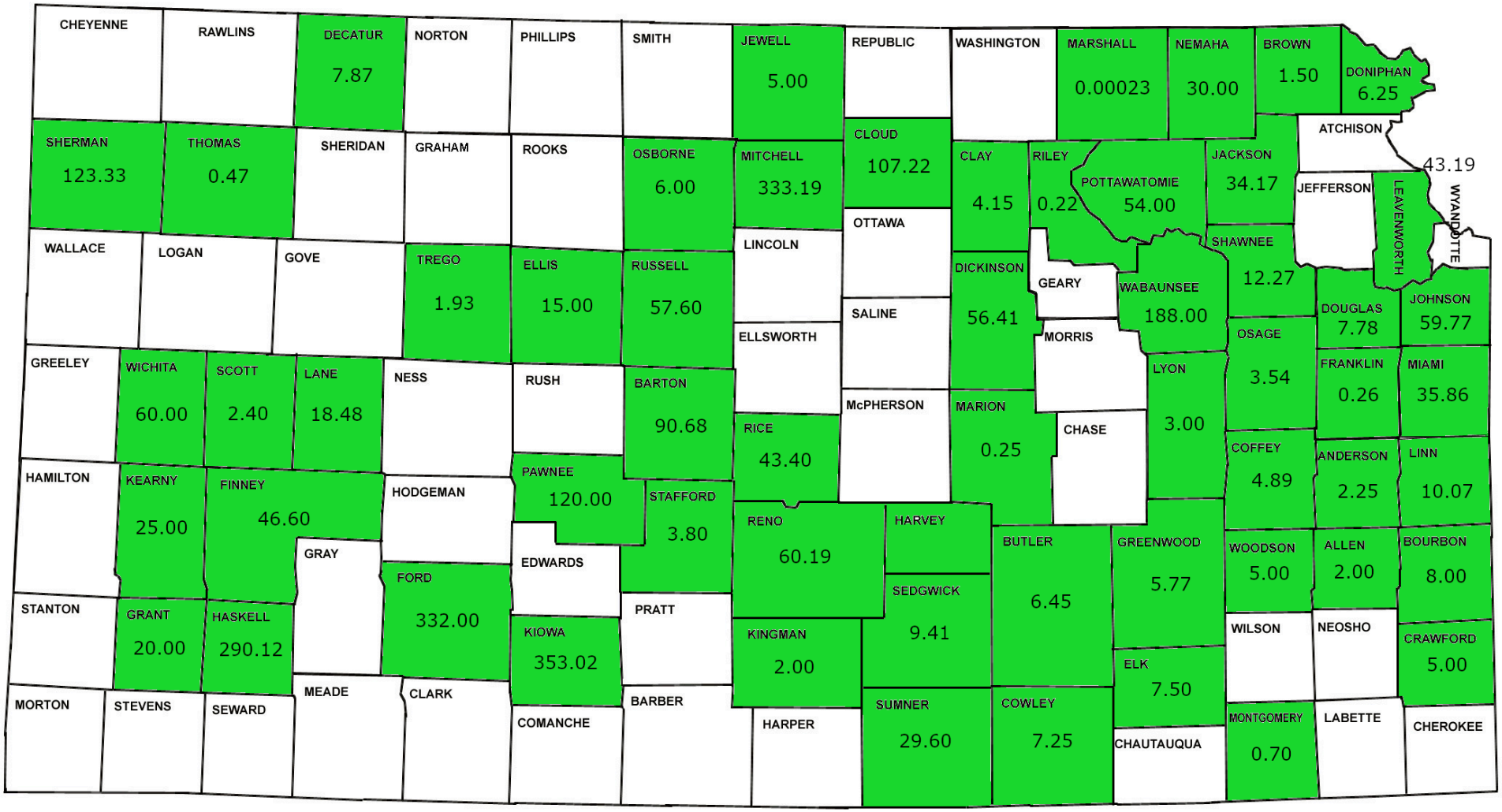

Figure 4: Distribution map of 2,770 acres planted of industrial hemp in 2019.

2019 Summary of Planted Acreage

Table 3: Ten KS counties with most planted acreage of industrial hemp in 2019

County	Region	Acreage Planted
Kiowa	SW	353.02
Mitchell	NC	333.19
Ford	SW	332.00
Haskell	SW	290.12
Wabaunsee	NE	188.00
Sherman	NW	123.33
Pawnee	NC	120.00
Cloud	NC	107.22
Barton	NC	90.68
Reno	SC	60.19

Table 4: Five of the most planted varieties of industrial hemp in Kansas during 2019

Variety*	Acreage Planted
Cherry Wine	838.48
Proof of Life	353.02
Otto II	234.54
T1	198.56
Otto II: Endurance	188.02

*Fifty-seven differently named varieties of industrial hemp were planted in 2019

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2019 Summary of Harvested Acreage

Table 5: Acreage licensed, planted, and harvested in 2019

	2019		
Activity	Acreage	% of Licensed	% of Planted
Licensed	~5,700	100%	NA
Planted	**2,770**	**49%**	100%
Harvested*	**1,755**	**31%**	**63%**

*still compiling applicable 2019 harvest reports

- Roughly 63% of planted acreage was harvested. Why?
  - Precipitation
  - Improper cultural techniques
  - Poor seed/clones
  - Weed and pest pressure
  - Lack of plant maturity
  - Herbicide drift/carryover
  - Fertilized by naturalized cannabis (quality)
  - Exceeding 0.3% THC
  - Lack of labor

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Simplified Flow Chart of Grower Reporting, Inspections and Compliant Harvests

Planting Report

Due no more than 15 days after each planting of industrial hemp in each research area

(K.A.R. 4-34-20b)

Plant growth and development

Pre-Harvest Report

Due no less than 30 days before each indicated harvest date (removal of industrial hemp from a research area)

(K.A.R. 4-34-20d)

Inspection scheduled and takes place where a compliance sample is generated from the indicated research areas for harvest

Report of Analysis

Pass; < or = 0.3%THC

Fail; >0.3% THC

(K.A.R. 4-34-18)

Passing hemp Harvested and indicated to the KDA

Harvest Report

Due no more than 5 days after a completed industrial hemp harvest

(K.A.R. 4-34-17f)
(K.A.R. 4-34-20b)

*Only applicable for a passing report of analysis

The licensee shall have 10 days to fully harvest the industrial hemp plants, plant parts, grain, or seeds after the issuance of a passing report of analysis (K.A.R. 4-34-17)

Certificate of Harvest

Will only be applicable for the research areas indicated in the pre-harvest report, report of analysis, and harvest report

A compliant industrial hemp crop may be sold to an licensed distributor, processor, or out of the state

Production Report

Due no more than 30 days after the last harvest date for every harvest.

(K.A.R. 4-34-20e)

Research Report

Due November 30

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While the Kansas Department of Agriculture has made every effort to accurately reproduce statutes and regulations, they are not the official statutes and regulations of the State. The Kansas Statutes Annotated (K.S.A.), published by the Revisor of Kansas Statutes, and the Kansas Administrative Regulations (K.A.R.), published by the Secretary of State should be consulted for the text of the official statutes and administrative regulations of the State.

2019 Licensed Distributors

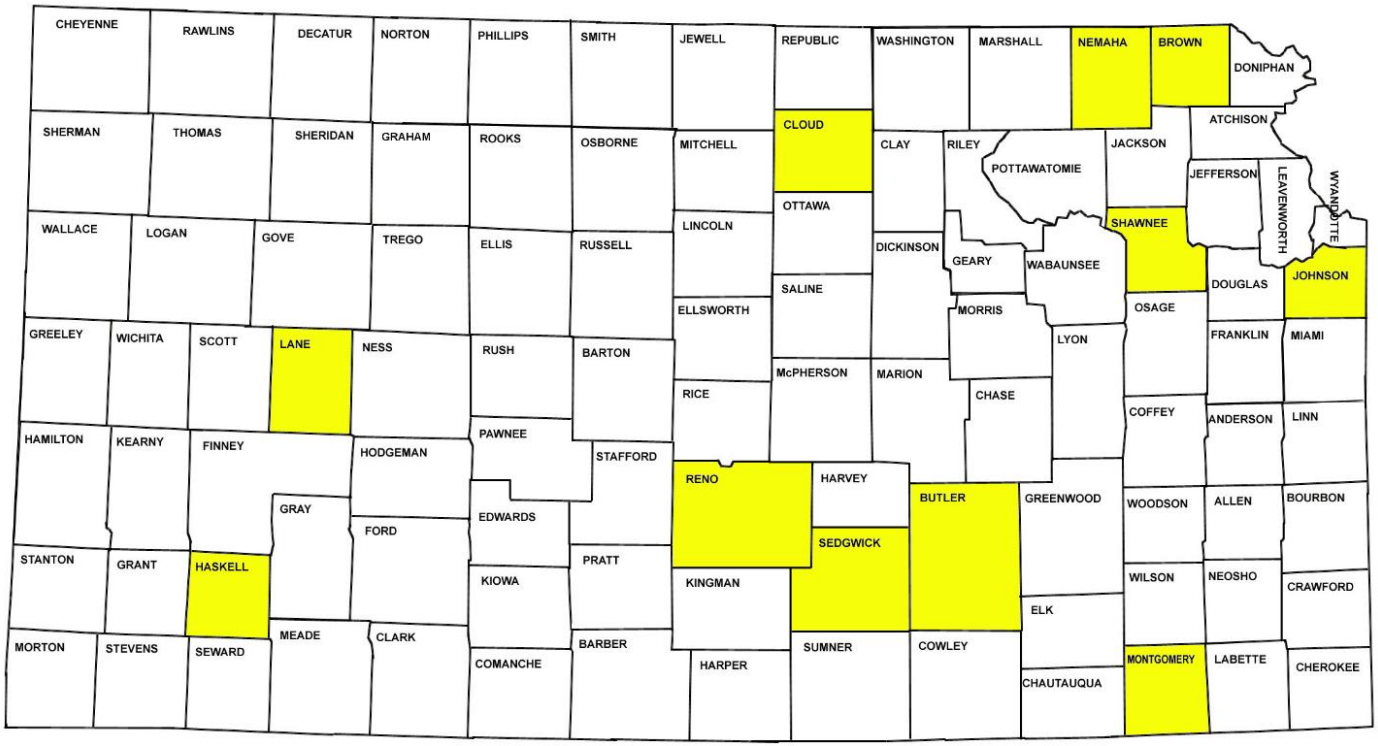

Figure 5: Distribution map of issued distributors licenses by county in 2019.

Table 4: Licensed distributors in 2019 program by county

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

2019 Licensed Processors

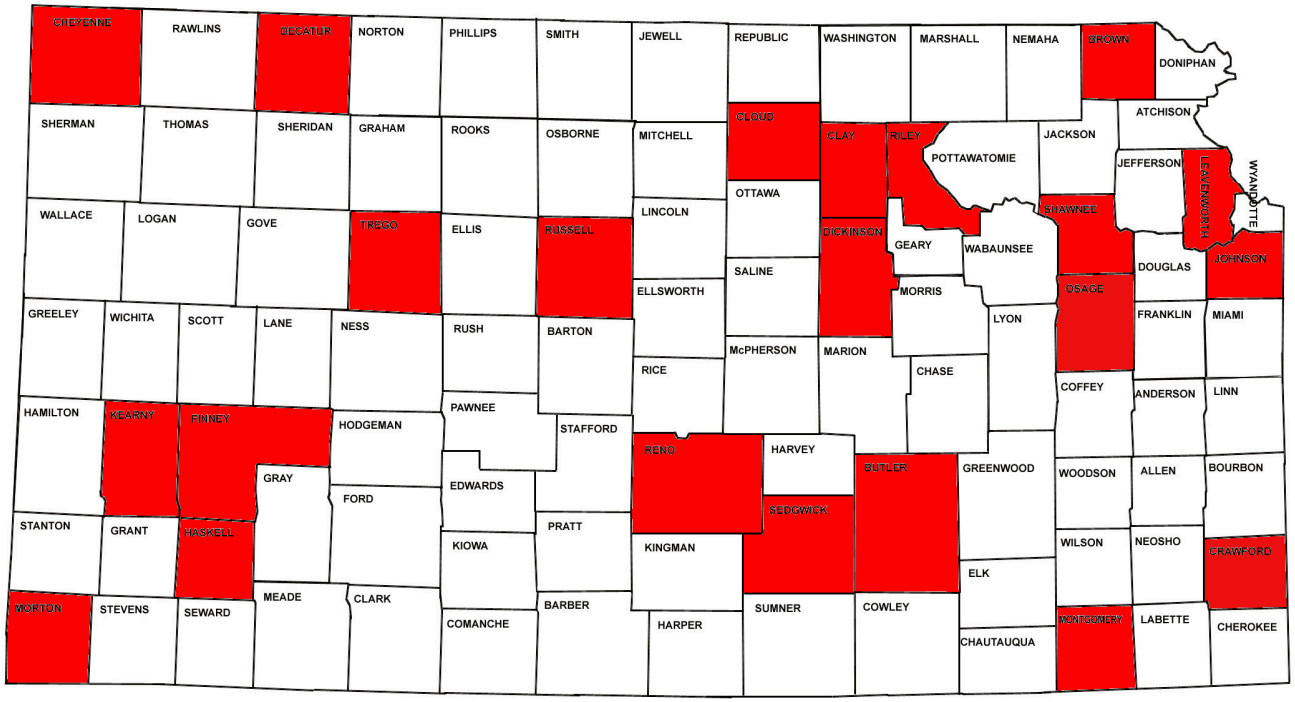

Figure 3: Distribution map of issued processor licenses by county in 2019.

Table 7: Licensed processors in 2019 program by county

County	Licenses	County	Licenses
Brown	1	Kearny	1
Butler	2	Leavenworth	2
Cheyenne	1	Montgomery	1
Clay	1	Morton	1
Cloud	1[z]	Reno	4
Crawford	1	Riley	1
Decatur	1	Russell	1[y]
Dickinson	3	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
**Only 30% of the licensed processors conducted actives in 2019

Unlawful activities – K.S.A. 02-3906

- Unlawful to manufacture, market, sell or distribute
  - Cigarettes, cigars, chew, dip or other smokeless material, tea, liquids, or solids/gases containing industrial hemp for use in vaporizing devices or containing industrial hemp;
  - any other hemp product or ingredient from hemp intended for human or animal consumption prohibited pursuant to the Kansas food, drug and cosmetic act, K.S.A. 65-636 et seq., the commercial feeding stuffs act, K.S.A. 2-1001 et seq. (*does not include cannabidiol*)
  - certain hemp products (industrial hemp buds or ground industrial hemp floral and leaf materials) to an individual who has not been issued a license by KDA or is not a registered hemp processor

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Status of Industrial Hemp – Where we are headed.

- 2018 Federal Farm Bill (Dec. 2018)- USDA
  - Authorized commercial production of industrial hemp (hemp)
  - State departments of ag and tribal nations must submit plans for inclusion into U.S. Domestic Hemp Program before Oct. 31, 2020
  - If a state or tribal nation does not submit a plan, USDA will licenses producers in that state or tribal nation

- Senate Sub. House Bill 2167 (Apr. 2019)- Kansas
  - Commercial Industrial Hemp Act. authorized KDA to develop a commercial program plan and submit to USDA for inclusion into U.S. Domestic Hemp Production Program

- Interim Final Rule on Domestic Hemp Production (Oct. 2019)- USDA
  - Criteria for plan approval and set certain requirements states and tribal nations must follow

- **Kansas Plan Submission to USDA for inclusion into U.S. Domestic Hemp Production Program (Jan. 2020)**

- **Proposed Commercial Industrial Hemp Program Kansas Administrative Rules and Regulations (Jan. 2020)**

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Status of State and Tribal Hemp Production Plans for USDA Approval

Table 6: Status of Tribal hemp production plans

Status	Count
Approved Plans	7
Drafting a Plan for USDA Review	5
Pending Resubmission	1
Under Review	12
Total	**25**

Table 7: Status of State hemp production plans

Status	Count
Approved	6
Drafting a Plan for USDA Review	7
Pending Resubmission	4
Under Review	12
USDA Hemp Producer License	1
Will continue to operate under 2014 FB	10
Total	**40**

What are our neighbors doing?

- Colorado and Missouri- Will continue to operate under 2014 FB
- Iowa- Under review
- Nebraska- Approved
- Oklahoma- No indication

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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
     - Licensing hemp producers

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 becomes non-compliant
   - Procedures that require hemp testing labs to conform to standards and register with DEA

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2. Accurate and effective sampling and testing

- When does sampling occur?
  - 15 days or less from harvest.
- May only be collected by authorized KDA representative
- Require homogeneous samples that representative of a lot
- Samples collected are quantified for THC by KDAL for compliance
  - Delta-9 THC neutral and Delta-9 THC acid (THCA)

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https://www.ams.usda.gov/rules-regulations/hemp/information-sampling

What is a lot?

an area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout

Lot 1
(39.201913, -96.577039)
Variety 1
Planting Date: 05/01/2020

Lot 2
(39.202389, -96.576778)
Variety 1
Planting Date: 05/15/2020

Lot 3
(39.201948, -96.576516)
Variety 2
Planting Date: 05/30/2020

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"Lot" is synonymous with what is currently considered a "research area"

U.S. Domestic Hemp Production Program requirements cont.

3. Disposal

- **Procedures for disposal of non-compliant plants**
- **Procedures to notify USDA of non-compliant plants**

4. Inspection Procedures

- Annual inspections where "random sample' of licensed producers is taken 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

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Effective disposal of non-complaint plants (>0.3% THC)

- Interim Final Rule on hemp production requires plants (>0.3% THC) to be disposed by CSA and DEA regulations.
  - By this rule, the only allowance for destruction by CSA and DEA regulations could be conducted by law enforcement officials
- State legislation may need to be passed to allow KDA officials to develop a plan for the effective disposal of industrial hemp in coordination with the state and local law enforcement (SB No. 345).

Table 8: Summary of 2019 issued reports of analyses of industrial hemp by KDA

Reports of Analyses Disseminated	Count	% Total
PASS (<0.3% THC)	150	94%
FAIL (>0.3% THC)	9	6%
Total	159	100%
Type		
Licenses issued failing reports	7	
Licensees issued failing reports	6	
Retests	4	
Passing Retests	2	
Failing Retests	2	
Voluntary Destructions	3	
Destruction Orders*	2	

***52 acres ordered for destruction by KDA**

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U.S. Domestic Hemp Production Program requirements cont.

6. Compliance with enforcement procures
   - Corrective action plan and procures to provide correction for negligent violations (failure to provide records, obtain license, growing *Cannabis* in exceedance to acceptable limit
     - < 0.5% THC negligent violation
     - > 0.5% THC nonnegligent violation
   - Procedures for addressing controlled substance felonies and individuals' eligibilities

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

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Largest Potential Changes Research from Commercial Hemp Production in KS

Table 9: Largest potential changes from research to commercial program in KS

Activity	Research (Current Program)	Commercial
Licensing	Annually- Grower, Distributor, Processor & State Educational Institutions	Annually- Hemp Producer (growing/ cultivating); already licensed research growers will become producers
Registries	NA	Annually- Hemp Processor Registry; already licensed research processors will become registered
Reporting	Planting, Pre-harvest, harvest, voluntary destruction, production and research reports	Planting, Pre-harvest, harvest and voluntary destruction reports
Licensees/ Registrants	Every individual involved with hemp-related activities	"key participants" on hemp producer license; all individuals for processing

When can I apply for a license?

- KDA is not currently accepting applications for 2020
  - The 2020 Industrial Hemp Research Program submission deadline was November 30, 2019

- Commercial Program License: 2020?
  - Dependent on USDA approval; and
  - State rule and regulation approval and adoption

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USDA Hemp and Farm Programs

Crop Insurance USDA will provide criteria for qualification

- Whole-Farm Revenue Protection (2020)- RMA
- MPCI Pilot Insurance Program (2020)- RMA
- Noninsured Crop Disaster Assistance Program (2020)- FSA
- Nursery Crop Insurance (2021)- RMA

NRCS Conservation Programs

Next Steps

USDA is working to make available program options for hemp producers. As information is available, USDA will post on **farmers.gov/hemp**. If you have additional questions, contact your local USDA service center, which you can find at **farmers.gov/service-locator.**

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Federal Drug Administration (FDA)

- Authority over foods, dietary supplements, human and veterinary drugs, and cosmetics
- **Hemp seed products that do not contain CBD 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® (cannabidiol)
- 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.

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FDA cont.

- Large concern is the marketing of hemp products that contain CBD or CBD products that make unsubstantial or 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 potentially contain dangerous compounds not listed on the label from extraction and manufacturing processes
- Rulemaking for hemp products that contain CBD and CBD products can take anywhere from 3-5 years

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Environmental Protection Agency (EPA)

- 10 new pesticide product registrations approved by EPA for use on industrial hemp.
- These new product registrations involve biological and microbial chemicals, which tend to be very low impact on the environment.
- These pesticides must be registered in KS and the each label should be maintained for use on hemp by the product applicant.

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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 animal use in animal feed. The FDA has regulatory also has authority over feed products.**

- Hemp and hemp products may not be used in animal or pet food in the US.

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

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Other KDA involvement with hemp-related activities

Plant Protection and Weed Control https://agriculture.ks.gov/divisions-programs/plant-protect-weed-control

- Seed dealer registrations

Division of Water Resources https://agriculture.ks.gov/divisions-programs/dwr

- Water appropriations

Pesticide and Fertilizer https://agriculture.ks.gov/divisions-programs/pesticide-fertilizer

- Product registrations (pesticides and soil amendments)
- Pesticide applicator certification

Weights & Measures https://agriculture.ks.gov/divisions-programs/weight-measures

- Scales
- Labeling of packages

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Outreach Events

- May 11, 2018 – January 31, 2019
- 3,207 individuals have participated in outreach events which KDA has presented. 2,033 in CY 2019 – 50 unique events.
- Outreach team includes: Dr. Jason Griffin (KSRE), Braden Hoch and Dana Ladner.

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Predictions? – Moving target

- Industrial hemp regulation and enforcement is going to be extremely dynamic for the next couple years
  - Some states will continue to operate under 2014 Farm Bill until 2021

- The IFR for domestic hemp production has a two year sunset where the final rule will be established on or before November 1, 2021. States will know more that this time.

- The Federal Drug and Drug Enforcement Administrations have yet to completely weigh in

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Growing the Kansas Economy

- Considering 13 of the 35 licensed processors conducted activities in 2019.
  - Counties included: Dickinson, Harvey, Haskell, Johnson, Leavenworth, Montgomery, Reno, and Sedgwick
- A number of new companies reached out to KDA and the Department of Commerce for guidance on establishing new markets for industrial hemp in Kansas. Inquires were made on fiber, seed and oil end-use products.

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Resources agriculture.ks.gov/industrialhemp

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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 (IFR) 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 IFR occurred on Oct. 31, 2019. The USDA has already approved some states' plans for 2020.

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

The 2020 Industrial Hemp Research Program submission deadline was November 30, 2019. KDA will contact the primary applicants and licensees as indicated in received applications for confirmation of application receipt. Please be patient as KDA reviews applications for their completeness as additional correspondence will be shared concerning each application's review process.

If you submitted an application and have NOT received a confirmation email (sent on Friday, Dec. 6) please contact the KDA Industrial Hemp Research Program staff at kda.industrialhemp@ks.gov.

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

Kansas Department of Agriculture

KDA E-mail Contacts

KDA Plant Protection and Weed Control

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