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## Industrial Hemp

### Article 34. INDUSTRIAL HEMP

### Kansas Administrative Regulations

**4-34-1. Definitions.** Each of the following terms, as used in this article of the department's regulations, shall have the meaning specified in this regulation:

(a) "Act" means the commercial industrial hemp act, K.S.A. 2019 Supp. 2-3901 et seq. and amendments thereto.

(b) "Administrative license" means a license issued to any of the following:

(1) An individual appointed as a member of the state advisory board;

(2) an individual employed by the designated certifying agency who requires licensure as a result of the individual's assigned employment duties and is involved in the administration of the designated certifying agency's responsibilities pursuant to the pilot program;

(3) an individual employed by the department who is involved in the administration, regulation, or oversight of the pilot program or an individual employed by the department who requires licensure as a result of the individual's assigned employment duties; or

(4) an individual who is an employee or agent of a bank, financial institution, or other creditor that has a legal right to take possession of industrial hemp for the purposes of settling a debt.

(c) "Approved variety of industrial hemp" means a variety or strain of industrial hemp authorized for use in the pilot program.

(d) "Certifying agency" has the meaning specified in K.S.A. 2-1415, and amendments thereto.

(e) "Condition," as used in this article of the department's regulations, means to clean or to clean and blend seed within a licensed research section, in order to meet the requirements of agricultural seed for the purpose of being planted or seeded. Seed that has undergone this process is known as "conditioned."

(f) "Department" means Kansas department of agriculture.

(g) "Destroy" means to make incapable of being harvested or processed by means of being incinerated, tilled under the soil, or made into compost or by using another manner approved by the secretary. This process is known as "destruction," which is a type of "effective disposal" as defined in K.S.A. 2019 Supp. 2-3901 and amendments thereto.

(h) "Devitalize" means to render incapable of germinating.

(i) "Grain," as used in this article of the department's regulations, means an industrial hemp plant's unit of sexual reproduction intended to be consumed or processed into hemp products.

(j) "Ground cover" means any species of grass, legume, or forb that is planted to provide seasonal soil cover and is not intended to be harvested.

(k) "Handle" means to cause any movement of industrial hemp on or within a licensed research section.

(l) "Harvest" means to remove industrial hemp plants, plant parts, grain, or seeds from the research area where the industrial hemp plants, plant parts, grain, or seeds were cultivated, planted, or grown.

(m) "Harvest certificate" means a document issued by the department to the primary licensee, after the industrial hemp plants, plant parts, grain, or seeds are harvested, that includes information to assist in identifying the industrial hemp plants, plant parts, grain, or seeds that were harvested.

(n) "Individual" means a natural person.

(o) "Licensed growing area" means an area that is identified on an application or license for cultivating or producing industrial hemp for commercial purposes, can consist of a single primary section legally designated by the public land survey system, and may include an additional half mile in any direction beyond the primary section.

(p) "Licensed research distributor" means an individual licensed by the department to handle, condition, store, distribute, or transport raw, harvested industrial hemp plants, plant parts, grain, or seeds in Kansas.

(q) "Licensed research grower" means an individual licensed by the department to cultivate, plant, grow, handle, harvest, condition, store, distribute, or transport industrial hemp plants, plant parts, grain, or seeds in Kansas.

(r) "Licensed research processor" means an individual licensed by the department to handle, store, or process industrial hemp plants, plant parts, or grain and take part in any aspect of turning raw, harvested industrial hemp into a hemp product in Kansas.

(s) "Licensed research section" means a section legally designated by the public land survey system that is identified in the license issued by the department establishing where a licensee may cultivate, plant, grow, handle, harvest, condition, store, distribute, transport, or process industrial hemp plants, plant parts, grain, or seeds. A licensed research section may include land, structures, and buildings that are not used to cultivate, plant, grow, handle, harvest, condition, store, distribute, transport, or process industrial hemp plants, plant parts, grain, or seeds.

(t) "Licensee" means any individual who possesses a valid license issued by the department pursuant to the act.

(u) "Lot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout the area.

(v) "Pilot program" means the industrial hemp research program administered by the department pursuant to the act.

(w) "Plant part" means any portion of an industrial hemp plant, including any of the following:

- (1) Whole or partial unprocessed plants, including stalk, leaf, seed, floral, and root materials;
- (2) raw roots;
- (3) fresh, unprocessed, dried, or ground leaves or floral material; or
- (4) rooted plants, cuttings, propagules, or clones.

(x) "Primary licensee" means an individual at least 18 years of age who was issued a research license by the department and who shall be responsible for ensuring that all licensees listed on the research license application submitted by that individual comply with the requirements of the act and any implementing regulations.

(y) "Research area" means a location within a licensed research section used for the cultivation, planting, growth, handling, harvesting, conditioning, storage, distribution, transporting, or processing of industrial hemp plants, plant parts, grain, or seeds.

(z) "Secretary" means secretary of the Kansas department of agriculture or the secretary's designated representative.

(aa) "Seed," as used in this article of the department's regulations, means an industrial hemp plant's unit of sexual reproduction intended to be planted for germination.

(bb) "Variety" means a subdivision of a species that meets the following conditions:

(1) Is uniform, in the sense that the variations in essential and distinctive characteristics are describable;

(2) is stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and

(3) is distinct, in that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other publicly known varieties.

(cc) "Volunteer plant" means any plant of the genus cannabis that grows of its own accord from seeds or roots and is not intentionally planted. (Authorized by and implementing K.S.A. 2019 Supp. 2-3902; effective Feb. 8, 2019; amended Feb. 26, 2021.)

**4-34-2. Certified seed.** (a) All certified seed shall be considered "agricultural seed" subject to the Kansas agricultural seed act, K.S.A. 2-1415 et seq. and amendments thereto, and the implementing regulations.

(b) No certification of seed shall be made unless by or on the authority of the designated certifying agency. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-3. License approval process.** (a) Each individual wanting to conduct research pursuant to the pilot program shall submit or be listed on a completed, accurate, and legible research license application. Each research license application shall be submitted on a form provided by the department and shall designate the individual wanting to be the primary licensee and all proposed licensees. Each research license application shall include a research proposal and all required state and national criminal history record check and application fees, except that an individual wanting to be a primary licensee on a state educational institution license shall not be required to submit an application fee.

(b) Each individual issued an administrative license, each individual wanting to be a primary licensee, and each individual listed on a research license application shall meet the following requirements:

(1) Be fingerprinted and submit to a state and national criminal history record check, which shall be performed by the Kansas bureau of investigation;

(2) submit payment for the fingerprint-based criminal history record check to the Kansas bureau of investigation; and

(3) submit payment for the costs of fingerprinting to the law enforcement agency that provided the fingerprinting services.

(c) Each individual wanting to be a primary licensee and each individual listed on a research license application shall submit that individual's fingerprints and a state and national criminal history record check no more than 30 days before submitting the research license application to the department.

(d) Following the department's receipt of the completed research license application, verification that all individuals passed the state and national criminal history record check, and the application fees, the research license application shall be reviewed by the state advisory board and either rejected or recommended for approval and forwarded to the secretary.

(e) Following the secretary's review, each research license application shall be denied or conditionally approved. The individual wanting to be the primary licensee shall be notified by the department of the denial or conditional approval in writing. Each research license application for

a state educational institution license shall be reviewed solely by the secretary and shall be denied or approved. If approved, each state educational institution license shall be issued by the department and the licensee may begin the approved research.

(f) Upon conditional approval of a research license application, the individual wanting to be the primary licensee shall remit the applicable license fees for each approved license category within 15 days of receipt of the department's written notice of conditional approval. Once the department receives the applicable license fees, the research license application shall be officially approved and each appropriate license shall be issued by the department. Upon receipt of the research license, the licensee may begin the approved research. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-4. Research license applications.** (a) Each individual wanting to be a primary licensee shall identify the following on the research license application:

(1) Each owner of all land, structures, and buildings where any proposed research will be conducted;

(2) each owner of all motor vehicles that will be used to distribute or transport industrial hemp plants, plant parts, grain, or seeds;

(3) each individual that will own 10 percent or more of the industrial hemp plants, plant parts, grain, or seeds being cultivated, planted, or grown; and

(4) each individual that will otherwise be involved in the research proposal, including those individuals that will be engaged in the purchasing, researching, cultivating, planting, growing, handling, harvesting, conditioning, storing, distributing, transporting, processing, studying, analyzing, or selling of industrial hemp plants, plant parts, grain, or seeds.

(b) Each research license application shall include the following:

(1) A research proposal submitted on a form provided by the department that includes the following, at a minimum:

(A) A statement of the type of research to be conducted;

(B) the purpose of the research;

(C) the data that will be collected;

(D) the location where the research will occur;

(E) the number of acres or square feet that will be used to conduct the research;

(F) the methods to be used in conducting the research;

(G) the intended duration of the research;

(H) the anticipated results of the research; and

(I) any other relevant information that the secretary requests;

(2) legal descriptions and maps depicting each location where industrial hemp plants, plant parts, grain, or seeds will be cultivated, planted, grown, handled, harvested, conditioned, stored, distributed, transported, or processed, including appropriate designations for field identifications and boundaries and the global positioning system coordinates;

(3) a description of each vehicle that will be used for transporting or distributing industrial hemp plants, plant parts, grain, or seeds, including the make, model, license plate number, and color; and

(4) a list of each individual who will transport any industrial hemp plants, plant parts, grain, or seeds, along with a copy of the individual's current driver's license.

(c) Each research license application shall be submitted to the department on an annual basis, on a form provided by the department. Each research license application shall be submitted to the department no later than March 1 for the 2019 growing season and no later than November 30 for each subsequent growing season.

(d) Incomplete or illegible research license applications shall not be accepted, and the application fees shall not be refunded.

(1) Any individual wanting to be a primary licensee may complete or resubmit a previously incomplete or illegible research license application no later than November 30.

(2) For the 2019 growing season, any individual wanting to be a primary licensee may complete or resubmit a previously incomplete or illegible research license application no later than March 1.

(e) Any individual may apply for multiple licenses in a single license category or multiple license categories. Each individual shall provide the department with all required information for each license being sought along with payment of separate application fees and license fees.

(f) A research license application may be denied and the application fees shall not be refunded if at least one of the following conditions is met:

(1) The research license application is not submitted by the established deadline.

(2) The research license application does not include the application fees.

(3) Any individual identified on the research license application fails to submit to the state and national criminal history record check as required.

(4) Any criminal history records check reveals that an individual identified on the license application has been convicted of any crime specified in K.S.A. 2018 Supp. 2-3902, and amendments thereto, or a violation of any law of another jurisdiction that is in substantial conformity with the offenses listed in that statute.

(5) The research license application does not include a research proposal.

(6) The research license application includes a home or residence as a location to cultivate, plant, grow, handle, harvest, condition, store, distribute, transport, or process industrial hemp plants, plant parts, grain, or seeds. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-5. Licenses issued by the department; general requirements for licensees.** (a) Each license issued by the department shall establish the requirements governing each licensee's participation in the pilot program. Any violation of the terms and conditions specified in a license may result in the revocation of any license held by the licensee and denial of future applications. Each licensee shall comply with all instructions from representatives of the department and local, state, and federal law enforcement agencies pertaining to the licensee's involvement in the pilot program.

(b) Before cultivating, planting, growing, handling, harvesting, conditioning, storing, distributing, transporting, processing, researching, overseeing, studying, or analyzing industrial hemp plants, plant parts, grain, or seeds for research purposes at any location in Kansas, each individual shall obtain a license issued by the department.

(c) Before a license is issued by the department, license fees shall be paid as required by K.A.R. 4-34-12. Failure by the individual wanting to be the primary licensee to pay the license fees within 15 days of receipt of notice of conditional approval shall terminate the approval process of the research license application, and the requested licenses shall not be issued by the department.

(d) Except in the case of the death of the primary licensee, a license issued by the department shall not be sold or transferred. If the primary licensee dies, any individual listed on the research license application that has also been issued a license may request that the department modify the license as required by K.A.R. 4-34-13.

(e)(1) Each licensee shall use or allow to be used as part of the pilot program only industrial hemp plants, plant parts, grain, or seeds from varieties currently designated by the department as approved varieties of industrial hemp. The department's document titled "approved varieties of industrial hemp for planting," dated October 15, 2018, is hereby adopted by reference.

(2) Upon request of the individual wanting to be the primary licensee, any licensees listed on that individual's research license application may be authorized by the secretary to cultivate, plant, grow, handle, harvest, condition, store, distribute, transport, or process varieties of

industrial hemp other than those varieties identified under paragraph (e)(1), if doing so is appropriate and consistent with the individual's research proposal.

(f) At all times while a licensee is engaged in cultivating, planting, growing, handling, harvesting, conditioning, storing, distributing, transporting, processing, researching, overseeing, studying, or analyzing industrial hemp plants, plant parts, grain or seeds pursuant to the pilot program, the licensee shall have that individual's current license authorizing the activity in possession.

(g) Each license issued by the department shall be valid from the date of issuance until the expiration date unless the license is revoked by the department. Each license shall expire on January 31, following the date of issuance. An individual may apply for a license in successive years by completing a research license application, state and national criminal history records check, fingerprinting, and paying the application and license fees. Issuance of a license in one year shall not guarantee issuance of a license in any subsequent year.

(h) A license shall not be issued by the department to an individual if the individual's research license application includes a location approved by the department as a research area in a license previously issued by the department in the same license year. Any individual may request that the department approve multiple licensed research sections. However, each request shall require a separate research license application, application fees, and license fees.

(i) Any primary licensee may be approved by the department to cultivate, plant, or grow industrial hemp plants, plant parts, grain, or seeds on an acreage or square footage that is equal to or less than the acreage or square footage stated in the research license application. Industrial hemp plants, plant parts, grain, or seeds may be cultivated, planted, or grown on an acreage or square footage that is equal to or less than the approved acreage or square footage. Completion of a modification request form shall not be required if a primary licensee elects to cultivate, plant, or grow industrial hemp plants, plant parts, grain, or seeds on an acreage or square footage that is less than the acreage or square footage authorized in the license.

(j) Licensees shall use only approved varieties of industrial hemp when engaged in cultivating, planting, growing, handling, harvesting, conditioning, storing, distributing, transporting, or processing industrial hemp plants, plant parts, grain, or seeds, except that any primary licensee may request that the secretary approve varieties of industrial hemp pursuant to paragraph (e)(2).

(k) Each licensee growing seed for seed certification shall meet the requirements specified in the Kansas agricultural seed act, K.S.A. 2-1415 et seq. amendments thereto, and the implementing regulations.

(l)(1) Each licensee shall consent to the department's providing information to law enforcement, fire, and rescue agencies and the public regarding each research area. Additionally, each licensee shall consent to the department's providing information about any licensed research section or research area, including global positioning system coordinates, to representatives of the Kansas bureau of investigation, United States drug enforcement agency, and other law enforcement agencies if representatives of any of these agencies request the information.

(2) Each licensee shall consent to the department's providing appropriate law enforcement agencies in each county with copies of the licensee's license.

(m) Each research area shall be subject to inspection by the department. Each representative of the department shall have complete, unrestricted, and immediate access to all industrial hemp plants, plant parts, grain, and seeds, whether growing or not, including access to all land, buildings, facilities, motor vehicles, and other structures listed on the license issued by the department. Access shall be granted whether the licensee is present or not, at reasonable times, without interference or obstruction, with or without cause, and with or without advance notice. The right of access shall include the unrestricted right to inspect or take samples of any industrial hemp plants, plant parts, grain, or seeds present at the location being

accessed, as well as the right to inspect any reports or records pertaining to the licensee's research.

(n) Each licensee shall permit the department to perform any inspections and to collect any samples of any industrial hemp plants, plant parts, grain, or seeds at any time.

(o) Each licensee shall submit all reports required by the department on or before the specified deadlines.

(p) Each primary licensee shall retain, for at least five years, all records created as a result of the primary licensee's participation in the pilot program unless otherwise ordered by the secretary. The records shall be made available for inspection by the department, the Kansas bureau of investigation, and any other law enforcement agencies upon request.

(q) Each licensee shall ensure that any individual applying pesticides to industrial hemp plants or plant parts complies with the Kansas pesticide act, K.S.A. 2-2438a et seq. amendments thereto, and the implementing regulations.

(r) Each licensee shall be solely responsible for that licensee's risk of financial or other loss as a result of participating in the pilot program.

(s) A licensee shall not allow industrial hemp plants, plant parts, grain, or seeds to be cultivated, planted, grown, handled, harvested, conditioned, stored, distributed, transported, or processed at any location other than the locations included on the license issued by the department.

(t)(1) Each licensee shall immediately notify the department of any interaction with law enforcement related to the licensee's participation in the pilot program, as well as any contact with law enforcement related to criminal charges or a criminal investigation involving any crime specified in K.S.A. 2018 Supp. 2-3902, and amendments thereto, or a violation of any law of another jurisdiction that is in substantial conformity with the offenses listed in that statute. The licensee shall provide a written follow-up summarizing the interaction and its outcome to the department within three calendar days of the interaction.

(2) Each primary licensee shall notify the department and appropriate law enforcement agencies of the theft of any industrial hemp plants, plant parts, grain, or seeds within three calendar days of the theft.

(u) A primary licensee shall not permit any individual to participate in the pilot program pursuant to the primary licensee's research license application if that individual's license was revoked by the department or that individual was denied admission to participate in the pilot program. Except when conducting educational activities, a licensee shall not allow access to any research area listed on the license, industrial hemp plants, plant parts, grain, or seeds by an individual whose license was revoked by the department or who was denied admission to participate in the pilot program.

(v) A primary licensee shall not rent or lease land, buildings, facilities, motor vehicles, or other structures that will be used to conduct research as part of the pilot program from any individual whose license was revoked by the department or who was denied admission to participate in the pilot program.

(w) Any licensee may host or engage in educational activities as authorized by the license issued by the department. Any licensee hosting or engaging in educational activities may allow members of the public access to each research area for the sole purpose of participating in educational activities. Any licensee may set up a public display booth showcasing the individual's research relating to industrial hemp plants, plant parts, grain, or seeds at trade shows, county fairs, or other similar events. Licensees shall not allow any members of the public to have physical contact with or possess any industrial hemp plants, plant parts, grain, or seeds and shall not transfer, distribute, trade, sell, give away, barter, or exchange for value any industrial hemp plants, plant parts, grain, or seeds to any member of the public.

(x) A licensee shall not conduct activities that involve industrial hemp plants, plant parts, grain, or seeds that are unrelated to the licensee's approved research proposal, license, or

educational activities at any location listed on the license, including industrial hemp-related activities involving an industrial hemp maze.

(y) A licensee shall not distribute industrial hemp plants, plant parts, grain, or seeds at any location that is not identified on the license, including trade shows, county fairs, educational or other events, and any other address not listed on the license. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019)



**Approved Varieties of Industrial Hemp for Planting  
October 15, 2018**

The following table includes the approved industrial hemp varieties that may be cultivated, planted, grown, handled, harvested, stored, distributed, transported, or processed in this state in accordance with the Industrial Hemp Research Program administered by the Kansas Department of Agriculture (“KDA”) pursuant to K.S.A. 2018 Supp. 2-3901 *et seq.*, and amendments thereto, and rules and regulations adopted thereunder.

Variety	Variety
Alyssa	Joey
Beniko	Katani
Canda	KCC13
Carmagnola	Martha
CC	Maui’s Cherry
CFX-1	Maui’s Cherry 2
CFX-2	MS77
Cherry Wine	MS77-CHG
Cobbler #8	OT
CRS-1	Otto II: Endurance
Delores	Otto II: Franklin
Eletta Campana	Otto II: Stout
Elite	Piccolo
Endurance LF 2/14	PR13
Fedora 17	Santhica 27
Felina 32	Seagull IH 1
Fibrol	Stout LF 2/14
Fibronova	Sweetened LF 2/14
Finola	T1
Franklin LF 2/14	Trump
Futura 75	Tygra
Georgina	USO 31
Grandi	Victoria
H2 Cherry 1-6	Wojko
HK05	Workhorse
HK08	X-59
Helena	Zolotonosha15

**4-34-6. Research grower license.** (a) In addition to the requirements of K.A.R. 4-34-5, each individual who is issued a research grower license by the department shall meet the following requirements:

- (1) Obtain industrial hemp plants or certified seeds from a licensed research distributor or from legally imported sources of industrial hemp;
- (2) obtain and retain a copy of each seed label for all certified seed planted, cultivated, or grown;
- (3) obtain and retain a copy of the following documents, if applicable:
  - (A) The research grower license of the primary licensee that cultivated, planted, grew, handled, harvested, conditioned, stored, distributed, or transported the industrial hemp plants or seeds being received;
  - (B) the research distributor license of the primary licensee that handled, conditioned, stored, distributed, or transported the industrial hemp plants or seeds being received; and
  - (C) the harvest certificate pertaining to the industrial hemp plants or seeds being received by the licensee or a bill of lading or other documentation identifying the source of the industrial hemp plants or seeds being received;
- (4) ensure that industrial hemp plants, plant parts, grain, or seeds are not interplanted with any other crop in any research area;
- (5) ensure that a copy of the harvest certificate pertaining to the industrial hemp plants, plant parts, grain, or seeds that were harvested or a bill of lading or other documentation identifying the source of the industrial hemp plants, plant parts, grain, or seeds accompanies the industrial hemp plants, plant parts, grain, or seeds being transported;
- (6) ensure that industrial hemp plants, plant parts, grain, or seeds are not commingled with any other commodity or other items being transported; and
- (7) survey and monitor any unlicensed growing areas, whether inactive or previously licensed as part of any research area, or never been licensed, including any ditches, fence lines, and other unmanaged land areas adjacent to the research areas, for volunteer plants and destroy any volunteer plants during the current license year and for at least three years after the last date of planting reported to the department.

(b) The primary licensee on each research grower license shall have a primary residence in Kansas.

(c) Any licensed research grower may cultivate, plant, grow, handle, harvest, condition, store, distribute, or transport industrial hemp plants, plant parts, grain, or seeds pursuant to the license issued by the department.

(d) A licensed research grower shall not handle, harvest, condition, store, distribute, transport, or process industrial hemp plants, plant parts, grain, or seeds cultivated, planted, or grown by another licensee without first obtaining any required license issued by the department.

(e) A licensed research grower shall not cultivate, plant, grow, handle, or harvest more than 80 acres in a licensed research section under one license in calendar year 2019 and shall not cultivate, plant, grow, handle, or harvest more than 320 acres in a licensed research section under one license in calendar year 2020. Each primary licensee on a research grower license who wants to cultivate, plant, grow, handle, or harvest more than the authorized acres in a licensed research section in any calendar year shall obtain an additional research grower license and pay all required application fees and license fees for the additional acreage.

(f) Each licensed research grower that cultivates, plants, grows, handles, harvests, conditions, stores, or transports industrial hemp plants or seeds that were obtained from outside Kansas shall maintain a bill of lading or other documentation that identifies the source of the industrial hemp plants or seeds to demonstrate that the industrial hemp plants or seeds were legally imported into Kansas. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-7. Research distributor license.** (a) In addition to the requirements of K.A.R. 4-34-5, each individual who is issued a research distributor license by the department shall meet the following requirements:

- (1) Obtain industrial hemp plants, plant parts, grain, or seeds from a licensed research grower, licensed research distributor, or licensed research processor or from legally imported sources of industrial hemp;
- (2) obtain and retain a copy of the following documents, if applicable:
  - (A) The research grower license of the primary licensee that cultivated, planted, grew, handled, harvested, conditioned, stored, distributed, or transported the industrial hemp plants, plant parts, grain, or seeds being received;
  - (B) the research distributor license of the primary licensee that handled, conditioned, stored, distributed, or transported the industrial hemp plants, plant parts, grain, or seeds being received;
  - (C) the research processor license of the primary licensee that handled or stored the industrial hemp plants, plant parts, or grain being received; and
  - (D) the harvest certificate pertaining to the industrial hemp plants, plant parts, grain, or seeds being received by the licensee or a bill of lading or other documentation identifying the source of the industrial hemp plants, plant parts, grain, or seed being received by the licensee;
- (3) ensure that a copy of the harvest certificate pertaining to the industrial hemp plants, plant parts, grain, or seeds that were harvested or a bill of lading or other documentation identifying the source of the industrial hemp plants, plant parts, grain, or seeds accompanies the industrial hemp plants, plant parts, grain, or seeds being distributed or transported; and
- (4) ensure that industrial hemp plants, plant parts, grain, or seeds are not commingled with any other commodity or other items being distributed or transported.
  - (b) The primary licensee on a research distributor license shall have a primary residence in Kansas.
  - (c) Any licensed research distributor may handle, condition, store, distribute, or transport industrial hemp plants, plant parts, grain, or seeds pursuant to the license issued by the department.
  - (d) A licensed research distributor shall not harvest or process industrial hemp plants, plant parts, grain, or seeds cultivated or grown by another licensee without first obtaining any required license issued by the department.
  - (e) Each individual exchanging, distributing, selling, or reselling certified seed in Kansas shall be licensed pursuant to the Kansas agricultural seed act, K.S.A. 2-1415 et seq. amendments thereto, and the implementing regulations.
  - (f) A licensed research distributor that handles, conditions, stores, distributes, or transports industrial hemp plants, plant parts, grain, or seeds that were obtained from outside Kansas shall maintain a bill of lading or other documentation that identifies the source of the industrial hemp plants, plant parts, grain, or seeds to demonstrate that the industrial hemp plants, plant parts, grain, or seeds were legally imported into Kansas. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-8. Research processor license.** (a) In addition to the requirements of K.A.R. 4-34-5, each individual who is issued a research processor license by the department shall meet the following requirements:

- (1) Obtain industrial hemp plants, plant parts, or grain from a licensed research grower or licensed research distributor or from legally imported sources of industrial hemp;
- (2) devitalize any industrial hemp grain within 10 days of receipt and take appropriate security measures to ensure that the industrial hemp grain cannot be stolen before it is devitalized;
- (3) obtain and retain a copy of the following documents, if applicable:
  - (A) The research grower license of the primary licensee that cultivated, planted, grew, handled, harvested, conditioned, stored, distributed, or transported the industrial hemp plants, plant parts, or grain being received;
  - (B) the research distributor license of the primary licensee that handled, conditioned, stored, distributed, or transported the industrial hemp plants, plant parts, or grain being received; and
  - (C) the harvest certificate pertaining to the industrial hemp plants, plant parts, or grain being received by the licensee or a bill of lading or other documentation identifying the source of the industrial hemp plants, plant parts, or grain being received; and

(4) ensure that a copy of the harvest certificate pertaining to the industrial hemp plants, plant parts, or grain that was harvested or a bill of lading or other documentation identifying the source of the industrial hemp plants, plant parts, or grain accompanies the industrial hemp plants, plant parts, or grain being processed.

(b) Any licensed research processor may handle, store, or process industrial hemp plants, plant parts, or grain pursuant to the license issued by the department. A licensed research processor shall not handle, store, or process seeds.

(c)(1) The primary licensee on a research processor license who processes industrial hemp plants, plant parts, or grain into hemp products in a mobile processing facility shall meet the following requirements:

(A) Notify the department of the mobile processing facility's planned processing locations no more than five days in advance of the first day of processing in each location. The primary licensee shall immediately notify the department of any changes to a submitted schedule; and

(B) at all times, operate in compliance with all state, county, and local laws, regulations, and ordinances.

(2) The primary licensee shall be present at each mobile processing facility's planned processing locations at all times while each mobile processing facility is operating.

(d) A licensed research processor shall not cultivate, plant, grow, harvest, condition, distribute, or transport industrial hemp plants, plant parts, grain, or seeds cultivated, planted, or grown by another licensee without first obtaining any required license issued by the department.

(e) A licensed research processor that processes industrial hemp plants, plant parts, or grain that were obtained from outside Kansas shall maintain a bill of lading or other documentation demonstrating that the industrial hemp plants, plant parts, or grain was legally imported into Kansas.

(f) Possession of a current research processor license shall not guarantee a licensee access to the premises of any private landowner. Permission for a licensee to enter the premises of any landowner shall be established contractually or otherwise by agreement of the licensee and the landowner. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-9. State educational institution research license.** (a) Each state educational institution wanting to allow individuals to conduct research pursuant to the pilot program shall authorize this participation and shall be directly responsible for any volunteer, student, employee, or research and extension employee conducting the research.

(b) Each volunteer, student, employee, or research and extension employee of a state educational institution that wants to conduct research pursuant to the pilot program shall submit a completed, accurate, and legible research license application for a state educational institution research license. Each research license application shall designate the individual wanting to be a primary licensee and list all proposed licensees. Each research license application shall include a research proposal and the required state and national criminal history record check. No application fees or license fees shall be assessed to any individuals wanting a state educational institution research license. However, the costs associated with fingerprinting and the state and national criminal history record check shall be the responsibility of any individual wanting a state educational institution research license.

(c) Volunteers, students, employees, and research and extension employees of a state educational institution shall not apply for a license or conduct research without first obtaining written approval from the head of any applicable department stating that the individual wanting to be a primary licensee and the proposed licensees are part of a sanctioned state educational institution research proposal, which shall be submitted with the research license application. Each individual wanting to be the primary licensee on a state educational institution research license shall apply for and obtain that license before conducting research or having industrial hemp plants, plant parts, grain, or seeds at any location in Kansas.

(d) Each individual wanting to be the primary licensee on a state educational institution research license shall identify the following on the research license application:

- (1) Each owner of all land, structures, and buildings where any proposed research will be conducted;
  - (2) each owner of any motor vehicle that will be used to distribute or transport industrial hemp plants, plant parts, grain, or seeds;
  - (3) each individual that will own 10 percent or more of the industrial hemp plants, plant parts, grain, or seeds being cultivated, planted, or grown;
  - (4) each individual that will otherwise be involved in the research proposal, including volunteers, students, employees, research and extension employees, and any other individuals that will be engaged in the purchasing, researching, cultivating, planting, growing, handling, harvesting, conditioning, storing, distributing, transporting, processing, studying, analyzing, or selling of industrial hemp plants, plant parts, grain, or seeds; and
  - (5) all individuals that will have access to any proposed research area.
- (e) Any state educational institution licensee may cultivate, plant, grow, handle, harvest, condition, store, distribute, transport, or process industrial hemp plants, plant parts, grain, or seeds pursuant to the license.
- (f)(1) The requirements for research license applications specified in K.A.R. 4-34-4 (b) through (f) and the requirements for the state and national criminal history record check specified in K.A.R. 4-34-3 shall apply to state educational institution licensees. Each state educational institution licensee shall comply with the requirements of K.A.R. 4-34-5, the requirements for a research grower license pursuant to K.A.R. 4-34-6, the requirements for a research distributor license pursuant to K.A.R. 4-34-7, and the requirements for a research processor license pursuant to K.A.R. 4-34-8, except that a state educational institution licensee shall not be required to pay any application fees, license fees, modification fees, sampling fees, or testing fees.
- (2) Any individual wanting to be primary licensee on a state educational institution license may include a location on the individual's research license application that has previously been approved by the department as a research area in the same license year.
- (3) A state educational institutional licensee shall be prohibited from the following:
- (A) Storing or distributing industrial hemp plants, plant parts, grain, or seeds cultivated or grown under another's license, except with the secretary's written permission; and
  - (B) operating a mobile processing facility.
- (g) A state educational institution licensee shall not conduct research as part of the pilot program on any research area not owned by the state educational institution. A state educational institution licensee shall not enter into any agreement or otherwise subcontract with an individual or business entity to permit the licensee to conduct research on any land, structures, or buildings not owned by the state educational institution.
- (h) A primary licensee on a state educational institution license shall not permit any individual to participate in the pilot program pursuant to the primary licensee's research license application or otherwise have access to the licensee's research area, industrial hemp plants, plant parts, grain, or seeds if that individual's license was revoked by the department or that individual was denied admission to participate in the pilot program.
- (i) Any individual wanting to be a primary licensee on a state educational institution licensee may request that the department authorize the licensee to interplant industrial hemp plants, plant parts, grain, or seeds with other crops in a research area.
- (j) Each state educational institution licensee that is no longer affiliated with the state educational institution shall notify the department and withdraw from the pilot program pursuant to K.A.R. 4-34-16. (Authorized by K.S.A. 2018 Supp. 2-3902; implementing K.S.A. 2018 Supp. 2-3902 and 2-3903; effective Feb. 8, 2019.)

**4-34-10. Administrative license.** (a) an administrative license may be issued to any individual specified in K.A.R. 4-34-1(b).

(b) Before being issued an administrative license, each individual shall be required to undergo and pass the state and national criminal history record check as specified in K.A.R. 4-34-3.

(c) Each administrative license shall identify the activities that the licensee is authorized to undertake, including handling, inspecting, sampling, testing, and transporting industrial hemp plants, plant parts, grain, or seeds.

(d) No application fee or license fee shall be assessed for any administrative license issued pursuant to this regulation. (Authorized by K.S.A. 2018 Supp. 2-3902; implementing K.S.A. 2018 Supp. 2-3902 and 2-3903; effective Feb. 8, 2019.)

**4-34-11. State advisory board.** (a) The board established by the secretary pursuant to K.S.A. 2018 Supp. 2-3902, and amendments thereto, shall be recognized as the state advisory board. Members shall be appointed by the secretary. The state advisory board shall consist of at least five and no more than nine members. Membership shall reflect the different geographic areas of the state equally, to the greatest extent possible. Members of the state advisory board shall receive no compensation for serving on the board, but may be paid subsistence allowances, mileage, and other expenses as provided in K.S.A. 75-3223, and amendments thereto. Each member appointed to the state advisory board shall be recognized for knowledge and leadership in at least one of the following sectors: crop research, industrial hemp production or processing, law enforcement, seed certification, or any other sector deemed relevant by the secretary. The secretary shall appoint one member from the Kansas legislature to the state advisory board.

(b) Of the members first appointed to the state advisory board, four members whose terms shall expire on June 30, 2021 shall be designated by the secretary. The remaining members' terms shall expire on June 30, 2023. After the expiration of the initial terms, each member shall be appointed by the secretary to serve for a term of four years until a successor is appointed. Each member shall be limited to serving a total of two full terms and shall hold office until the expiration of the term for which the member is appointed or until a successor has been qualified and appointed. A member may be appointed by the secretary to fill an unexpired term of any member due to a vacancy on the state advisory board.

(c) Before being qualified and appointed as a member of the state advisory board, each individual shall undergo and be required to pass the state and national criminal history record check as specified in K.A.R. 4-34-3. Upon determination that an individual is qualified, that individual may be appointed by the secretary as a member of the state advisory board and shall be issued an administrative license by the department. No application or license fees shall be assessed for an administrative license issued to a member of the state advisory board pursuant to this regulation.

(d) A quorum of the state advisory board shall be a majority of the members appointed to the state advisory board. A quorum of the state advisory board shall organize by election of a chairperson, vice-chairperson, and other officers as the state advisory board deems appropriate.

(e) In addition to the duties specified in K.S.A. 2018 Supp. 2-3902 and amendments thereto, the state advisory board shall perform other duties, which may include the review of regulations and recommendation of potential changes. The state advisory board shall make recommendations to the secretary only if the recommendations are approved by a majority vote of the state advisory board members.

(f) Any member of the state advisory board may be removed by the secretary for misconduct, incompetence, or neglect of duty. (Authorized by K.S.A. 2018 Supp. 2-3902; implementing K.S.A. 2018 Supp. 2-3902 and 2-3903; effective Feb. 8, 2019.)

**4-34-12. Fees.** (a) The application fee shall be \$200 for each license sought, with the exception of state educational institution licenses and administrative licenses, for which no application fee shall be charged.

(b) Upon conditional approval of a research grower license, each individual wanting to be the primary licensee shall pay a license fee of \$1,000.

(c) Upon conditional approval of a research distributor license, each individual wanting to be the primary licensee shall pay a license fee of \$2,000 for each licensed research section approved by the department.

(d)(1) Upon conditional approval of a research processor license for processing fiber or grain, each individual wanting to be the primary licensee shall pay a license fee of \$3,000 for each processing facility in a licensed research section and for each mobile processing facility.

(2) Upon conditional approval of a research processor license for processing floral material, each individual wanting to be the primary licensee shall pay a license fee of \$6,000 for each processing facility in a licensed research section and for each mobile processing facility.

(e) Each license fee shall include the cost for the department's initial sample collection and initial laboratory test. Each primary licensee shall pay a subsequent sampling fee of \$45 per hour, plus transportation time and mileage for representatives of the department, for each of the following:

(1) The department collects a subsequent sample.

(2) The primary licensee requests that the department collect a subsequent pre-harvest sample.

(3) The primary licensee requests that the department collect a subsequent post-harvest sample.

(4) More than one harvest occurs in the same research area in a license year.

(f) Each primary licensee shall pay a testing fee of \$250 for every laboratory test determining the delta-9 tetrahydrocannabinol concentration for each of the following:

(1) The department collects a subsequent sample.

(2) The primary licensee requests that the department collect a subsequent pre-harvest sample.

(3) The primary licensee requests that the department collect a subsequent post-harvest sample.

(4) The department collects more than one sample because more than one harvest occurs in the same research area in a license year.

(g) Each primary licensee shall pay a modification fee of \$750 for each requested change to a license that was previously issued by the department. (Authorized by K.S.A. 2018 Supp. 2-3902; implementing K.S.A. 2018 Supp. 2-3902 and 2-3903; effective Feb. 8, 2019.)

**4-34-13. Modification of license.** (a) Each primary licensee who wants to modify that individual's license or the license of any individual listed on the research license application shall submit a modification request form and the required fee, except as specified in paragraph (d)(2), to the department.

(b) Each licensee shall comply with the requirements of the original license, unless the department modifies the license in writing.

(c) Any primary licensee may request multiple license modifications by submitting one modification request form, but separate fees shall be required for each requested change.

(d)(1) If a primary licensee dies, any licensee who was listed on the research license application and was issued a license may request that the department modify the license to name the requesting individual as the primary licensee. This request may be granted by the department if the requesting individual performs the following:

(A) Notifies the department of the primary licensee's death within 15 business days;

(B) submits a license modification request form to the department within 45 days of the primary licensee's death;

(C) submits a copy of the primary licensee's death certificate to the department within 45 days of that individual's death; and

(D) meets the requirements in K.A.R. 4-34-5 and, if applicable, the requirements of K.A.R. 4-34-6, K.A.R. 4-34-7, K.A.R. 4-34-8, and K.A.R. 4-34-9.

(2) A modification fee to name the requesting individual as the new primary licensee shall not be charged by the department, except for modification requests received more than 45 days after the death of the primary licensee, which shall require a modification request form and modification fee unless the department extends the 45-day time period in writing.

If any other modification request is included, that modification request shall be subject to the modification fee specified in K.A.R. 4-34-12.

(e) A license modification shall be approved by the secretary if the request is appropriate and consistent with the licensee's approved research proposal and meets the requirements of this regulation. If the secretary denies the requested modification, no refund of the modification fee shall be provided, and the licensee shall comply with the terms and conditions of the existing license.

(Authorized by K.S.A. 2018 Supp. 2-3902; implementing K.S.A. 2018 Supp. 2-3902 and 2-3903; effective Feb. 8, 2019.)

**4-34-14. Land-use restrictions.** (a) A licensee shall not cultivate, plant, grow, handle, harvest, condition, store, distribute, transport, or process any plants, plant parts, grain, or seeds of the genus cannabis that are not industrial hemp.

(b) A licensee shall not cultivate, plant, grow, handle, harvest, condition, store, distribute, or process industrial hemp plants, plant parts, grain, or seeds at any location not included on the licensee's license.

(c)(1) A licensee shall not cultivate, plant, grow, handle, harvest, condition, store, distribute, or process industrial hemp plants, plant parts, grain, or seeds as follows, except with the secretary's written permission:

(A) In or within 50 feet of a residential structure; or

(B) within one-quarter mile of any public or private K-12 school or public recreational area.

(2) For licensed research sections consisting of any outdoor locations, one-quarter mile shall be calculated from any field boundary of any research area, and for licensed research sections consisting of any indoor locations or a greenhouse, one-quarter mile shall be calculated from any exterior wall.

(d) A licensee shall not interplant, cultivate, plant, or grow any crop other than industrial hemp plants, plant parts, grain, or seeds in any research area, except that any state educational institution licensee may do so upon authorization by the secretary. A licensee shall not cultivate, plant, grow, harvest, or condition more than one approved variety of industrial hemp in a research area without the secretary's written approval.

(e) A licensee shall not cultivate, plant, grow, handle, harvest, condition, store, distribute, transport, or process industrial hemp plants, plant parts, grain, or seeds on property owned by any individual whose license was revoked by the department or who was denied admission to participate in the pilot program.

(f) Each primary licensee shall post and maintain at least one sign at each research area listed on the license. A sign shall be posted along each research area boundary adjacent to a public road, except that if the research area is adjacent to an intersection of two or more public roads, a sign shall be posted at the intersection. If a research area is not adjacent to any public road, a sign shall be posted at the point of access to the research area. Each sign shall measure at least 36 inches per side, shall be clearly visible and legible from the adjacent public road, intersection of public roads or access point, and shall include the following information:

(1) The following text: "Kansas Department of Agriculture Industrial Hemp Research Program";

(2) the primary licensee's name;

(3) the primary licensee's license number; and

(4) the department's telephone number.

(g) Each licensee shall allow the department to inspect unlicensed growing areas for volunteer plants. The primary licensee or a licensee listed on the primary licensee's research license application shall destroy any volunteer plants for at least three years after the last reported date of planting.

(Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-15. Movement of industrial hemp; restrictions on sale or transfer of industrial hemp; compliance with applicable law.** (a) The movement of all industrial hemp plants, plant parts, grain, or seeds into, out of, or within Kansas shall be at the licensee's expense and risk.

(b) A licensee shall not sell or transfer industrial hemp plants, plant parts, grain, or seeds to any individual or business entity outside Kansas who is not authorized by an institution of higher education or a state department of agriculture under 7 U.S.C. 5940, as amended, and the laws of that state. A licensee shall not purchase or receive industrial hemp plants, plant parts, grain, or seeds from an individual or business entity or permit any transfer of industrial hemp plants, plant parts, grain, or seeds to or from any individual or business entity outside Kansas who is not authorized by an institution of higher education or a state department of agriculture under 7 U.S.C. 5940, as amended, and the laws

of that state. Each licensee shall ensure that any sale or transfer of industrial hemp plants, plant parts, grain, or seeds is lawful in the state in which the transaction is undertaken.

(c) Each licensee shall comply with all local, state, and federal laws and regulations related to industrial hemp and with the act and the implementing regulations.

(d) Each licensee shall be responsible for any loss or obligation that the licensee incurs as a result of the licensee's involvement in the pilot program. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-16. Voluntary withdrawal; voluntary partial destruction.** (a) Any licensee may voluntarily withdraw from the pilot program after providing the department with written notice of the intent to do so. Notice shall be provided at least 30 days before the intended withdrawal date, except with prior written approval from the department. If a licensee listed on a primary licensee's research license application withdraws from the pilot program, the primary licensee shall modify each license as specified in K.A.R. 4-34-13.

(b) If a primary licensee voluntarily withdraws from the pilot program, all industrial hemp plants, plant parts, grain, or seeds being cultivated, planted, grown, handled, harvested, conditioned, stored, distributed, transported, or processed pursuant to the licensee's license shall be destroyed and all licenses issued pursuant to the research license application shall be surrendered. Each primary licensee who voluntarily withdraws from the pilot program shall provide the department at least 15 days' notice of the date and time the primary licensee intends to destroy the industrial hemp plants, plant parts, grain, or seeds pursuant to that individual's license and shall notify the department of any change in the destruction date or time.

(c) If a primary licensee notifies the department of the intent to withdraw from the pilot program but fails to destroy all industrial hemp plants, plant parts, grain, or seeds being cultivated, planted, grown, handled, harvested, conditioned, stored, distributed, transported, or processed pursuant to that individual's license within 15 days of the intended destruction date, the license of the primary licensee and each license issued pursuant to the research license application may be revoked and all industrial hemp plants, plant parts, grain, or seeds being cultivated, planted, grown, handled, harvested, conditioned, stored, distributed, transported, or processed as part of the primary licensee's research shall be destroyed at the primary licensee's expense.

(d) Any primary licensee conducting research pursuant to a research grower license may voluntarily destroy any industrial hemp plants being cultivated, planted, or grown in a portion of any research area without withdrawing from the pilot program. Each primary licensee conducting research pursuant to a research grower license who intends to destroy the industrial hemp plants being cultivated, planted, or grown in any research area listed on that individual's license shall provide the department at least 15 days' notice of the date and time of destruction and shall notify the department of any change in the destruction date or time.

(e) Each primary licensee that has been issued a failing report of analysis shall comply with the destruction requirements in K.A.R. 4-34-18 and K.A.R. 4-34-19, as applicable.

(f) Representatives of the department or law enforcement may be present during any destruction of industrial hemp plants, plant parts, grain, or seeds, or proof of the destruction may be required by the department.

(g) Each primary licensee who destroys any industrial hemp plants being cultivated, planted, grown, handled, harvested, conditioned, stored, distributed, transported, or processed pursuant to that individual's license shall, within 15 days after the destruction, notify the department in writing of the number of acres of industrial hemp plants, plant parts, grain, or seeds that were planted in each research area and the number of acres destroyed in each research area.

(h) Upon destruction of any industrial hemp plants, plant parts, grain, or seeds, all volunteer plants shall also be destroyed during the current license year and for at least three years after the last date of planting reported to the department.

(i) Voluntary destruction of industrial hemp plants, plant parts, grain, or seeds shall be performed by a licensee listed on the research license application of the primary licensee and shall be at the primary licensee's expense. If the destruction of industrial hemp plants, plant parts, grain, or seeds

occurs, the licensee shall not be eligible for a refund of any fees paid by a primary licensee. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-17. Pre-harvest and harvest requirements; harvest certificates.** (a) Each primary licensee shall notify the department of every intended harvest date in a pre-harvest report at least 30 days before each intended harvest date. Each primary licensee shall immediately notify the department regarding a change to any date previously reported to the department if the change to the harvest date is five or more days. Additional sampling and testing may be required by the department as a result of any change to the harvest date of five or more days.

(b) If two or more harvests will be conducted from the same research area within a license year, the primary licensee shall notify the department of each intended harvest date at least 30 days before each intended harvest date. The primary licensee shall pay a subsequent sampling fee and testing fee for each harvest conducted after the initial harvest of a research area.

(c) No more than 15 days before any industrial hemp plants, plant parts, grain, or seeds are cut, picked, collected, or otherwise harvested, each licensee shall allow a sample to be collected by the department for testing as specified in K.A.R. 4-34-18. The initial pre-harvest sample shall not require an additional sampling fee or testing fee.

(d) Before harvesting any industrial hemp plants, plant parts, grain, or seeds, the licensee shall be required to receive a passing report of analysis from the department. After issuance of a passing report of analysis from the department, the licensee shall have 10 days to fully harvest the industrial hemp plants, plant parts, grain, or seeds, unless otherwise authorized in writing by the secretary.

(e) If a licensee fails to fully harvest the industrial hemp plants, plant parts, grain, or seeds within 10 days after issuance of the passing report of analysis, the primary licensee shall perform one of the following:

(1) Notify the department within seven days after the expiration of the 10-day harvest period of the intended second harvest date, request that the department collect a subsequent pre-harvest sample, and pay the required sampling and testing fees; or

(2) notify the department within seven days after the expiration of the 10-day harvest period of the intended date by which the licensee shall destroy the industrial hemp plants, plant parts, grain, or seeds. The primary licensee shall notify the department of any change in the destruction date. Destruction of industrial hemp plants, plant parts, grain, or seeds shall occur by an individual listed on the primary licensee's research license application and at the primary licensee's expense. All volunteer plants shall be destroyed during the current license year and for at least three years after the last reported date of planting. If destruction of industrial hemp plants, plant parts, grain, or seeds occurs, no refund shall be issued for any fees paid by a primary licensee.

(f) No more than five days after the harvest of industrial hemp plants, plant parts, grain, or seeds is completed, the primary licensee shall notify the department that the harvest has been completed and request issuance of a harvest certificate. A harvest certificate shall not be issued by the department until the following information is provided for inclusion in the harvest certificate:

(1) The official name of the industrial hemp variety that was cultivated, planted, or grown;

(2) each date on which the licensee harvested the industrial hemp plants, plant parts, grain, or seeds;

(3) the global positioning system coordinates for each research area where the industrial hemp plants, plant parts, grain, or seeds were harvested; and

(4) a statement of intended end-use for all industrial hemp plants, plant parts, grain, or seeds that were harvested. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-18. Pre-harvest inspection; sample collection; testing and post-testing actions.** (a) A licensee, whether present or not, shall permit representatives of the department complete, unrestricted, and immediate access to all industrial hemp plants, plant parts, grain, and seeds and all locations, buildings, and motor vehicles listed on the license. Access shall be granted at reasonable times, without interference or obstruction, with or without cause, and with or without advance notice.

(b) Any primary licensee may request collection of a sample from each research area listed on the license. Each sample collected shall be subject to the sampling and testing fees required by K.A.R. 4-34-12.

(c) Based on the results of the testing, one of the following shall apply:

(1) A sample containing a delta-9 tetrahydrocannabinol concentration of 0.3 percent or less on a dry-weight basis shall result in the issuance of a passing report of analysis and shall list each research area from which the sample was taken.

(2) A sample containing a delta-9 tetrahydrocannabinol concentration of higher than 0.3 percent on a dry-weight basis shall result in the issuance of a failing report of analysis and shall list each research area from which the sample was taken.

(A) Within seven days of issuance of a failing report of analysis, the primary licensee may request that the department either collect a subsequent pre-harvest sample or destroy all plants, plant parts, grain, or seeds located in each research area sampled and identified on the failing report of analysis.

(B) A subsequent pre-harvest sample requested by the primary licensee and found to contain a delta-9 tetrahydrocannabinol concentration of higher than 0.3 percent on a dry-weight basis shall result in the issuance of a failing report of analysis. Within seven days of issuance of the failing report of analysis, a licensee listed on the primary licensee's research license application shall destroy all plants, plant parts, grain, or seeds that are located in each research area that was sampled and identified in the failing report of analysis.

(C) If any sample is found to contain a delta-9 tetrahydrocannabinol concentration of higher than 0.3 percent on a dry-weight basis, the testing results and the location of each sampled research area may be referred to the Kansas bureau of investigation and other appropriate law enforcement agencies for further investigation.

(D) If any sample is found to contain a delta-9 tetrahydrocannabinol concentration of 2.0 percent or higher on a dry-weight basis, the testing results and the location of each sampled research area shall be referred to the Kansas bureau of investigation and other appropriate law enforcement agencies for further investigation.

(d) Destruction of industrial hemp plants, plant parts, grain, or seeds shall occur by a licensee listed on the primary licensee's research license application and at the primary licensee's expense. All volunteer plants shall be destroyed during the current license year and for at least three years after the last reported date of planting. Each licensee shall allow representatives of the department or law enforcement to be present during the destruction of industrial hemp plants, plant parts, grain, or seeds, or proof of destruction may be required by the department. If the destruction of industrial hemp plants, plant parts, grain, or seeds is required, the primary licensee shall not be eligible for a refund of any fees paid.

(e) All samples collected by the department shall become the property of the department, and no compensation shall be owed to the licensee. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-19. Post-harvest inspection; sample collection; testing and post-testing actions.** (a) Each licensee shall allow the department to inspect and sample industrial hemp plants, plant parts, grain, or seeds any time after the industrial hemp plants, plant parts, grain, or seeds have been harvested. The initial post-harvest sample shall not require an additional sampling fee or testing fee.

(b) A licensee, whether present or not, shall permit representatives of the department complete, unrestricted, and immediate access to all industrial hemp plants, plant parts, grain, and seeds and all locations, buildings, and motor vehicles listed on the license. Access shall be granted at reasonable times, without interference or obstruction, with or without cause, and with or without advance notice.

(c) Any primary licensee may request collection of a sample from each research area listed on the license. Each sample collected shall be subject to the sampling and testing fees required by K.A.R. 4-34-12.

(d) Based on the results of the testing, one of the following shall apply:

(1) A sample containing a delta-9 tetrahydrocannabinol concentration of 0.3 percent or less on a dry-weight basis shall result in the issuance of a passing report of analysis and shall list each research

area from which the sample was taken. Each passing report of analysis shall identify the harvest certificate or bill of lading that accompanied the industrial hemp plants, plant parts, grain, or seeds sampled.

(2) A sample containing a delta-9 tetrahydrocannabinol concentration of higher than 0.3 percent on a dry-weight basis shall result in the issuance of a failing report of analysis and shall list each research area from which the sample was taken.

(A) Within seven days of issuance of a failing report of analysis, the primary licensee may request that the department either collect a subsequent post-harvest sample or destroy all plants, plant parts, grain, or seeds located in each research area that was sampled and identified on the failing report of analysis.

(B) A subsequent post-harvest sample requested by the primary licensee and found to contain a delta-9 tetrahydrocannabinol concentration of higher than 0.3 percent on a dry-weight basis shall result in the issuance of a failing report of analysis. Within seven days of issuance of the failing report of analysis, a licensee listed on the primary licensee's research license application licensee shall destroy all plants, plant parts, grain, or seeds that are located in each research area that was sampled and identified in the failing report of analysis.

(C) If any sample is found to contain a delta-9 tetrahydrocannabinol concentration of higher than 0.3 percent on a dry-weight basis, the testing results and the location of each sampled research area may be referred to the Kansas bureau of investigation and other appropriate law enforcement agencies for further investigation.

(D) If any sample is found to contain a delta-9 tetrahydrocannabinol concentration of 2.0 percent or higher on a dry-weight basis, the testing results and the location of each sampled research area shall be referred to the Kansas bureau of investigation and other appropriate law enforcement agencies for further investigation.

(e) After the collection of a sample, no licensee shall handle, condition, distribute, transport, or process the sampled industrial hemp plants, plant parts, grain, or seeds until the primary licensee is issued a passing report of analysis. The sampled industrial hemp plants, plant parts, grain, or seeds shall not be processed, exchanged for value, or otherwise allowed to come into the possession of anyone other than a licensee listed on the primary licensee's research license application until a passing report of analysis is issued.

(f) Destruction of industrial hemp plants, plant parts, grain, or seeds shall occur by a licensee listed on the primary licensee's research license application at the primary licensee's expense. All volunteer plants shall be destroyed during the current license year and for at least three years after the last reported date of planting. Each licensee shall allow representatives of the department or law enforcement to be present during the destruction of industrial hemp plants, plant parts, grain, or seeds, or proof of the destruction may be required by the department. If the destruction of industrial hemp plants, plant parts, grain, or seeds occurs, the primary licensee shall not be eligible for a refund of any fees paid.

(g) All samples collected by the department shall become the property of the department, and no compensation shall be owed to the licensee. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-20. Reports.** (a) Each report required by the department shall be submitted on a form provided by the department. Each licensee shall submit the complete, accurate, and legible reports on or before the date required.

(b) A primary licensee on a research grower license shall submit a field planting report to the department within 15 days after every planting, including replanting seeds or propagules or establishing plants. Each field planting report shall identify the following for each research area:

- (1) The official name of the industrial hemp variety that was cultivated, planted, or grown;
- (2) the global positioning system coordinates for each research area where industrial hemp plants, plant parts, grain, or seeds are being cultivated, planted, or grown; and
- (3) a statement of intended end-use for all industrial hemp plants, plant parts, grain, or seeds being cultivated, planted, or grown in each research area.

(c) Each primary licensee on a research grower license shall submit a voluntary withdrawal report if either of the following conditions is met:

(1) Industrial hemp plants, plant parts, grain, or seeds are not cultivated, planted, or grown in a research area. The report shall be due no later than June 1.

(2) Industrial hemp plants being grown in a portion of any research area are voluntarily destroyed as specified in K.A.R. 4-34-16. The report shall be due no later than 15 days after the industrial hemp plants are destroyed.

(d) Each primary licensee on a research grower license shall submit a pre-harvest report to the department at least 30 days before every intended harvest date, for each licensed research section. The pre-harvest report shall include the following:

(1) The number of acres planted in each research area;

(2) the intended harvest date for each research area; and

(3) a statement of intended end-use for all industrial hemp plants, plant parts, grain, or seeds that will be harvested from each research area.

(e) Each primary licensee on a research grower license shall submit a production report to the department within 30 days after the last harvest date for every harvest. Each production report shall include the following, at a minimum:

(1) The amount of industrial hemp plants, plant parts, grain, or seeds harvested from each research area, which shall be provided as follows:

(A) If the industrial hemp crop was cultivated, planted, or grown for the production of fiber, the number of bales and the size and shape of the bales;

(B) if the industrial hemp crop was cultivated, planted, or grown for the production of grain or seed, the quantity by weight;

(C) if the industrial hemp crop was cultivated, planted, or grown for the production of floral material, the quantity by weight; and

(D) if the industrial hemp crop was cultivated, planted, or grown for the production of more than one end-use, the information for each end-use as required by this regulation;

(2) the name, address, and, if applicable, the license number of the primary licensee on the research distributor license or an out-of-state individual or business entity that is authorized by an institution of higher education or a state department of agriculture under 7 U.S.C. 5940, as amended, and the laws of the state that transported any industrial hemp plants, plant parts, grain, or seeds that were harvested; and

(3) the name, address, and, if applicable, the license number of the primary licensee on the research processor license or an out-of-state individual or business entity that is authorized by an institution of higher education or a state department of agriculture under 7 U.S.C. 5940, as amended, and the laws of the state that received the industrial hemp plants, plant parts, or grain for processing.

(f) Each primary licensee on a research distributor license shall annually submit a completed distribution report to the department no later than November 30. Each distribution report shall include the following, at a minimum:

(1) The amount of industrial hemp plants, plant parts, grain, or seeds distributed in each load, which shall be provided as follows:

(A) If the industrial hemp crop was cultivated, planted, or grown for the production of fiber and was distributed, the number of bales and the size and shape of the bales;

(B) if the industrial hemp crop was cultivated, planted, or grown for the production of grain or seed and was distributed, the quantity by weight;

(C) if the industrial hemp crop was cultivated, planted, or grown for the production of floral material and was distributed, the quantity by weight; and

(D) if the industrial hemp crop was cultivated, planted, or grown for the production of more than one end-use and was distributed, the information for each end-use as required by this regulation;

(2) the name, address, and, if applicable, the license number of the primary licensee on the research grower license or an out-of-state individual or business entity that is authorized by an institution of higher education or a state department of agriculture under 7 U.S.C. 5940, as amended, and the laws of the state that cultivated, planted, grew, handled, harvested, conditioned, stored,

distributed, or transported any industrial hemp plants, plant parts, grain, or seeds that the licensee distributed or transported;

(3) the name, address, and, if applicable, the license number of the primary licensee on the research processor license or an out-of-state individual or business entity that is authorized by an institution of higher education or a state department of agriculture under 7 U.S.C. 5940, as amended, and the laws of the state that processed each load of industrial hemp plants, plant parts, or grain that the licensee distributed or transported; and

(4) the amount of industrial hemp plants, plant parts, grain, or seeds that was sold during the current license year.

(g) Each primary licensee on a research processor license shall annually submit a completed processing report no later than November 30. Each processing report shall include the following, at a minimum:

(1) The amount of industrial hemp plants, plant parts, or grain processed by the licensee, which shall be provided as follows:

(A) If the industrial hemp crop was cultivated, planted, or grown for the production of fiber and was processed, the number of bales and the size and shape of the bales;

(B) if the industrial hemp crop was cultivated, planted, or grown for the production of grain or seed and was processed, the quantity by weight;

(C) if the industrial hemp crop was cultivated, planted, or grown for the production of floral material and was processed, the quantity by weight; and

(D) if the industrial hemp crop was cultivated, planted, or grown for the production of more than one end-use and was processed, the information for each end-use as required by this regulation;

(2) the name, address, and, if applicable, the license number of the primary licensee on the research grower license or an out-of-state individual or business entity that is authorized by an institution of higher education or a state department of agriculture under 7 U.S.C. 5940, as amended, and the laws of the state that cultivated, planted, grew, handled, harvested, conditioned, stored, distributed, or transported any industrial hemp plants, plant parts, or grain that the licensee processed; and

(3) the name, address, and, if applicable, the license number of the primary licensee on the research distributor license or an out-of-state individual or business entity that is authorized by an institution of higher education or a state department of agriculture under 7 U.S.C. 5940, as amended, and the laws of the state that distributed or transported any of industrial hemp plants, plant parts, or grain that the licensee processed.

(h) On and after January 1, 2019, each primary licensee shall prepare and submit a research report to the department no later than November 30 each year. Each research report shall include the following, at a minimum:

(1) A summary of the research conducted;

(2) a description of the methods and materials used in conducting the research;

(3) the results of the research; and

(4) an analysis of the results.

(i) All research conducted and all reports submitted to the department as part of the pilot program shall become the property of the department, and no compensation shall be due from the department to any licensee. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-21. Violations; disciplinary sanctions.** (a) Each of the following acts and omissions shall constitute a violation for which disciplinary sanctions, including revocation of any license and denial of future applications, may be imposed by the department:

(1) Failure to cooperate with the department and law enforcement agencies in administration and enforcement of the act, and amendments thereto, and the implementing regulations;

(2) failure to provide any information relating to the administration of the pilot program that the department requests;

(3) providing false, misleading, or incorrect information relating to the licensee's participation in the pilot program to the department;

- (4) failure to submit any forms or reports as required;
- (5) cultivating, planting, growing, or otherwise possessing plants of the genus cannabis with a delta-9 tetrahydrocannabinol concentration greater than 0.3 percent on a dry-weight basis;
- (6) failure to pay any fees assessed by the department;
- (7) submitting a pre-harvest report or destruction report and harvesting or destroying industrial hemp plants, plant parts, grain, or seeds before sampling by the department;
- (8) harvesting any industrial hemp plants, plant parts, grain, seeds without being issued a passing report of analysis;
- (9) failure to destroy any industrial hemp plants, plant parts, grain, seeds, volunteer plants, or plants of the genus cannabis with a delta-9 tetrahydrocannabinol concentration greater than 0.3 percent on a dry-weight basis as required by this article of the department's regulations;
- (10) harvesting any industrial hemp plants, plant parts, grain, or seeds after being issued a failing report of analysis; and
- (11) any other violation of the act, and amendments thereto, or the implementing regulations.

(b) If a licensee cultivates, plants, grows, handles, harvests, conditions, stores, distributes, transports, or processes any industrial hemp plants, plant parts, grain, or seeds as part of the pilot program at any location not listed on the license, the industrial hemp plants, plant parts, grain, or seeds at that location shall be destroyed by any licensee that received a license issued pursuant to the primary licensee's research license application. The destruction shall be at the primary licensee's expense, and any license may be revoked.

(c)(1) Each licensee whose license is revoked shall destroy any industrial hemp plants, plant parts, grain, or seeds in that individual's possession at that individual's own expense, no more than 15 business days after the department directs the individual to do so. The licensee shall not be eligible to reapply or otherwise participate in the pilot program for at least five years from the date of revocation. If a primary licensee's research license is revoked, all industrial hemp plants, plant parts, grain, or seeds that are subject to the primary licensee's license shall be destroyed by a licensee listed on the research license application and at the primary licensee's expense.

(2) Each licensee that will destroy industrial hemp plants, plant parts, grain, or seeds pursuant to paragraph (c)(1) shall notify the department of the date and time of destruction within five days of issuance of the notification that destruction is required. Each licensee shall notify the department of any change in the destruction date or time. Additional sampling and testing may be required by the department for a change of five or more days. Representatives of the department or law enforcement may be present during the destruction, or proof of the destruction may be required by the department.

(3) All volunteer plants shall be destroyed during the current license year and for at least three years after the last reported date of planting.

(4) No refund shall be issued for any fees paid by the primary licensee.

(d) If a licensee violates any provision of the act, and amendments thereto, or the implementing regulations, any license may be revoked, in whole or in part, by the secretary, as deemed appropriate.

(e) Any prior violations of the act, and amendments thereto, the implementing regulations or previous revocations of a license may be considered when reviewing new research license applications. (Authorized by and implementing K.S.A. 2018 Supp. 2-3902; effective Feb. 8, 2019.)

**4-34-22. License required to cultivate or produce industrial hemp for commercial purposes.** (a) K.A.R. 4-34-22 through 4-34-30 shall apply only to the commercial production of industrial hemp pursuant to K.S.A. 2-3901 et seq., and amendments thereto, and, unless otherwise stated, shall not apply to research conducted as part of the pilot program pursuant to K.S.A. 2-3902, and amendments thereto, and regulated by K.A.R. 4-34-2 through 4-34-21.

(b) No individual may cultivate or produce industrial hemp for commercial purposes without a license issued by the secretary. A license shall not be required for employees, agents, contractors, or volunteers of a licensee.

(c) Only individuals shall be eligible to apply for licenses to cultivate or produce industrial hemp.

(d) Each individual who applies for a license to cultivate or produce industrial hemp shall be required to submit to a fingerprint-based state and national criminal history record check to verify that

the individual has not been convicted of a felony violation of K.S.A. 2019 Supp. 21-5701 et seq., and amendments thereto, or a substantially similar offense in another jurisdiction, within the 10 years immediately preceding submission of that individual's application.

(e)(1) Each individual submitting a license application shall submit the application on a form provided by the secretary, which shall include the following:

(A) The individual's full legal name and date of birth;

(B) the individual's current mailing address, telephone number, and electronic-mail address;

(C) the legal description and global positioning system coordinates of the entrance to the proposed licensed growing area and the entrance to each lot that will be used to cultivate or produce industrial hemp and a map of the proposed licensed growing area and each lot;

(D) the total number of acres or square feet that will be used to cultivate or produce industrial hemp;

(E) the number of acres or square feet that will be used to cultivate or produce industrial hemp in each lot;

(F) the variety of industrial hemp to be cultivated or produced in each lot;

(G) a completed fingerprint card for submission to the Kansas bureau of investigation; and

(H) any other relevant information requested by the secretary.

(2) Each individual submitting a license application shall include with the application a \$100 application fee and the fee established by the Kansas bureau of investigation for performing a state and national criminal history record check. A single criminal history record check conducted in accordance with the act may be used to satisfy the act's criminal history record check requirement for multiple licenses in a single license year.

(f) All license applications shall be submitted no later than March 15 of each year in which an applicant intends to grow industrial hemp. Any individual who submits a license application after March 15, 2020 may be granted a license if good cause is shown and the secretary determines that granting the license is necessary to assist with the transition from the pilot program to the commercial industrial hemp program during 2020.

(g) Each license shall allow the cultivation and production of industrial hemp within one licensed growing area.

(h) Upon approval of a license application by the secretary, the applicant shall submit a license fee of \$1,200 to the secretary within 15 days of notice of the approval.

(i) All licenses shall expire annually on December 31.

(j) In addition to providing the department with the information required by this regulation, each individual who is issued a license shall report the following directly to the United States department of agriculture farm service agency for each license:

(1) The street address and, to the extent practicable, the global positioning system coordinates for each growing area and for each lot or greenhouse where industrial hemp will be produced;

(2) the number of acres that will be used to cultivate or produce industrial hemp;

(3) the assigned license number; and

(4) any other information required by the United States department of agriculture.

(k) Acceptance of a license shall constitute a grant of authority by each licensee allowing the secretary to supply information to the United States department of agriculture and post information on the department's web site, including the industrial hemp producer license number, the full legal name of the licensee, the licensee's contact information, descriptions of all locations identified for cultivating or producing industrial hemp, and any information related to modifications to ensure that the information remains accurate.

(l) Each licensee shall be held responsible for any plant cultivated or produced in violation of the act and for the actions of all employees, agents, contractors, and volunteers engaged in the cultivation or production of industrial hemp under the supervision or direction of, or otherwise in conjunction with, the licensee. Each licensee shall be subject to the same disciplinary actions for a violation of the act committed by any employee, agent, contractor, or volunteer of that licensee as if the licensee had committed the violation.

(m) Each licensee requesting a license modification after issuance of a license shall submit the modification request to the secretary on a form provided by the secretary. Each modification request form shall be accompanied by a \$50 fee. Upon the secretary's review and approval of the modification request, a modified license shall be issued and may include any additional terms and conditions that the secretary deems necessary to implement the requested modification and to protect the public health, safety, and welfare. If the secretary denies the modification request, the licensee shall remain subject to the terms of the original license.

(n) Each license shall be nontransferable, unless the secretary determines that a transfer is necessary because the licensee dies or becomes disabled or because an individual who is an employee or agent of a bank, financial institution, or other creditor that has a legal right to take possession of industrial hemp for the purposes of settling a debt is required to obtain a license to do so. A license that is transferable may be transferred to the individual requesting the transfer upon that individual's submission of a modification request, a \$50 modification fee, the fee established by the Kansas bureau of investigation for performing a state and national criminal history record check, and satisfactory completion of a fingerprint-based state and national criminal history record check. A modification request shall be submitted within 60 days of the licensee's death or within 60 days of the date that the right of the bank, financial institution, or other creditor to take possession of the industrial hemp arises. If a modification request is not submitted within the time frame required by this regulation, all industrial hemp being cultivated or produced pursuant to the license shall be subject to an order to be destroyed. The individual applying for the transfer shall assume the full liability for all of the previous licensee's actions related to the cultivation or production of hemp.

(o) Each individual who materially falsifies any information in a license application or modification request shall be ineligible to receive a license to cultivate or produce industrial hemp pursuant to the act. (Authorized by K.S.A. 2019 Supp. 2-3906; implementing K.S.A. 2019 Supp. 2-3903 and 2-3906; effective Jan. 8, 2021.)

**4-34-23. Planting and pre-harvest requirements.** (a) All industrial hemp cultivated or produced shall have originated from authorized seed or clone plants.

(b) Each licensee shall maintain written certification for all authorized seed or clone plants cultivated or produced, which shall consist of either of the following:

(1) A certificate of analysis, or a similar document, stating that the source of the authorized seed or clone plants was cultivated or produced with a delta-9 tetrahydrocannabinol concentration less than 0.3 percent on a dry-weight basis during the most recent growing season; or

(2) documentation that the authorized seed or clone plants are certified pursuant to K.S.A. 2-1415 et seq., and amendments thereto.

(c) All industrial hemp seed shall be considered agricultural seed. Before selling agricultural seed in Kansas, each individual shall obtain a license pursuant to K.S.A. 2-1415 et seq., and amendments thereto.

(d) Each licensee shall submit a planting report to the department within 15 days after each planting, including replanting seeds or propagules or establishing plants. Each planting report shall identify the following:

(1) The official name of the industrial hemp variety that was cultivated or produced in each lot;

(2) the global positioning system coordinates for the licensed growing area and each lot where industrial hemp plants, plant parts, grain, or seeds are being cultivated or produced;

(3) the total number of acres planted in the licensed growing area;

(4) the number of acres planted in each lot; and

(5) a statement of the intended end-use for all industrial hemp plants, plant parts, grain, or seeds being cultivated or produced.

(e) Before harvesting industrial hemp, each licensee shall provide the secretary at least 30 days' notice of the intended harvest date on a form provided by the secretary and, if the harvest does not begin on that date, shall provide an updated notice of the anticipated harvest date before harvesting any industrial hemp. Failure to provide notice of the harvest may result in the revocation of an existing

hemp producer license and the denial of future hemp producer licenses. Each pre-harvest report shall identify the following:

- (1) The global positioning system coordinates of the entrance to the licensed growing area and each lot where industrial hemp plants are intended for harvest;
- (2) the total number of acres planted in the licensed growing area subject to harvest;
- (3) the number of acres planted in each lot subject to harvest;
- (4) the planting date for each lot;
- (5) the total number of acres intended for harvest in the licensed growing area, if different from the number of acres intended for harvest in the lot;
- (6) the number of acres intended for harvest in each lot;
- (7) the intended harvest date for each lot;
- (8) the official name of the industrial hemp variety that is intended for harvest from each lot; and
- (9) a statement of the intended end-use for all industrial hemp plants, plant parts, grain, or seeds that will be harvested from each lot.

(f) If two or more harvests will be conducted within a licensed growing area or lot within a license year, the licensee shall notify the department of each intended harvest date at least 30 days before the intended harvest date. The primary licensee shall pay the subsequent sampling fees and testing fees for each harvest conducted after the initial harvest of a lot.

(g) Each licensee shall maintain records regarding the source of all industrial hemp cultivated or produced and records regarding the disposition of all industrial hemp cultivated or produced for three years and shall present those records to the secretary upon request. (Authorized by and implementing K.S.A. 2019 Supp. 2-3906; effective Jan. 8, 2021.)

**4-34-24. Sampling, testing, and harvest requirements.** (a) No more than 30 days before any industrial hemp cultivated or produced pursuant to the act is harvested, each licensee shall allow a sample to be collected by the secretary for testing, using post-decarboxylation or any other similarly reliable method, to determine the delta-9 tetrahydrocannabinol concentration of industrial hemp cultivated or produced. A licensee shall not harvest any industrial hemp before receiving notice that testing of the samples has shown a delta-9 tetrahydrocannabinol concentration of less than 0.3 percent on a dry-weight basis and that the licensee may harvest the industrial hemp.

(b) Each licensee shall complete each harvest of industrial hemp plants, plant parts, grain, or seeds within 30 days of sampling.

(c) If a licensee fails to harvest all of the industrial hemp plants, plant parts, grain, or seeds within the time frame specified in subsection (b), the licensee shall perform one of the following:

(1) Notify the department that harvest has not occurred within seven days after the expiration of the time frame specified in subsection (b), request that the department collect a subsequent pre-harvest sample, and pay the required sampling and testing fees; or

(2) notify the department that harvest has not occurred within seven days after the expiration of the time frame specified in subsection (b) and inform the department of the date by which the licensee intends to effectively dispose of the industrial hemp plants, plant parts, grain, or seeds. The licensee shall conduct effective disposal no more than seven days after the licensee informs the department that harvest has not occurred and shall notify the department of any change in the effective disposal date. Effective disposal of industrial hemp plants, plant parts, grain, or seeds shall occur by the licensee and at the licensee's expense. All volunteer plants within and adjacent to the licensed growing area shall be effectively disposed of during the current license year and for at least three years after the last reported date of planting. If effective disposal of industrial hemp plants, plant parts, grain, or seeds occurs, no refund shall be issued for any fees paid by a licensee, the cost of effective disposal, or the value of the crop.

(d) Each licensee shall submit a harvest report to the department no more than 15 days after each harvest of industrial hemp plants, plant parts, grain, or seeds is completed for each lot. Each harvest report shall identify the following:

- (1) The global positioning system coordinates of the entrance to the licensed growing area and each lot where industrial hemp plants were harvested;

- (2) the total number of acres planted in the licensed growing area;
- (3) the number of acres planted in each lot;
- (4) the planting date for each lot;
- (5) the total number of acres harvested from the licensed growing area;
- (6) the number of acres harvested from each lot;
- (7) the harvest date for each lot;
- (8) the official name of the industrial hemp variety harvested from each lot; and
- (9) a statement of intended end-use for all industrial hemp plants, plant parts, grain, or seeds harvested from each lot.

(e) Industrial hemp shall be subject to post-harvest sampling and testing by the secretary. Each licensee shall agree to provide the secretary access to any harvested industrial hemp or to provide the secretary with a copy of the bill of lading and, if available, a certificate of analysis or similar document provided for any industrial hemp already sold or transferred to another person. All samples collected by the secretary shall be subject to testing, using post-decarboxylation or any other similarly reliable method, of delta-9 tetrahydrocannabinol concentration of industrial hemp produced. A licensee whose industrial hemp is sampled after it is harvested shall not sell, transfer, or transport any industrial hemp harvested from the licensed growing area where samples were collected until that licensee has received notice from the department that testing of the samples has shown a delta-9 tetrahydrocannabinol content of less than 0.3 percent on a dry-weight basis.

(f) Each licensee shall be assessed a \$225 fee for the required pre-harvest sample collected and tested by the secretary.

(g) At any time other than at the time of the required pre-harvest sample collected and tested by the secretary, a licensee may request that the secretary collect a sample and test the delta-9 tetrahydrocannabinol concentration, subject to a testing fee of \$225 for each test and additional costs assessed for the secretary's travel time and mileage.

(h) All samples collected by the secretary shall become the property of the secretary, and no compensation shall be owed to any licensee.

(i) Any licensee may request a test from a private laboratory at any time. However, test results from private laboratories shall not be considered official and shall not be substituted for a sample collected and tested by the secretary, and each licensee shall be responsible for the costs of testing by a private laboratory.

(j) Each sample collected and tested by the secretary and found to contain a delta-9 tetrahydrocannabinol concentration greater than 0.3 percent on a dry-weight basis shall result in the hemp being classified as cultivated or produced in violation of the act and shall result in the issuance of a failing report of analysis. Hemp that receives a failing report of analysis may be eligible to be remediated pursuant to K.A.R. 4-34-25.

(k) Within seven days of notice of the failing report of analysis, any licensee may request, on a form provided by the secretary, an additional test by the secretary. The request shall include payment of a retesting fee of \$225 and any additional costs assessed for the secretary's travel time and mileage. If a licensee requests an additional test and the sample collected and tested pursuant to this subsection is found to contain a delta-9 tetrahydrocannabinol concentration greater than 0.3 percent on a dry-weight basis, then all plants in the licensed growing area shall be effectively disposed of as required by K.A.R. 4-34-25 or, if eligible, remediated pursuant to K.A.R. 4-34-25.

(l) For each licensee who is issued an order to effectively dispose of plants, one of the following requirements shall apply:

(1) The licensee shall be subject to a corrective action plan as specified in K.A.R. 4-34-29 and reported to the appropriate state or local law enforcement agency if the violation is deemed negligent.

(2) The licensee shall be reported to the United States department of agriculture, the office of the Kansas attorney general, the office of the United States attorney for the district of Kansas, and the appropriate state or local law enforcement agency if the violation is the result of a culpable mental state greater than negligence. If any plants are tested by the secretary and found to contain a delta-9 tetrahydrocannabinol concentration of greater than 2.0 percent, the licensee responsible for those plants shall be presumed to have acted with a culpable mental state greater than negligence.

(m) Except as provided in K.A.R. 4-34-28, each licensee or an authorized representative of each licensee shall be present whenever the secretary collects a sample of industrial hemp cultivated or produced pursuant to the act and whenever a compliance inspection is conducted pursuant to this regulation. (Authorized by K.S.A. 2020 Supp. 2-3906; implementing K.S.A. 2020 Supp. 2-3903, as amended by L. 2021, ch. 76, sec. 4, and 2-3906; effective Jan. 8, 2021; amended, T-4-8-25-21, Aug. 25, 2021; amended Dec. 17, 2021.)

**4-34-25. Remediation; effective disposal; violations.** (a) All hemp that is deemed to be in violation of the act for any reason or that contains a delta-9 tetrahydrocannabinol concentration greater than 0.3 percent on a dry-weight basis shall, by order of the secretary, be subject to effective disposal or remediation.

(b) Remediation shall not be allowed for any hemp for which the secretary has not approved a remediation plan. Hemp for which remediation is not allowed shall be effectively disposed of as specified in this regulation.

(c) Remediation shall include any method approved by the United States department of agriculture and may include either of the following:

(1) Separating and removing all flowers and floral materials from the stalks, leaves, and seeds of all plants or plant parts, which may include removal by hand or mechanical removal; or

(2) shredding the entirety of all plants or plant parts into hemp biomass, which may be accomplished with shredders, composters, specialty mechanical equipment, or similar means.

(d) Seeds removed from hemp plants or contained in hemp biomass as a result of remediation shall not be used for propagation purposes.

(e) Each remediation plan or request to submit a remediation plan shall be submitted to the secretary before the expiration of the 10-day period following the licensee's receipt of notice that effective disposal is required as specified in subsection (q).

(f) Each remediation plan submitted to the secretary pursuant to this regulation shall include the following, at a minimum:

(1) The date that remediation will begin;

(2) the approximate date that remediation will be completed;

(3) the total number of acres that will be remediated;

(4) the intended end-use of all plants or plant parts to be remediated;

(5) the location where each plant or plant part will be stored before and after remediation and the location where remediated material will be stored following remediation;

(6) the method or methods of remediation intended to be used; and

(7) any other information that is relevant to the circumstances surrounding the cultivation or production of the hemp proposed to be remediated or the intended remediation plan and that the secretary requests.

(g) Any remediation plan that does not contain all required information may be denied or returned to the licensee. Any remediation plan may be denied at the discretion of the secretary, based on the circumstances surrounding the cultivation or production of the hemp proposed to be remediated.

(h) Hemp for which a failing report of analysis is issued may be remediated by the licensee upon the secretary's approval of the remediation plan submitted by the licensee, if the most recent sampling and testing conducted showed the hemp to have a delta-9 tetrahydrocannabinol concentration of 1.0 percent or less on a dry-weight basis.

(i) Any licensee may request permission from the secretary to submit a remediation plan for any hemp for which a failing report of analysis is issued if the most recent sampling and testing conducted showed the hemp to have a delta-9 tetrahydrocannabinol concentration greater than 1.0 percent but not greater than 2.0 percent on a dry-weight basis. If the secretary agrees to review a remediation plan based upon the circumstances surrounding the production or cultivation of the hemp, then the industrial hemp may be remediated upon approval of the plan submitted by the licensee.

(j) Each licensee who conducts remediation of any hemp shall allow representatives of the secretary to be present during the remediation. Proof of remediation may be required to be provided to the secretary.

(k) All plant material that is undergoing remediation shall be clearly labeled to indicate that the plant material is remediated hemp biomass and to verify the source of all of the hemp that comprises the remediated material. Remediated hemp biomass shall require a bill of lading pursuant to K.A.R. 4-34-26, which shall identify the material as remediated hemp biomass and identify the source of all material used in the remediation.

(l) All plant material resulting from remediation shall be subject to postremediation sampling and testing and shall be required to be effectively disposed of as specified in this regulation and prohibited from entering commerce if the final postremediation testing performed shows the plant material to have a delta-9 tetrahydrocannabinol concentration of greater than 0.3 percent on a dry-weight basis.

(m) Remediation may be conducted as many times as is necessary to achieve a delta-9 tetrahydrocannabinol concentration of 0.3 percent or less on a dry-weight basis. However, all hemp biomass that is not successfully remediated so as to have a delta-9 tetrahydrocannabinol concentration of 0.3 percent or less on a dry-weight basis within 60 days of the issuance of the final failing report of analysis for any hemp that comprises the remediated hemp biomass shall be effectively disposed of as specified in this regulation.

(n) Hemp for which a failing report of analysis is issued and for which the most recent testing conducted shows a delta-9 tetrahydrocannabinol concentration greater than 2.0 percent on a dry-weight basis shall not be eligible for remediation and shall be required to be effectively disposed of as provided in this regulation.

(o) Acceptable methods of effective disposal shall include plowing under, mulching or composting, disking, mowing or chopping, deep burial, burning, or any other method allowed under federal law and approved by the secretary.

(p) If required pursuant to federal law, all hemp that requires effective disposal shall be destroyed or disposed of as required by the controlled substances act, 21 U.S.C. 801 et seq., and in compliance with requirements of the United States drug enforcement agency.

(q) If allowed pursuant to federal law, each licensee shall conduct effective disposal at the licensee's expense within 10 days of receiving notice that effective disposal is required. Each licensee shall effectively dispose of all volunteer plants within and adjacent to the licensed growing area during the current license year and for at least three years after the last reported date of planting. Each licensee shall allow representatives of the secretary to be present during the effective disposal of plants or plant parts, or proof of the effective disposal may be required by the secretary. Each licensee who conducts effective disposal shall, within 14 days of conducting the effective disposal, report the number of acres effectively disposed of to the department. A licensee who conducts effective disposal shall not be eligible for a refund of any fees paid, the cost of effective disposal, or the value of the crop.

(r) Each licensee whose plants are effectively disposed of shall be responsible for reimbursing any law enforcement agency whose officers or agents are required to participate in or be present during the effective disposal for all of the law enforcement agency's costs associated with the effective disposal.

(s) Failure of a licensee to conduct effective disposal as required by the secretary within 10 days of receiving notice that effective disposal is required shall result in the secretary's conducting effective disposal at the expense of the licensee, unless an extension is granted by the secretary.

(t) A licensee's failure to conduct effective disposal as required by the secretary, failure to reimburse the secretary for any costs incurred as a result of the secretary's conducting effective disposal, or failure to reimburse any law enforcement agency for any costs associated with effective disposal shall be grounds for denial of any future hemp producer license application.

(u) Each licensee who violates the act with a culpable mental state of negligence shall be subject to a corrective action plan as specified in K.A.R. 4-34-29 and reported to the appropriate state or local law enforcement agency. Each licensee who violates the act with a culpable mental state greater than negligence shall be reported to the United States attorney's office and the Kansas attorney general's office, in addition to the appropriate state or local law enforcement agency. (Authorized by and implementing K.S.A. 2020 Supp. 2-3906; effective Jan. 8, 2021; amended, T-4-8-25-21, Aug. 25, 2021; amended Dec. 17, 2021.)

**4-34-26. Transportation of industrial hemp.** (a) Each licensee who sells, trades, barter, gives away, or otherwise transfers any unprocessed industrial hemp to any other person shall ensure that the unprocessed industrial hemp is accompanied by a signed bill of lading that includes the licensee's license number, the total quantity of industrial hemp transferred, the date the transfer occurred, and the name of the person acquiring the industrial hemp. A certificate of analysis or other similar document shall be attached to the bill of lading.

(b) Each person who sells, trades, barter, gives away, or otherwise transfers unprocessed industrial hemp subsequent to an initial transfer involving unprocessed industrial hemp as specified in subsection (a) shall record the transfer and shall amend the bill of lading or attach the information regarding the subsequent transfer to the original bill of lading and shall include the name of the person acquiring possession of the industrial hemp, the amount of industrial hemp transferred, and the date of the transfer. Any individual in possession of unprocessed industrial hemp plants, plant parts, grain, or seeds without a valid hemp producer's license or a bill of lading may be presumed to have unlawfully cultivated or produced hemp in violation of the act or gained possession of industrial hemp plants, plant parts, grain, or seeds that were cultivated or produced in violation of the act.

(c) Each licensee shall comply with all local, state, and federal laws and regulations related to the transportation of industrial hemp and with the act. (Authorized by and implementing K.S.A. 2019 Supp. 2-3906; effective Jan. 8, 2021.)

**4-34-27. Planting restrictions; signage requirements; volunteer plants.** (a) A licensee shall not cultivate, plant, grow, or harvest industrial hemp plants, plant parts, grain, or seeds at any location not included on the license.

(b) A licensee shall not cultivate, plant, grow, or harvest industrial hemp plants, plant parts, grain, or seeds in a residential structure, within 50 feet of a residential structure, or within one-quarter mile of any public or private K-12 school or public recreational area, except with the secretary's written permission.

(c) A licensee shall not interplant any other crop with industrial hemp, except that any state educational institution licensee may do so upon authorization by the secretary. This subsection shall not prohibit the use of ground cover, but ground cover shall not be harvested.

(d) A licensee shall not interplant different varieties of industrial hemp within a lot.

(e) Harvested lots of industrial hemp plants shall not be commingled with other harvested lots or other material.

(f) Each licensee shall post and maintain at least one sign at each licensed growing area listed on the license. A sign shall be posted along each licensed growing area boundary adjacent to a public road, except that if the licensed growing area is adjacent to an intersection of two or more public roads, a sign shall be posted at the intersection. If a licensed growing area is not adjacent to any public road, a sign shall be posted at the point of access to the licensed growing area. Each sign shall measure at least 36 inches per side, shall be clearly visible and legible from the adjacent public road, intersection of public roads, or access point, and shall include the following information:

(1) The following text: "Kansas Department of Agriculture Industrial Hemp Program";

(2) the licensee's name;

(3) the licensee's license number; and

(4) the department's telephone number.

(g) Each licensee shall allow the secretary to inspect, for volunteer plants, ditches, fence lines, or other unmanaged land areas adjacent to any licensed growing area. Each licensee shall destroy any volunteer plants for at least three years after the last date of planting. (Authorized by and implementing K.S.A. 2019 Supp. 2-3906; effective Jan. 8, 2021.)

**4-34-28. Access to records and property.** (a) Acceptance of a license shall constitute a grant of authority by each licensee allowing the secretary to inspect all records related to the cultivation or production of industrial hemp.

(b) Each licensee shall grant the secretary access to all land identified for the cultivation or production of industrial hemp for purposes of inspection to determine compliance with the act and the

implementing regulations. In addition to pre-harvest sampling and testing of all industrial hemp plants being cultivated or produced pursuant to the act as specified in K.A.R. 4-34-24, in accordance with federal law, each licensee's premises and records related to the cultivation or production of industrial hemp shall be subject to annual inspection to ensure compliance with the act and the implementing regulations.

(c) Each licensee shall consent to the secretary's providing information to the United States department of agriculture, law enforcement, fire and rescue agencies, and the public regarding each licensed growing area. Additionally, each licensee shall consent to the secretary's providing information about any licensed growing area, including global positioning system coordinates, to representatives of the United States department of agriculture, Kansas bureau of investigation, United States drug enforcement agency, and other law enforcement agencies.

(d) Each licensed growing area and all adjacent areas shall be subject to inspection by the secretary. The secretary shall have complete, unrestricted, and immediate access to all industrial hemp plants, plant parts, grain, and seeds, whether growing or not, including access to all land, buildings, facilities, motor vehicles, and other structures used for industrial hemp-related activities. Access shall be granted at reasonable times, without interference or obstruction, with or without cause, and with or without advance notice. The secretary's right of access specified in this regulation shall include the unrestricted right to inspect or take samples of any industrial hemp plants, plant parts, grain, or seeds, whether growing or not, present at the location being accessed, as well as the right to inspect any reports or records pertaining to industrial hemp plants, plant parts, grain, or seeds. (Authorized by and implementing K.S.A. 2019 Supp. 2-3906; effective Jan. 8, 2021.)

**4-34-29. Negligent violations; corrective action plans.** (a) Negligent violations of the act may include failure to provide a legal description of land on which a licensee produces industrial hemp, producing plants with a delta-9 tetrahydrocannabinol concentration greater than 1.0 percent on a dry-weight basis, or producing plants with a delta-9 tetrahydrocannabinol concentration greater than 0.3 percent on a dry-weight basis if the licensee did not make reasonable efforts to cultivate or produce industrial hemp. It shall not be a negligent violation of the act if a licensee produces plants with a delta-9 tetrahydrocannabinol concentration of 1.0 percent or less on a dry-weight basis and the licensee has made reasonable efforts to cultivate or produce industrial hemp. Each licensee who negligently violates the act or the implementing regulations shall be required to follow a corrective action plan developed by the secretary.

(b) Upon the first negligent violation, each licensee shall meet the following requirements:

(1) Correct the violation within 10 days of notification of the violation by the secretary, including conducting effective disposal of the industrial hemp crop if so ordered;

(2) for the duration of the time period specified in the corrective action plan, which shall be at least two years, provide a report to the secretary as often as is required by the secretary regarding the status of the violation; and

(3) complete any other actions required by the secretary.

(c) Upon a second negligent violation within five years of a previous negligent violation, each licensee shall meet the following requirements:

(1) Correct the violation within 10 days of notification of the violation by the secretary, including the effective disposal of the industrial hemp crop if so ordered;

(2) for the duration of the time period specified in the corrective action plan, which shall be at least two years, provide a report to the secretary at least every 30 days, or as often as is required by the secretary, regarding the status of the violation; and

(3) complete any other actions required by the secretary.

(d) Upon a third negligent violation within five years of the first negligent violation, each licensee shall be ineligible to cultivate or produce industrial hemp for a period of five years beginning on the date of the third violation. Each license or registration held by the licensee shall be subject to immediate revocation, and all of the licensee's industrial hemp shall be subject to destruction, if so ordered. (Authorized by and implementing K.S.A. 2020 Supp. 2-3906; effective Jan. 8, 2021; amended, T-4-8-25-21, Aug. 25, 2021; amended Dec. 17, 2021.)

**4-34-30. State educational institutions.** (a) Each state educational institution shall obtain a license before cultivating or producing industrial hemp for research purposes.

(b) Each state educational institution shall be exempt from all application and licensing fees if the state educational institution's license application is accompanied by a written summary of the research to be performed, except as provided in subsection (f).

(c) Each state educational institution shall be subject to all other requirements applicable to a hemp producer, except that a state educational institution may request the waiver of any requirement in K.A.R. 4-34-1 through K.A.R. 4-34-30 by submitting a written request to the secretary that explains why the waiver of an existing regulation is necessary for the proposed research.

(d) In spite of subsection (c), a state educational institution shall not request a waiver of the fingerprint-based state and national criminal history record check or corrective action plan requirements.

(e) Each state educational institution seeking licensure shall designate an individual as the primary licensee for any license. The primary licensee shall be responsible for all employees, agents, students, and volunteers of the institution, and any activities that the institution undertakes, related to industrial hemp at the locations identified in each application. The costs associated with fingerprinting and the required state and national criminal history record check shall be the responsibility of the individual designated as the primary licensee.

The head of a department of the state educational institution, or a similar person with supervisory authority, shall submit a written letter designating the responsible individual as the primary licensee along with the application.

(f) Upon written request, a state educational institution may be granted a multiyear license that is valid for up to five years for completion of a multiyear research project. (Authorized by and implementing K.S.A. 2019 Supp. 2-3906; effective Jan. 8, 2021.)