

Public Notice of Rulemaking

Rhode Island Government Register

AGENCY: Rhode Island Department of Business Regulation (“Department”)
RULE IDENTIFIER: 230-RICR-80-10-1
REGULATION TITLE: **Rules and Regulations Related to the Industrial Hemp
Agricultural Pilot Program Administered by the Department of
Business Regulation**
ERLID: TBD
RULEMAKING ACTION: Proposed Rulemaking
TYPE OF FILING: Adoption

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Date of Public Notice: August 1, 2018
Date of Public Hearing: August 16, 2018 at 10:00 a.m. (DLT 70-1)
End of Comment Period: August 31, 2018

SUMMARY OF PROPOSED ACTION ON THE RULE:

Pursuant to R.I. Gen. Laws § 2-26-1, *The Hemp Growth Act*, the Rhode Island Legislature enacted a statutory scheme whereby the Department of Business Regulation, with the assistance of the Department of Environmental Management (“DEM”), would regulate hemp as an agricultural product, and its growers and handlers. Pursuant to 7 U.S.C. § 5940 (*the Agricultural Act 2014*), states that allow the growth or cultivation of hemp in connection with a state regulated program must also ensure that the hemp cultivation or growth is done for purposes of research, academic or otherwise, that cultivation sites are certified with the Department, and that regulations are promulgated for the implementation of the state regulated program. By this rulemaking, the Department is proposing to establish standards and procedures for the registration, licensure and operation of industrial hemp growers and handlers, and the certification of institutions of higher education, who conduct research in accordance with federal and state standards.

The proposed regulation supplements the statutory requirements by:

- Specifying the application requirements for industrial hemp licensure in Rhode Island;
- Establishing the role of DEM in the approval of industrial hemp licensure process;
- Setting the terms of the Licensing Agreement between the licensee and the DBR;
- Confirming fees for initial and renewal registrations;
- Establishing procedures for the registration, inspection, sampling, testing and operational requirements of licensees;
- Establishing procedures for enforcement actions involving the growing and handling of industrial hemp and hemp products;
- Specifying the research reporting expectations required of all licensees; and

- Certifying institutions of higher education conducting hemp growth and handling for research purposes.

WHERE AMENDMENTS MAY BE INSPECTED:

A copy of the proposed amendments will be available for examination from August 1, 2018, through August 31, 2018, by mail or at the offices of the Department of Business Regulation, Attn: Sara Tindall-Woodman, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or requested by emailing sara.k.tindallwoodman@dbr.ri.gov or by calling (401) 462-9563. Electronic copies of the proposed amendment will also be available on the DBR website at www.dbr.ri.gov and Secretary of State's at <http://sos.ri.gov/ProposedRules/>. A copy of the proposed regulation is also found below in the body of this webpage.

COMMENTS:

All interested persons are invited to submit written or oral comments concerning the proposed regulation by August 31, 2018, to the addresses below.

sara.k.tindallwoodman@dbr.ri.gov	OR	Department of Business Regulation Attn: Sara Tindall-Woodman 1511 Pontiac Ave, Bldg. 68-1 Cranston, RI 02920
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PUBLIC HEARING INFORMATION:

Hearing Date and Time:	August 16, 2018 at 10:00 a.m.
Hearing Location:	Department of Labor and Training, Building 70 Conference Room 70-1 1511 Pontiac Avenue Cranston, RI 02920

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call (401) 462-9551 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

FOR FURTHER INFORMATION CONTACT:

Sara Tindall-Woodman at (401) 462-9563, or at the email or mailing address listed above.

SUPPLEMENTARY INFORMATION:

Regulatory Analysis:

This regulation will stabilize expectations in the implementation of the Agricultural Pilot Program for the growth and handling of industrial hemp. Consequently, it will have a net positive effect on existing and prospective small businesses, save for licensing costs.

Authority for This Rulemaking: R.I. Gen. Laws §§ 2-26-1, *et seq.*, *The Hemp Growth Act* and 7 U.S.C § 5940 (Section 7606 of the Agricultural Act of 2014), *Legitimacy of Industrial Hemp Research*.

Regulatory Findings:

In the development of the proposed regulations consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) positive economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Adoption:

Consistent with the above Summary of Proposed Action on Rule, the Rhode Island Department of Business Regulation proposes to adopt 230-RICR-80-10-1 – Rules and Regulations Related to the Industrial Hemp Agricultural Pilot Program Administered by the Department of Business Regulation as specifically shown in the attached document.

230-RICR-80-10-1

TITLE 230 – DEPARTMENT OF BUSINESS REGULATION

CHAPTER 80 – MARIJUANA

SUBCHAPTER 10 – INDUSTRIAL HEMP

PART 1 – Rules and Regulations Related to the Industrial Hemp Agricultural Pilot Program Administered by the Department of Business Regulation

1.1 Authority

This Part is promulgated by the Department of Business Regulation with the assistance of the Department of Environmental Management, Division of Agriculture, in accordance with R.I. Gen. Laws § 2-26-1, *et seq.*, The Hemp Growth Act (the "Act"), and 7 U.S.C. § 5940 (Section 7606 of the Agricultural Act of 2014).

1.2 Purpose

The purpose of this Part is to describe the licensing and regulation of industrial hemp growth and production as an agricultural product as provided for in R.I. Gen. Laws § 2-26-4 and 7 U.S.C. § 5409 as it pertains to the hemp growers and handlers, and the employees of each, as participants in the state's Agricultural Pilot Program.

1.3 Scope

This regulation applies to the growth and production of industrial hemp by industrial hemp growers and handlers, and the employees of each, and to the growth, production and research by institutions of higher education.

1.4 Incorporated Materials

- A. These regulations hereby adopt and incorporate 40 C.F.R. § 152.25(f) (2018) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- B. These regulations hereby adopt and incorporate Environmental Protection Agency's "Active Ingredients Eligible for Minimum Risk Pesticide Products" (2015) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

- C. These regulations hereby adopt and incorporate Environmental Protection Agency's "Inert Ingredients Eligible for FIFRA 25(b) Pesticide Products" (2015) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

1.5 Definitions

- A. "Agricultural pilot program" means the state's Industrial Hemp Pilot Program established pursuant to the Act and these regulations.
- B. "Certified seed source" or "certified" means a source of industrial hemp seeds that:
1. Is certified according to the Association of Official Seed Certifying Agencies (AOSCA) standards or alternative certification standards approved by the Department; and
 2. Is produced from plants that were tested during the active growing season and found to produce industrial hemp having a THC concentration that does not exceed 0.3% on a dry weight basis.
- C. "Department" or "DBR" means the Department of Business Regulation, with the assistance of the Division.
- D. "Division" or "DEM" means the Department of Environmental Management, Division of Agriculture.
- E. "Extraction" means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.
- F. "Growing area" means the land on which a licensee cultivates, produces or plans to cultivate or produce industrial hemp.
- G. "Grower" a person or entity who or that cultivates hemp for commercial purposes.
- H. "Handler" means a person or entity who or that produces hemp for processing into commodities, products, or agricultural hemp seed.
- I. "Institution of higher education" shall have the meaning set forth in 20 U.S.C. § 1001 and consistent with R.I. Gen. Laws § 2-26-9.
- J. "Industrial hemp" or "hemp" means the plant of the genus cannabis and any part of such plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent (0.3%) on a dry-weight basis of any part of the plant cannabis, or per volume or weight of marijuana product or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant

cannabis regardless of the moisture content. For purposes of this Part, hemp shall include hemp derivatives such as hemp extractions and concentrates. Pursuant to R.I. Gen. Laws § 2-28.6-4(t) hemp is not medical marijuana.

- K. "The Hemp Growth Act" or "Act" means R.I. Gen. Laws § 2-26-1, *et seq.*
- L. "Law enforcement agency" means a federal, state or local agency responsible for maintaining public order and enforcing the law, particularly activities involving prevention, detection and investigation of crime and the apprehension of violators.
- M. "License" means an industrial hemp grower license or an industrial hemp handler license issued by the Department pursuant to the Act and these regulations. A grower license authorizes the licensee to cultivate industrial hemp and a handler license authorizes the licensee to produce hemp or hemp derivatives for processing into commodities, products or agricultural hemp seed.
- N. "Licensee" means an individual or entity holding a license.
- O. "Licensing agreement" means an agreement executed by the licensee agreeing to abide by these regulations and any other terms and conditions the Department deems necessary for enforcing the Act.
- P. "Licensing period" means the time during which an industrial hemp license is valid. Licenses are issued for two-year terms.
- Q. "Hemp derivatives" means substances derived from hemp including concentrates made from hemp and substances derived through an extraction process.
- R. "Non-contiguous growing area" means a growing area on which a licensee grows or plans to grow industrial hemp that is separated from other growing areas by more than a mile. Partial acreage should be rounded up to the next whole acre.
- S. "Person" means a natural person, corporation, association, partnership or other legal entity.
- T. "Research" means the growth, cultivation and handling of industrial hemp either by an institution of higher education or otherwise under the Agricultural Pilot Program for purposes of agricultural or academic research.
- U. "Sample" means plant parts taken as representative of an individual plant or the combined total plants in the growing area.
- V. "THC" means THC as defined in R.I. Gen. Laws § 2-26-3(8) and includes tetrahydrocannabinol, the principal psychoactive constituent of cannabis, tetrahydrocannabinol acid and the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis sativa L., or any synthetic substances, compounds, salts, or derivatives of the

plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

W. "Volunteer plant" means any cannabis plant which is self-propagated and grows of its own accord from seeds or roots in the years following an intentionally planted industrial hemp crop. Volunteer plants are not intentionally planted.

1.6 Application Process

A. Each applicant for an industrial hemp license, whether as a grower or handler, must submit a signed, complete, accurate and legible application to DBR together with the applicable application fee. Applications will be accepted throughout the calendar year.

B. Applicants applying to renew a license must update their application information and fees as applicants applying for a new license, and must submit any other information as required by DBR. In addition, applicants for renewal must include, on the application, the licensing numbers of any previous licenses held and year of issuance of those licenses.

C. Applications for industrial hemp grown outdoors or indoors will be considered.

D. The applicant must provide:

1. Name, address and other contact information of:

a. The applicant who will supervise, manage, or direct the growing, handling or production of hemp or hemp products;

b. Any person partnering or providing consulting services regarding the growing, handling or production of hemp or hemp products, if applicable; and

c. The applicant's employees and, if the applicant is an entity, the applicant's officers, directors, owners, shareholders, managers and members;

2. A detailed description of the land area (including street address, assessor's plat and lot number, square footage and if the land does not abut a public road, the nearest public road of access) to be used for the growth and/or production of industrial hemp including, but not limited to: a map or aerial photograph and Global Positioning System ("GPS") coordinates sufficient for locating production fields and showing the boundaries, dimensions and size of the growing area, and a description of the building including approximate dimension or square feet of the growing area if cultivation occurs indoors;

3. A description of the DBR approved seed to sale tracking program to be used by the applicant and described in § 1.10 of this Part and the security layout and plan for tracking and monitoring all hemp grown and produced by the applicant;
 4. A signed statement that the applicant is the owner of the growing area, land area and any building to be used for cultivation or handling of industrial hemp or a statement, signed by the owner of the growing area, land area and any building consenting to that use;
 5. A copy of the certificate of analysis showing the industrial hemp, hemp seed or plants obtained for cultivation or production are from a certified seed source and are of a type or variety that do not exceed the maximum concentration of delta-9 THC as set forth in the Act, as applicable;
 6. A detailed description of the applicant's cultivation or production method, as applicable;
 7. A detailed description of the applicant's extraction method, if applicable;
 8. A detailed description of the applicant's research proposal as a participant in the Agricultural Pilot Program;
 9. A statement of intended end use for all industrial hemp to be grown or produced including parts or derivatives of any hemp plants or hemp that will be grown or produced by the applicant;
 10. Documentation that the applicant has or will enter into sale agreements or otherwise transact with another licensee or such other persons who are in compliance with applicable laws regarding the possession, processing and sale of industrial hemp;
 11. Applicant's desired license type, whether grower or handler, and information as to any separate license for which the applicant has already applied; and
 12. Any other information the DBR determines is necessary for enforcing the Hemp Act, the Agricultural Pilot Program and these regulations.
- E. Each applicant for licensure shall submit a non-refundable application fee of two-hundred and fifty (\$250) dollars with the application. Fees will not be refunded if a license is not granted.
- F. Incomplete applications will not be processed and fees are nonrefundable.
- G. False, inaccurate or misleading information provided on an application is grounds for license denial. Licenses may be denied to applicants who have previously had an industrial hemp license revoked, suspended or denied.

- H. All grower applications will be submitted to DEM for its review before the issuance of any license. As a result of DEM review, the applicant may be asked to provide additional information as needed by DBR or DEM and failure to provide such additional information or otherwise respond may result in the denial of the license.

1.7 Issuance of Licensing Agreement and License

- A. Upon approval of an application the applicant must pay the license fee of two thousand five hundred (\$2,500) dollars. License fees must be paid prior to license issuance.
- B. Licenses are issued only for the location and the type of activity listed on the license. Non-contiguous growing areas require separate licenses.
- C. Each applicant must sign a licensing agreement. The failure of the licensee to comply with any term or condition of the licensing agreement shall be grounds for license revocation, suspension or other enforcement action. By signing the licensing agreement, the licensee agrees to the following terms and conditions:
1. The licensee will allow the inspection and sampling of the industrial hemp, including crops, at any and all times that DBR deems necessary, including but not limited to sowing, growing, production, harvest, storage and production;
 2. All records relating to planting, growth, cultivation, harvest, production, processing and marketing of industrial hemp must be kept for a period of 5 years. The records must be made available to DBR upon request;
 3. The DBR may require reporting of any information or data associated with the planting, growth, cultivation, harvest, production, processing and marketing of industrial hemp. The licensee must submit all required reports by the due dates specified by DBR;
 4. Information provided to DBR and data collected by the DBR through the industrial hemp licensing and regulation process may be publicly disclosed and may be provided to DEM and other government agencies and law enforcement agencies without notifying the licensee;
 5. Licensees shall comply with the Act, these regulations, all other terms and conditions the DBR determines necessary for enforcement thereof and all other laws applicable to the applicant and its operations, including requirements under any applicable DEM and Department of Health regulations.
 6. Any failure to comply with the licensing agreement, the Act or these regulations may be enforced by DBR as an administrative violation and shall be grounds for license suspension or revocation.

- D. All licenses shall be valid for two (2) years. Licensees must re-apply to participate in the program every two (2) years. All industrial hemp plant material must be planted and harvested within the licensing period unless otherwise approved by DBR.
- E. No industrial hemp plants shall be included in any licensed marijuana production programs. No growing area may contain cannabis plants which the licensee knows or has reason to know are of a variety that will produce a plant that when tested will contain more than 0.3% THC on a dry weight basis.
- F. Amendments to an existing license may be limited to reduction in the number of acres planted or square footage used within the original growing area and changes to contact information.
1. Any licensee who wishes to reduce the growing area on which the licensee will conduct industrial hemp cultivation or production must submit to DBR, within ten (10) days of planting or commencement of production, an updated detailed description of the growing area including GPS location and map, and building description with approximate square footage of growing area if applicable.
 2. Requests to expand the original growing area are subject to review and consideration by DBR, in its sole discretion, and if granted may require a separate application and license.
 3. No reimbursements of license fees shall be made notwithstanding any reduction in the growing area during any licensing period.
 4. Any changes to the information required under § 1.6(D)(1) of this Part must be reported to DBR within ten (10) days of the change.
- G. Any conversion of cannabidiol to delta9-tetrahydrocannabinol by any licensee in the Agricultural Pilot Program is strictly prohibited.

1.8 Inspection, Sampling and Testing

- A. During inspection and sampling, the licensee or its authorized representative must be present and must allow complete and unrestricted access to all industrial hemp, including plants, parts and seeds, within a growing area whether growing, producing, harvested or stored, and all land, buildings and other structures used for the cultivation, production or storage of industrial hemp, and all documents and records pertaining to the licensee's industrial hemp operations.
- B. Inspection
1. Pursuant to R.I. Gen. Laws § 26-6-6 all licensees are subject to periodic inspection to verify compliance with the requirements of the Act and these

regulations including inspection during sowing, growing season, harvest, storage, and production.

2. In addition to any inspection and sampling under § 1.8(B)(1) of this Part, DBR may inspect and require samples from any licensee during normal business hours if DBR has reason to believe a violation of the Act or these regulations may be occurring or has occurred.
3. Inspections will include inspection at the following stages:
 - a. License application process: Prior to issuing a license, DBR may schedule a site visit to the applicant's location. The purpose of this visit will be to inspect the location, to review information that was provided during the application process and to review the proposed industrial hemp operations.
 - b. Records Inspections: DBR may conduct reasonable inspections of a licensee's books and records to ensure that the licensee is complying with applicable law including the Act and these regulations.

C. Sampling

1. DBR will require testing of hemp to ensure that it does not exceed the 0.3% THC level, as required by R.I. Gen. Laws § 2-26-3(6), and is in compliance with other provisions of the Act and these regulations. For all licensees, sampling shall be conducted prior to harvest or production by a licensed testing facility agent and with the licensee and a DBR representative present. Sampling will be scheduled in advance with the licensee or an authorized representative of the licensee.
2. All industrial hemp being grown and/or produced within a growing area, including plants and crops, are subject to sampling to ensure compliance with the Act and these regulations. The licensee shall be responsible for the cost and expense of all sampling.

D. Testing

1. Testing, including but not limited to testing for THC concentration on a dry weight basis, will be performed by an approved testing facility. For purposes of these regulations and pursuant to R.I. Gen. Laws § 2-26-6(a), an "approved testing facility as determined by DBR" shall be defined as an analytical laboratory that is licensed by the Rhode Island Department of Health ("RIDOH") pursuant to the rules and regulations promulgated by RIDOH for Licensing Analytical Laboratories for Sampling and Testing Medical Marijuana (216-RICR-60-05-6) ("Licensing Analytical Laboratories for Sampling and Testing Medical Marijuana"). All testing performed by an approved testing facility for a licensee shall conform to the requirements

set forth in Licensing Analytical Laboratories for Sampling and Testing Medical Marijuana, including but not limited to 216-RICR-60-05-6.21(A), (B) and (C). The licensee shall be responsible for the cost and expense of such testing.

2. A sample test result greater than 0.3% THC shall be prima facie evidence that at least one cannabis plant or part of a plant in the licensee's location contains THC above the allowable limit and that the licensee is not in compliance with the Act and these regulations.
3. The licensee may request a retest of any retained portion of a sample. Any request for retesting must be made to DBR, in writing, within ten (10) days of the date of notification of test results. The licensee must pay all analysis costs and expenses associated with any retest.
4. DBR may require that any hemp, plants or materials as to which testing results reflect THC content above the allowable limit be destroyed by the licensee under DBR's supervision and at the licensee's expense.
5. Upon completion of testing, any remaining samples may be destroyed ten (10) days after the date of notification of test results.

1.9 Agricultural Pilot Program Registry Identification Cards

A. Before issuance of the license all officers, directors, owners, shareholders, managers, members, employees, and agents of the licensee must apply for a registry identification card and submit to a national criminal background check as provided in the Act and § 1.9(D) of this Part. Such individuals may be hired, appointed, or retained prior to receiving a registry identification card, but may not begin engagement in hemp cultivation, production or other license activities until receipt of the card.

B. Registry Identification Card Definitions

1. "Licensed cardholder" includes all officers, directors, owners, shareholders, managers, members, employees, and agents who have been issued a registry identification for their association with the licensee.
2. "Agent" of a licensee shall include, but not be limited to, "testing agents."
3. "Testing Agent" shall mean an employee of an approved testing facility who performs independent testing of hemp of the licensee in accordance with § 1.8(D)(1) of this Part.

C. Registry Identification Card Requirement, Eligibility, Annual Fee and Application

1. All officers, directors, owners, shareholders, managers, members, employees, and agents of the licensee must apply for Agricultural Pilot Program registry identification cards.
2. Each licensee shall maintain a current list of all licensed cardholders associated with the licensee.
3. Licensed cardholders shall be at least twenty-one (21) years old.
4. There shall be a one hundred dollar (\$100.00) non-returnable, non-refundable biennial fee for an Agricultural Pilot Program registry identification card, including each initial application and subsequent annual renewal.
5. Applications pursuant to this section shall be on such forms and through such submission mechanisms as directed by DBR.

D. Criminal Background Checks

1. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7), all applicants are subject to a national criminal background check. This shall include all officers, directors, owners, shareholders, managers, members, employees, and agents of the licensee (hereinafter also referred to in this section as "applicants").
2. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(iv), disqualifying information is defined as a conviction for any felony offense under R.I. Gen. Laws Chapter 21-28, or murder, manslaughter, first-degree sexual assault, second-degree sexual assault, first-degree child molestation, second-degree child molestation, kidnapping, first-degree arson, second-degree arson, mayhem, robbery, burglary, breaking and entering, assault with a dangerous weapon, or any assault and battery punishable as a felony or assault with intent to commit any offense punishable as a felony.
3. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(i), the national criminal identification records check shall include fingerprints submitted to the Federal Bureau of Investigation. Application for said records check may be made to the Bureau of Criminal Identification of the Department of Attorney General, Rhode Island State Police ("RISP"), or the local police department.
4. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(i), upon the discovery of any disqualifying information, RISP shall send written notification to the applicant disqualifying the applicant and informing the applicant of the nature of the disqualifying information.
5. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(i), upon discovery of any disqualifying information, the RISP shall notify DBR in writing of the fact

that disqualifying information has been discovered thus disqualifying the applicant.

6. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(ii), in those situations in which no disqualifying felony as defined in R.I. Gen. Laws § 2-26-5(7)(iv)-(v) has been found, the RISP shall inform the applicant and DBR, in writing, of this fact.
7. Pursuant to R.I. Gen. Laws § 2-26-5(c)(7)(vi), the applicant shall be responsible for any expense associated with the national criminal background check with fingerprints.

E. Issuance of the Agricultural Pilot Program Registry Identification Card

1. Once the licensee application is approved by DBR, each approved officer, director, owners, shareholder, manager, member, employee, or agent of the licensee is responsible for getting a registry identification card.
2. The registry identification card shall contain:
 - a. The name, address and date of birth of the person.
 - b. The legal name of the licensee that the individual is affiliated with.
 - c. The category of the person's affiliation; officer, director, owner, shareholder, manager, member, employee, or agent.
 - d. The date of issuance and expiration date of the registry identification card.
 - e. A random registry identification number.
 - f. A photograph.

F. Expiration and Renewal of Registry Identification Cards

1. Agricultural Pilot Program registry identification cards shall expire two years after issuance. Renewal applications shall be on such forms and through such submission mechanisms as directed by DBR.

G. Termination of Registry Identification Card

1. If a licensee registry identification cardholder violates R.I. Gen. Laws § 2-26-5(c)(7)(iv)-(v), or any portion of these regulations which apply to such cardholder, his or her registry identification card may be suspended/revoked as determined by DBR pursuant to R.I. Gen. Laws § 2-26-5(e).

2. When a registry identification cardholder ceases work or other association with a licensee, whether voluntarily or involuntarily or upon the licensee closing, his or her registry identification card shall be null and void. In that situation, the licensee and/or the cardholder shall notify DBR within ten (10) business days and no hearing shall be necessary to render the card null and void.

1.10 Operational Requirements

A. Agricultural Pilot Program Tracking System

1. Upon direction by DBR, each licensee shall be required to utilize the state approved Agricultural Pilot Program Tracking System to document and monitor compliance with the Act, these regulations, and the all testing regulations and requirements, including but not limited to seed to sale tracking, inventory supply tracking, adherence to restrictions on third party supply and sources of hemp and transfers thereof by the licensee, and all testing compliance tracking. Licensees may be required to pay costs associated with use of the Agricultural Pilot Program Tracking System which may be assessed on an annual, monthly, per use, or per volume basis and payable to the state or to its approved vendor.

B. Limitation on Sales and Transfers

1. Licensees shall only sell, transfer and transport hemp to another licensee or such other persons who are in compliance with applicable laws regarding the possession, processing and sale of industrial hemp. A licensee may only receive hemp from another licensee or certified seed or plant source.
2. Any transfer to or from an approved testing facility shall be in accordance with transfer procedures adopted by the licensee and the approved testing facility and which comply with any applicable rules and regulations contained in Licensing Analytical Laboratories for Sampling and Testing Medical Marijuana (216-RICR-60-05-6).

C. Inventory Tagging

1. Pursuant to R.I. Gen. Laws § 2-26-5(c)(3), every hemp plant possessed by a licensee must be accompanied by a hemp tag (for purposes of these regulations, tag is defined to include any tag or other tracking certificate or method approved by DBR for the Agricultural Pilot Program Tracking System).
2. Properly using tags with unique identifiers through the Agricultural Pilot Program Tracking System, payment of the biennial license fee, and

compliance with the requirements of this subsection shall be deemed to satisfy the requirements of R.I. Gen. Laws § 2-26-5(c)(3).

3. Licensee must ensure that hemp is marked with Agricultural Pilot Program Tracking System unique identifier tags through each stage of growth and production the licensee is undertaking, from seed propagation through packaging, as may be applicable.
4. Agricultural Pilot Program Tracking System unique identifier tags shall contain the following information and/or technical functions:
 - a. DBR license number;
 - b. Unique identifier(s) (such as barcodes, numerical or alphabetical codes, or Radio Frequency Identification) that track hemp through each stage of growth and production;
 - c. Licensed premises location; and
 - d. Any other information or technical functions DBR deems appropriate (such as radio frequency identification).
5. Agricultural Pilot Program Tracking system unique identifier tags shall not be altered or duplicated.
6. Unique identifier tags shall be placed in a manner to clearly display their association with a particular plant, plant material, or product, such as affixed to the plant itself, on the growing receptacle, or in the growing medium, by affixing the tag to the stalk for drying on the stalk, on a label affixed to a storage/transport or other package and other reasonable means as directed by the DBR.
7. The unique identifier tags may not be transferred or assigned except with the prior written approval of the DBR.
8. Return of unique identifier tags by a licensee upon revocation, suspension or abandonment of the license shall be specifically governed by DBR order or agreement and/or coordinated efforts with law enforcement. Disposal of unique identifier tags by a licensee as may be required by DBR, such as in the regular course of tagging if different stages will require different tag forms or such as recall of tags due to new technology, shall be handled in accordance with further instructions provided by DBR.

D. Inventory Control

1. Upon direction by DBR, each licensee shall utilize the state approved Agricultural Pilot Program Tracking System for all inventory tracking from seed to sale as further defined herein.

2. If the licensee is notified by DBR that the Agricultural Pilot Program Tracking System is not available, the licensee will be provided with direction as to alternative inventory control measures, which may include but are not necessarily limited to the licensee being directed to:
 - a. Conduct an initial comprehensive inventory of all hemp, including hemp plants and seedlings as of a date certain set by DBR.
 - b. Conduct subsequent comprehensive inventories at intervals not to exceed twenty-four (24) months from the date of the previous comprehensive inventory.
 - c. Conduct a monthly inventory review of hemp plants and stored hemp.
3. Upon request, DBR may require the licensee to conduct and provide the results of alternative inventory control measures outlined above, regardless of the availability and use of the Agricultural Pilot Program Tracking System.
4. Licensees may only obtain industrial hemp from another licensee or a certified seed or plant source.

E. Minimum Security Requirements

1. General Security Requirements

- a. Each licensee shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing hemp and the theft of hemp such as fencing or other method to protect against crop intrusion, security alarm, video surveillance, visitor protocols and disposal procedures acceptable to DBR.
- b. Use or carry of firearms on the premises and/or perimeter of the licensee is a prohibited form of security, except by security guards licensed by the Office of the Rhode Island Attorney General pursuant to R.I. Gen. Laws § 5-5.1-13 and who are under written contract to provide security services to the licensee and by law enforcement personnel during duty.
- c. The licensed premises shall have adequate lighting to deter theft as is acceptable to DBR which may include motion activated lighting.
- d. Within any area where hemp is grown, cultivated, produced, stored, weighed, packaged, processed or manufactured, any person who does not have a valid licensee registry identification card shall be considered a "visitor" and must be escorted at all times by an

Agricultural Pilot Program registry identification card holder. The licensee must maintain a visitor log for any such activity as detailed in § 1.10(E)(4)(c) of this Part.

2. Video Surveillance Requirements. If required by DBR, the licensee must have a fully operational video surveillance and camera recording system with appropriate protocols, which shall, at a minimum, comply with the below requirements:

- a. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, video monitors, and digital archiving devices capable of playback quality sufficient to identify and monitor all individuals (including sufficient clarity of facial features) and activities in the monitored areas.
- b. The recording system must record in digital format.
- c. The date and time must be embedded on the recording without significantly obscuring the picture. Time is to be measured in Eastern Standard Time.
- d. All video surveillance systems must be equipped with a failure notification system that provides prompt notification of any surveillance interruption and/or the complete failure of the surveillance system. Said notification must be routed to licensee personnel specifically designated by management and to DBR.
- e. All video surveillance equipment shall have sufficient battery backup to support a minimum of four (4) hours of recording in the event of a power outage.
- f. Video recordings must be archived in a format and maintained in a manner that ensures authentication of the recording as legitimately captured video and guarantees that no alteration of the recorded image has taken place.
- g. All video surveillance records and recordings must be made available upon request to DBR.
- h. The system must include a color printer or similar equipment capable of printing still photos of a quality sufficient to identify individuals and activities in the monitored areas.
- i. Camera views of required coverage areas shall be continuously recorded twenty-four (24) hours a day, seven (7) days per week.
- j. All surveillance recordings must be kept for a minimum of fifteen (15) calendar days.

- k. Surveillance recording equipment and all video surveillance records and recordings must be housed in a designated, locked and secured room or other enclosure with access limited to licensee personnel specifically authorized by management (the "security room"). The licensee must keep on site a current list of all authorized employees and service personnel who have access to the security room and a video surveillance equipment maintenance activity log.
- l. If the licensee suffers a failure of the surveillance system, due to loss of electrical support, mechanical function, or otherwise, that is expected to exceed an eight (8) hour period, in addition to the notice requirements provided in § 1.10(E)(5) of this Part, the licensee must also close the licensee's premises until the video surveillance system has been restored to full operation, or, if approved by DBR, provide alternative premises monitoring.

3. Emergency Plan

- a. The licensee shall develop and maintain an emergency plan with procedures to be followed to prevent and, if not prevented, to adequately address and mitigate consequences of theft or burglary or attempts thereof, fire, natural disasters, and other emergencies, including cybersecurity and data breach procedures to prevent a compromise of the integrity of the Agricultural Pilot Program Tracking System. The plan shall include training for employees on crime prevention and personal safety techniques.

4. Security-Related Record-Keeping. The licensee shall maintain the following documentation on-site and with digital back-up for a period of at least twenty-four (24) months after the event as applicable:

- a. Inventory records including, at a minimum, the date the inventory was conducted, a summary of the inventory findings and the name, signature and title of the individual who conducted the inventory.
- b. All records of maintenance, inspection, and tests of the security alarm and video surveillance systems and of servicing, modifications, or upgrades performed on said systems. These records shall include at a minimum the date of the action, the summary of the action(s) performed and the purpose therefor, and the name, signature and title of the individual who performed the action(s).
- c. Visitor logs which shall include the name of each visitor, the date and time of the beginning and end of the visit, the reason for the

visit (i.e. maintenance, authorized pickup, etc.), the name of the escorting licensee registry identification cardholder.

- d. Emergency notification reports as required by §1.10(E)(5) of this Part.

5. Emergency Notifications and Reports

- a. Licensees shall provide notification of emergency events to DBR and municipal and/or state law enforcement as outlined below.
- b. Immediately upon discovery of the event, the licensee shall provide telephone notification to the appropriate municipal and/or state law enforcement authorities regarding any of the following "emergency events:"
 - (1) Theft or burglary or an attempt thereof.
 - (2) Any fire.
 - (3) A natural disaster that results in the destruction of or damage to hemp or hemp products.
 - (4) A failure of any security alarm system or video surveillance system, due to loss of electrical support, mechanical function, or otherwise, that is expected to exceed an eight (8) hour period.
 - (5) A security alarm activation.
 - (6) Any other event which requires response by law enforcement or public safety personnel.
- c. The licensee shall provide e-mail notification to DBR immediately upon discovery of any data breach or cybersecurity threat to the Agricultural Pilot Program Tracking System, and within twenty-four (24) hours of discovery of any other emergency event as defined above. A follow-up telephone notification to DBR shall be provided not later than the next business day.
- d. The licensee shall submit a follow-up written report to DBR within five (5) business days for each emergency event. The written report shall include, at a minimum, a description of the event(s), identification of known or suspected cause(s) for the event(s), any corrective action(s) taken to prevent a recurrence, and the name, title, and signature of the individual preparing the report.

- e. Any notification and report of an emergency event required to be made to DBR pursuant to these regulations shall be made using the mailing address, telephone number, and/or e-mail address provided by DBR to approved licensees.
- f. Upon written direction to the licensee, DBR may require that the written and telephone notifications and reporting must be replaced or supplemented by notifications and reporting through the Agricultural Pilot Program Tracking System or any other electronic system or means DBR mandates the licensee to utilize.

F. Food Safety

- 1. Any product containing hemp or a hemp-derived substance that is intended for consumption must be produced consistent with any applicable state or local food processing and safety regulations, and the applicant shall be responsible to ensure its compliance with such regulations and any applicable licensing requirements.

G. Packaging and Labeling Requirements

- 1. Any container or packaging containing hemp or hemp product, including packaging for the purpose of storage and/or authorized transport, must:
 - a. Protect the product from contamination;
 - b. Not impart any toxic or deleterious substance to the hemp or hemp product;
 - c. Contain the Inventory tracking ID number assigned by the Agricultural Pilot Program Tracking System; and
 - d. Be labeled with the quantity of the product.
- 2. Packaging and labeling shall not:
 - a. Make any false or misleading statements including false or misleading statements regarding health or physical benefits or as to the composition and profiles.
 - b. Resemble the trademarked, characteristic or product-specialized packaging of any commercially available product.
 - c. Contain any statement, artwork, or design that could reasonably mislead any reasonably prudent person to believe that the package contains anything other than hemp or hemp product.

- d. Contain any seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any reasonably prudent person to believe that the product has been endorsed, produced or manufactured by the State of Rhode Island or any agency thereof or municipality within.
- 3. All hemp and hemp products must include a label affixed to the package containing the following information, prominently displayed and in a clear and legible English language font:
 - a. Licensee name, license number and address;
 - b. Inventory tracking ID number assigned by the Agricultural Pilot Program Tracking System;
 - c. Date of final packaging, and if applicable, the recommended expiration or "use by" date;
 - d. Total weight in ounces and grams or volume as appropriate. Weight and volume must be determined using accurately calibrated equipment which equipment must also comply with any other applicable state laws; and
 - e. Total amount of THC as determined by approved testing and total amount of any other constituents determined by testing including CBD.
 - f. If solvents were used in production, statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.
 - g. Any applicable instructions for use and safe storage.
- 4. All hemp and hemp products must include a label affixed to the package containing the following warnings, prominently displayed and in a clear and legible English language font. These warnings may be on an insert provided with the packaging.
 - a. "Warning: This product is not certified to be free of contaminants."
 - b. "Warning: This product is derived from industrial hemp and is not medical marijuana."
 - c. "Warning: This product has not been analyzed or approved by the FDA."

- d. If applicable, a warning regarding use or contact with any nuts or other known allergens as defined in the federal Food Allergen Labeling and Consumer Protection Act of 2004, as administered by the FDA.

H. Pesticide Use and Record-Keeping

1. The cultivation process shall use best practices to limit contamination of industrial hemp and hemp products, including but not limited to mold, mildew, fungus, bacterial diseases, rot, pests, pesticides, and any other contaminant identified as posing potential harm.
2. The use of pesticides on industrial hemp plants in Rhode Island by licensed growers will not be considered a violation of these regulations provided that the product is registered and properly labeled under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and satisfies §§ 1.10(H)(2)(b)(1) and 1.10(H)(2)(f) and (g) of this Part below; or the product must satisfy all of the following criteria:
 - a. The product must be a "minimum risk pesticide" under 40 C.F.R. § 152.25(f), incorporated above at § 1.4(A) of this Part.
 - b. The product must be labelled for use on either:
 - (1) "Cannabis," "hemp,"; or
 - (2) "All plants," "other plants," bedding plants, unspecified plants, or unspecified crops.
 - c. The label must not prohibit indoor or greenhouse use, as applicable.
 - d. All active ingredients must be eligible for food use as determined by the federal Environmental Protection Agency ("EPA") Active Ingredients Eligible for Minimum Risk Pesticide Products, incorporated above at § 1.4(B) of this Part.
<https://www.epa.gov/sites/production/files/2018-01/documents/minrisk-active-ingredients-tolerances-jan-2018.pdf>.
 - e. All inert/other ingredients must be eligible for food use. See EPA's Inert Ingredients Eligible for FIFRA 25(b) Pesticide Products, incorporated above at § 1.4(C) of this Part.
https://www.epa.gov/sites/production/files/2016-11/documents/minrisk_inert_ingredients_w_tolerances_2016-11-16.pdf.
 - f. The product must be a currently registered pesticide product eligible for sale in Rhode Island as determined by DEM. To verify a

product's registration in Rhode Island, please consult the online National Pesticide Information Retrieval System through the Center for Environmental and Regulatory Information Systems. See http://npirspublic.ceris.purdue.edu/state/state_menu.aspx?state=RI.

- g. The product must be used in accordance with any and all use instructions on the label.
- 3. Pesticides shall be identified, held, stored and disposed of in a manner that protects against contamination of industrial hemp and industrial hemp products and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation, or ordinance.

1.11 Methods of Extraction

- A. Pursuant to R.I. Gen. Laws § 2-26-8(b), no butane method of extraction shall be permitted.
- B. Pursuant to RI. Gen. Laws § 2-26-8(a), permissible methods of extraction shall only be conducted using the following methods:
 - 1. Mechanical extraction;
 - 2. Chemical extraction using a nonvolatile solvent such as a nonhydrocarbon-based or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or food-grade glycerin. Nonhydrocarbon-based solvents shall be food grade.
 - 3. Chemical extraction using a professional closed loop CO2 gas extraction system;
 - 4. Chemical extraction using a volatile solvent, provided the solvent and extraction method is authorized and approved by DBR; and
 - 5. Any other method authorized and approved by DBR.
- C. If any method uses a flammable/combustible material or heat source, the method must also be approved by the State Fire Marshal and/or local fire department.

1.12 Licensees' Reports and Submissions

- A. End of Year Reporting
 - 1. The Grower shall submit an end-of-year report, on a form prescribed by DBR, with their renewal application or if a licensee is not applying for renewal for the following two-year period on or before the last day of the month next preceding the month in which the license will expire, indicating, at a minimum, the following information:

- a. Variety and source of hemp plants or seeds used for growth;
 - b. Method(s) used to grow hemp;
 - c. Variety of hemp grown;
 - d. Purpose of crop;
 - e. Harvested amount and description of quality;
 - f. End destination or use of crop; and
 - g. Volunteer Plants, if any occurred, and how they were managed.
2. The Handler shall submit an end-of-year report, on a form prescribed by DBR, with their renewal application or if a licensee is not applying for renewal for the following two-year period on or before the last day of the month next preceding the month in which the license will expire, indicating, at a minimum, the following information:
- a. Variety and source of hemp used for production;
 - b. Method(s) used to process and produce hemp;
 - c. Amount of hemp used in production;
 - d. A description of the end product resulting from the method(s) described in § 1.11(B) of this Part;
 - e. A description of the quantity and quality of the hemp product that the handler produced; and
 - f. End destination or use of hemp produced.

B. Research Reporting

- 1. The licensee must conform its research to that which it proposed in its application. If the licensee wants to perform research other than that which it proposed in its application, it must submit an amended research proposal to DBR no later than sixty (60) days from the date of the initial application or within such other time as DBR shall approve.
- 2. The licensee must submit to DBR a summary of the research that it conducted during the license period with their renewal application or if a licensee is not applying for renewal for the following two-year period on or before the last day of the month next preceding the month in which the license will expire. The research summary must be submitted on a form prescribed by DBR made available on DBR's website, and must include

specific data collected by the licensee during the two-year period for which it was most recently licensed.

3. In addition to the requirements specified in § 1.12(A) and (B) of this Part, DBR may require the Licensee to provide additional reporting as necessary.

1.13 Institutions of Higher Education

- A. Pursuant to R.I. Gen. Laws § 2-26-9(a), DBR will certify an institution of higher education to grow or handle, or assist in growing or handling, industrial hemp for the purposes of agricultural or academic research upon submission of the following:

1. The location where the institution of higher education intends to grow or cultivate, or provide assistance with growth and handling of the industrial hemp;
2. The institution of higher education's research plan;
3. The name and contact information of the employee of the institution of higher education who will supervise the hemp growth, cultivation, research and any record-keeping related to those activities;
4. The name and contact information of the employee of the institution of higher education responsible for communicating research results and reports to DBR; and
5. Such other information as DBR shall request to ensure compliance with the Act and these regulations.

1.14 Violations and Enforcement

- A. Any violation of the licensing agreement, the Act or these regulations may be enforced by DBR as an administrative violation and shall be grounds for license suspension or revocation.
- B. Any action taken by DBR as to any licensee pursuant to § 1.14 of this Part will follow the proscribed procedures outlined in R.I. Gen. Laws § 42-35-1 *et seq.*, the Administrative Procedures Act ("APA") and Part 10-00-2 of this Title, DBR Rules of Procedure for Administrative Hearings (the "Rules of Procedure").

1.15 Severability

If any provision of these regulations, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid

provision or application, and to this end the provisions are declared to be severable.