

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	07/20/2018	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/31/2018

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
15	01	16	01-.07

3. Name of Promulgating Authority

Department of Agriculture

4. Name of Regulations Coordinator	Telephone Number
Iva Benson	410-841-5829

Mailing Address

50 Harry S. Truman Parkway, Suite 303

City	State	Zip Code
Annapolis	MD	21401

Email
iva.benson@maryland.gov

5. Name of Person to Call About this Document	Telephone No.
Kevin Conroy	(410) 841-5829

Email Address
kevin.conroy@maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

 Date when existing text was downloaded from COMAR online: .

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Craig A. Nielsen, Assistant Attorney General, (telephone #(410) 841-5883) on July 20, 2018. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Joseph Bartenfelder

Title

Secretary

Telephone No.

(410) 841-5884

Date

July 20, 2018

Title 15
DEPARTMENT OF AGRICULTURE
Subtitle 01 OFFICE OF THE SECRETARY

15.01.16 Industrial Hemp Pilot Program

Authority: Agriculture Article § 14-102(c), Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Agriculture proposes to adopt regulations under new Chapter 16 Industrial Hemp Pilot Program of COMAR 15.01.

Statement of Purpose

The purpose of this action is to explain the Department of Agriculture's Industrial Hemp Pilot Program.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Kevin Conroy, Assistant Secretary, Maryland Department of Agriculture, 50 Harry S Truman Parkway, Annapolis, Maryland 21401, or call (410) 841-5870, or email to kevin.conroy@maryland.gov, or fax to (410) 841-5835. Comments will be accepted through October 15, 2018. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2018

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:
General Funds

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:
This proposal merely implements the requirements of Chapter 476, Laws of Maryland 2018.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

See E. Above.

G. Small Business Worksheet:

SMALL BUSINESS ANALYSIS WORKSHEET

1a. Intended Beneficiaries.

NA

1b. Intended Beneficiaries: Households.

N/A

1c. Intended Beneficiaries: Businesses.

Farmers under the Pilot Program.

2a. Other Direct or Indirect Impacts: Adverse.

There will be a minimum charge for a criminal background check.

2b. Other Direct or Indirect Impacts: Positive.

N/A

3. Long-Term Impacts.

N/A

4. Estimates of Economic Impact.

A. Cost of providing goods and services.

Unknown at this time

B. Effect on the workforce.

Unknown at this time

C. Effect on the cost of housing.

None

D. Efficiency in production and marketing.

Unknown at this time

E. Capital investment, taxation, competition and economic development.

Unknown at this time

F. Consumer choice.

N/A

Attached Document:

TITLE 15

DEPARTMENT OF AGRICULTURE

Subtitle 01 OFFICE OF THE SECRETARY

Chapter 16 Industrial Hemp Pilot Program

Authority: Agriculture Article §14-102(I), Annotated Code of Maryland

.01 Purpose

This chapter explains the Department of Agriculture's Industrial Hemp Pilot Program, including the requirement for the registration and the certification of a site that will be used to grow or cultivate industrial hemp to further agricultural or academic research purposes.

.02 Definitions

A. In this chapter, the following terms have the meanings indicated:

B. Terms Defined.

(1) "Authorized holder" or "holder" means an Institution of higher education or a person who has contracted with an Institution to grow or cultivate industrial hemp for agricultural research and academic research purposes as authorized by this chapter.

(2) "Certified Site" means any property site certified by and registered with the Department as a site where industrial hemp may be grown or cultivated for agricultural or academic research purposes

(3) "Department" means the Maryland Department of Agriculture.

(4) "Independent testing laboratory" has the meaning stated in §13-3301 of the Health General Article.

(5) (a) "Industrial hemp" means the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis.

(b) "Industrial hemp" does not include any plant or part of a plant intended for a use that is regulated under Title 13, Subtitle 33 of Health – General Article.

(6) "Institution of higher education" or "Institution" has the meaning stated in The Federal Higher Education Act of 1965.

(7) "Person" means an individual, partnership, corporation, limited liability company, association, or any business entity by whatever name designated and whether or not incorporated, unless the context clearly indicates otherwise.

.03 Authorization to grow and cultivate industrial hemp

A. Only an Institution of higher education within Maryland may submit an application to the Department for authorization to grow, cultivate, harvest, process, manufacture, transport, market or sell Industrial hemp for agricultural, industrial or commercial purposes to further agricultural or academic research purposes.

B. Only a person contracting with the department or an approved Institution of higher education as provided in this regulation may possess, grow, cultivate, harvest, process, manufacture, transport, market or sell Industrial hemp as part of the pilot program to further agricultural or academic research purposes.

C. Industrial hemp may only be grown or cultivated at a registered site or premises owned or controlled by an Institution of higher education or by a person who contracts with an Institution to grow and cultivate it.

D. A person who contracts with an Institution to grow and cultivate Industrial hemp shall:

- (1) Be at least 18 years old;
- (2) Pass a criminal background test with no felony convictions in the past 10 years;
- (3) Own or lease, with the approval of the owner, the property used to grow and cultivate hemp;
- (4) Have the site registered and approved with the Department before contracting to grow or cultivate hemp;
- (5) Grant the Department permission to enter and inspect the property to ensure compliance with the requirements of this chapter.
- (6) Only grow hemp on land zoned for agricultural purposes that is at least 1,000 feet from a school or public recreation area;
- (7) Post a sign on the certified site that notifies the public that the site is used to grow hemp as part of a pilot program; and
- (8) Attend an orientation session by the Department, in cooperation with the Institution, before contracting to grow or cultivate hemp that explains the requirements of this chapter.

E. It is the sole responsibility of any Institution or person qualifying under this chapter to hold any required federal permit to possess, grow, or cultivate Industrial hemp.

.04 Application Review and Approval

An application to grow, cultivate, harvest, process, manufacture, transport, market or sell Industrial hemp to further agricultural research or academic research purposes shall be made on a Departmental form. Each application shall provide the following information, including, but not limited to:

A. A description of each site where Industrial hemp will be grown or cultivated, either by the Institution of higher education or by an authorized person who contracts with the Institution by physical address with a map clearly showing the location of the site with GPS co-ordinates;

B. A diagram for each site that visually depicts the buildings, structures and improvements on the premises, and identifies their use, and that sets forth the relevant activities conducted at the site;

C. A detailed summary of the issues and matters that the applicant intends to study in conjunction with growing, cultivating, processing, manufacturing, transporting, marketing or selling Industrial hemp; and

D. Payment of a \$250 fee to certify and register each site used to grow or cultivate Industrial hemp either by the Institution or the person who contracts with the Institution.

.05 Rejection of Application or Revocation of Authority

The Department may reject any application to grow or cultivate Industrial hemp, and may revoke an authorization to grow and cultivate Industrial hemp, if the Department determines that:

A. The application is incomplete or does not provide the information required pursuant to Regulation .04 of this chapter; or

B. The authorized holder has failed to comply with the requirements of this chapter or the terms of the holder's application.

.06 Hemp Seeds

A person or Institution that grows or cultivates Industrial hemp as authorized by this chapter may purchase or otherwise obtain seeds that produce plants that meet the definition of Industrial hemp as provided in this chapter.

.07 Hemp Verification and Reports

A. In accordance with this regulation, a person who grows or cultivates Industrial hemp as authorized by this chapter shall:

(4) Verify that the plants grown or cultivated by the person meet the definition of Industrial hemp under this chapter;

(5) Maintain all records of verification at the site that is used to grow or cultivate Industrial hemp; and

(6) Make all records available for inspection by:

(a) The Department; or

(b) *The Institution of higher education that contracted with the person under this chapter to grow or cultivate Industrial hemp.*

B. *The verification required under this regulation shall include:*

(1) *Documentation from an Independent testing laboratory registered as defined by this chapter; or*

(2) *Documentation from the Institution of higher education that contracted with the person under this chapter to grow or cultivate Industrial hemp.*

C. *An Independent testing laboratory or an Institution of higher education that provides verification document under this chapter shall conduct on-site inspections to perform the testing necessary for the verification.*

D. *If it is determined that the Industrial hemp exceeds a delta-9-tetrahydrocannabinol concentration that exceeds 0.3% on a dry weight basis, it shall be destroyed by the authorized holder within seven days under the supervision of the Institution of higher education.*

E. *The frequency of the verification required under this subsection shall be determined by:*

(1) *The Department; or*

(2) *The Institution of higher education that contracted with a person under this chapter to grow or cultivate Industrial hemp.*

JOSEPH BARTENFELDER
Secretary of Agriculture