



GEORGIA DEPARTMENT OF AGRICULTURE

Gary W. Black, Commissioner

www.agr.georgia.gov

DATE: July 10, 2019

ACTION: Notice of Intent to Consider the Adoption of Hemp Growers and Processors Rules

TO ALL INTERESTED PERSONS AND PARTIES:

Pursuant to the Official Code of Georgia Annotated, O.C.G.A. §§ 2-23-12 and 50-13-4, notice is hereby given that the Georgia Department of Agriculture will be accepting written comments regarding the adoption of Hemp Growers and Processors Rules from July 10, 2019, to the close of business (4:30 p.m. EST) on August 12, 2019.

SYNOPSIS, MAIN FEATURES AND DIFFERENCES:

The Department is proposing to adopt new Chapter 40-32 entitled “Hemp Growers and Processors”.

Proposed Subject 40-32-1 sets forth the “General Provisions” applicable to the Rules.

Proposed Rule 40-32-1-.01 entitled “Authority and Purpose of Rules” provides that pursuant to the authority vested in the Georgia Department of Agriculture under the Georgia Hemp Farming Act, O.C.G.A. § 2-23-1 et. seq., the purpose of the Rules is to establish the standards, practices, procedures, and requirements for growing and processing hemp in Georgia.

Proposed Rule 40-32-1-.02 entitled “Definitions” defines terminology necessary for administration of the Rules.

Proposed Rule 40-32-1-.03 entitled “Compliance with Federal Law” provides that nothing in the Rules shall be construed as authorizing any person to violate any Federal law or regulation.

Proposed Rule 40-32-1-.04 entitled “Georgia Hemp Plan – Incorporation by Reference” provides that upon approval of the Georgia Hemp Plan by the U.S. Secretary of Agriculture, the plan will be deemed incorporated into the Rules by reference and will be posted on the Department’s website.

Proposed Rule 40-32-1-.05 entitled “Consultation with the Georgia Bureau of Investigation” states that the Rules have been developed in consultation with the Georgia Bureau of Investigation.

Proposed Subject 40-32-2 sets forth the Rules governing “Hemp Growers”.

Proposed Rule 40-32-2-.01 entitled “Application for Hemp Grower License” sets forth the requirements for Hemp Grower License Applications, sets forth the timing for submission of applications, sets forth the timing for issuance of Licenses, and provides for renewal of Licenses.

Proposed Rule 40-32-2-.02 entitled “Grower License Terms and Conditions” provides that each applicant and Licensee must acknowledge and agree to the terms and conditions governing the Hemp Grower License and describes said terms and conditions.

Proposed Rule 40-32-2-.03 entitled “Licensee Restrictions” provides that a Licensee must not engage in specified activities, requires Licensees to post signage at the entrance of each Grow Site that is one (1) acre or less in size, and requires Licensees to comply with all applicable local, state, and federal laws, rules, regulations, and ordinance at all times.

Proposed Rule 40-32-2-.04 entitled “Recordkeeping Requirements” requires Licensees to maintain planting records, harvest and production records, and sample analysis records as well as copies of transport permits and copies of all written agreements with Permittees. Records must be kept for at least three (3) years and in a manner such that they can be readily provided to the Department upon request. The Department will maintain all relevant records and information regarding Licensees and land on which hemp is produced in Georgia and will submit said information to the U.S. Secretary of Agriculture within thirty (30) days of the date on which the information is received.

Proposed Rule 40-32-2-.05 entitled “Inspections and Sampling” provides that all Licensees are subject to inspection and sampling to verify that all parts of hemp plants do not exceed a delta-9-THC concentration of more than 0.3% on a dry weight basis as well as to verify the Licensee’s compliance with all requirements of the Georgia Hemp Farming Act and the Rules. The Rule also further describes provisions regarding inspections and sampling procedures, incorporates the Department’s “Procedures for Hemp Sampling and Testing” by reference, provides that official samples may also be tested for pesticide residues, states that the Department may contract with a third-party lab to perform testing services, and states that the Rules will not prevent the Licensee from voluntarily collecting samples and testing hemp.

Proposed Rule 40-32-2-.06 entitled “Destruction of Non-Compliant Hemp” provides that if a tested official sample reveals a delta-9-THC concentration of more than 0.33% or if a retested official sample reveals a delta-9-THC concentration of more than 0.3% on a dry weight basis, the Licensee’s entire crop with the same global position coordinates will be promptly destroyed. In such cases, the Department will issue an Order of Destruction requiring destruction within ten (10) calendar days of the Licensee’s receipt of the Order. Hemp subject to destruction must not be removed from the Grow Site, or from any other area where such hemp is being handled or stored, unless authorized in writing by the Department.

Proposed Rule 40-32-2-.07 entitled “Storage of Hemp” provides that only Licensees and Permittees are authorized to store hemp and identifies the requirements for storing hemp. All hemp storage areas will be subject to inspection by Department officials.

Proposed Rule 40-32-2-.08 entitled “Transportation Requirements” provides that no person may transport hemp in Georgia without a Hemp Transportation Permit issued by the Department, and only Licensees and Permittees may request a Hemp Transportation Permit from the Department. The Rule sets forth the requirements for transporting hemp in Georgia as well as the process and requirements for obtaining a Hemp Transportation Permit.

Proposed Rule 40-32-2-.09 entitled “Pesticide Use” provides that any Licensee who uses a pesticide on hemp must comply with all Georgia laws and regulations pertaining to applications of pesticides including, but not limited to, licensing requirements. Licensee’s must not apply pesticides to hemp in violation of the product label, and hemp seeds, plants, and materials bearing pesticide residue in violation of the pesticide label may be subject to forfeiture or destruction without compensation.

Proposed Rule 40-32-2.10 entitled “Violations and Enforcement” includes a non-exhaustive list of violations and provides that violations will be subject to enforcement in accordance with O.C.G.A. § 2-23-10, the Georgia Hemp Farming Act, the Rules, and other applicable state law. Violations of the Georgia Hemp Farming Act or the Rules may constitute a public nuisance under Georgia law, and civil enforcement may result.

Proposed Subject 40-32-2 sets forth the Rules governing “Hemp Processors”.

Proposed Rule 40-32-3-.01 entitled “Application for Hemp Processor Permit” sets forth the requirements for Hemp Processor Permit Applications, provides that a pre-permit facility inspection may be required prior to issuance of a Permit, sets forth the timing for submission of applications, sets forth the timing for issuance of Permits, and provides for renewal of permits.

Proposed Rule 40-32-3-.02 entitled “Processor Permit Terms and Conditions” provides that each applicant and Permittee must acknowledge and agree to the terms and conditions governing the Hemp Processor Permit and describes said terms and conditions.

Proposed Rule 40-32-3-.03 entitled “Permittee Restrictions” provides that a Permittee must not engage in specified activities. The Permittee must also comply with all applicable local, state, and federal laws, rules, regulations, and ordinances at all times including, but not limited to, the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all laws, rules, regulations, and ordinances relating to product development, product manufacturing, consumer safety, and public health.

Proposed Rule 40-32-3-.04 entitled “Recordkeeping Requirements” requires Permittees to maintain copies of all written agreements with growers, certificates of analysis or other testing results, and transport permits. Permittees must also maintain hemp intake, inventory, disposal, and processing records. Records must be kept for at least three (3) years and in a manner such that they can be readily provided to the Department upon request. The Department will maintain all relevant records and information regarding Permittees and facilities at which hemp is processed or handled in Georgia and will submit said information to the U.S. Secretary of Agriculture within thirty (30) days of the date on which the information is received.

Proposed Rule 40-32-3-.05 entitled “Inspections and Sampling” provides that all Permittees are subject to inspection and sampling to verify that hemp and hemp products do not exceed a delta-9-THC concentration of more than 0.3% as well as to verify the Permittee’s compliance with all requirements of the Georgia Hemp Farming Act and the Rules. The Rule further describes provisions regarding inspections and sampling procedures, incorporates the Department’s “Procedures for Hemp Sampling and Testing” by reference, provides that official samples may also be tested for pesticide residues, states that the Department may contract with a third-party lab to perform testing services, and states that the Rules will not prevent the Permittee from voluntarily collecting samples and testing hemp.

Proposed Rule 40-32-3-.06 entitled “Destruction of Non-Compliant Hemp or Hemp Products” provides that if a tested official sample reveals a delta-9-THC concentration of more than 0.3%, all related hemp and hemp products must be destroyed by the Permittee under the supervision of local law enforcement. In such cases, the Department will issue an Order of Destruction requiring destruction within ten (10) calendar days of the Permittee’s receipt of the Order. Hemp and hemp products subject to destruction must not be removed from the permitted facility, or from any other area where such hemp is being processed, handled, or stored, unless authorized in writing by the Department.

Proposed Rule 40-32-3-.07 entitled “Storage of Hemp” provides that only Licensees and Permittees are authorized to store hemp and identifies the requirements for storing hemp. All hemp storage areas will be subject to inspection by Department officials.

Proposed Rule 40-32-3-.08 entitled “Transportation Requirements” provides that no person may transport hemp in Georgia without a Hemp Transportation Permit issued by the Department, and only Licensees and Permittees may request a Hemp Transportation Permit from the Department. The Rule sets forth the requirements for transporting hemp in Georgia as well as the process and requirements for obtaining a Hemp Transportation Permit.

Proposed Rule 40-32-3-.09 entitled “Violations and Enforcement” includes a non-exhaustive list of violations and provides that violations will be subject to enforcement in accordance with the Georgia Hemp Farming Act, the Rules, and other applicable state law.

COMMENT PERIOD AND ADDITIONAL INFORMATION:

The Department will be accepting written comments from July 10, 2019, to the close of business (4:30 p.m. EST) on August 12, 2019. Comments will be considered on August 13, 2019. Please submit written comments to:

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Georgia Department of Agriculture
1109 Experiment Street
Redding Building, Room 213
Griffin, Georgia 30223
Telephone Number: 404-651-9486
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Interested persons may call or submit a written request to obtain a copy of the proposed Rules. A copy of the synopsis and the proposed Rules may be downloaded from the Georgia Department of Agriculture website at www.agr.georgia.gov.

This notice is given in compliance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-4.