



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Industrial Hemp Commission

2. Rule citation & name: 02 NCAC 62 .0101 Approved Seed For Planting

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 12/28/16
- b. Proposed Temporary Rule published on the OAH website: 1/5/17
- c. Public Hearing date: 1/12/17
- d. Comment Period: 1/5/17 – 1/27/17
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 1/5/17
- f. Adoption by agency on: 2/13/17
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2016-93, Section 7
Effective date: July 11, 2016
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: S.L. 2016-93 gave rule-making authority to the newly created Industrial Hemp Commission to promulgate rules to implement the industrial hemp pilot project. 62 .0101 spells out the approved seeds for planting.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The enacted legislation specifically tells the Industrial Hemp Commission to adopt temporary rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Christina L. Waggett

Phone: 919-707-3008

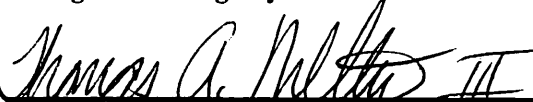
E-Mail: Christina.waggett@ncagr.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Thomas A. Melton, III

Title: Commission Chair

E-Mail: tmelton@ncsu.edu

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

SESSION LAW 2016-93
HOUSE BILL 992

AN ACT TO MODIFY THE INDUSTRIAL HEMP RESEARCH PROGRAM BY CLARIFYING THE DEFINITION OF RESEARCH PURPOSES AND THE RESPONSIBILITIES OF LICENSEES, CREATING CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS OF THE INDUSTRIAL HEMP PROGRAM, AND GRANTING RULE-MAKING AUTHORITY TO THE INDUSTRIAL HEMP COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-568.51 reads as rewritten:

"§ 106-568.51. Definitions.

The following definitions apply in this Article:

- (1) Certified seed. – Industrial hemp seed that has been certified as having a delta-9 tetrahydrocannabinol concentration less than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. § 801 et seq.
- (2) Commercial use. – The use of industrial hemp as a raw ingredient in the production of hemp products.
- (3) Commission. – The North Carolina Industrial Hemp Commission created by this Article.
- (4) Department. – The North Carolina Department of Agriculture.
- (5) Grower. – Any person licensed to grow industrial hemp by the Commission pursuant to this Article.
- (6) Hemp products. – All products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp varieties.
- (7) Industrial hemp. – All parts and varieties of the plant *Cannabis sativa* (L.), cultivated or possessed by a grower licensed by the Commission, whether growing or not, that contain a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.
- (7a) Industrial hemp research program. – The research program established pursuant to G.S. 106-568.53(1).
- (7b) State land grant university. – North Carolina State University and North Carolina A&T State University.
- (8) Tetrahydrocannabinol or THC. – The natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity."

SECTION 2. G.S. 106-568.52 reads as rewritten:

"§ 106-568.52. North Carolina Industrial Hemp Commission.

(a) Creation and Membership. – The North Carolina Industrial Hemp Commission is established and shall consist of ~~five~~nine members as follows:

- (1) The Commissioner of Agriculture or the Commissioner's designee, who shall serve as vice-chair.
- (2) One appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, who shall at the time of appointment be a municipal chief of police.



- (3) One appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, who shall at the time of appointment be an elected sheriff or the sheriff's designee.
- (4) ~~One~~ Two appointed by the Governor who shall at the time of appointment be a full-time faculty member of a State land grant university who regularly ~~teaches~~ works in the field of agricultural ~~science~~ science or research.
- (5) ~~One~~ Two appointed by the Commissioner of Agriculture, who shall be a full-time farmer with at least 10 years of experience in agricultural production in the State.
- (6) One appointed by the Commissioner of Agriculture, who shall be a professional agricultural consultant.
- (7) One appointed by the Commissioner of Agriculture, who shall be an agribusiness professional.

(b) Terms of Members. – Members of the Commission shall serve terms of four years, beginning effective July 1 of the year of appointment, and may be reappointed to a second four-year term. The terms of members designated by subdivisions (a)(1), (a)(2), ~~and (a)(4)~~ (a)(4), and (a)(6) of this section shall expire on June 30 of any year evenly divisible by four. The terms of the remaining members shall expire on June 30 of any year that follows by two years a year evenly divisible by four.

(c) Chair. – The members of the Commission shall elect a chair. The chair shall serve a two-year term and may be reelected.

(d) Vacancies. – Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be made by the original appointing authority and shall be for the balance of the unexpired term.

(e) Removal. – The appointing authority shall have the power to remove any member of the Commission appointed by that authority from office for misfeasance, malfeasance, or nonfeasance.

(f) Reimbursement. – The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(g) Quorum. – ~~Three~~ Five members of the Commission shall constitute a quorum for the transaction of business.

(h) Staff. – The Commission is authorized and empowered to employ no more than two persons as staff to assist the Commission in the proper discharge of its duties and responsibilities. The chair of the Commission shall organize and direct the work of the Commission staff. The salaries and compensation of all such personnel shall be determined by the Commission; provided, however, that the aggregate cost for salaries and benefits of the staff may not exceed two hundred thousand dollars (\$200,000)."

SECTION 3. G.S. 106-568.53 reads as rewritten:

"§ 106-568.53. Powers and duties of the Commission.

The Commission shall have the following powers and duties:

- (1) To establish an ~~agricultural~~ industrial hemp research program to grow or cultivate industrial hemp in the ~~State~~ State, to be directly managed and coordinated by State land grant universities. The Commission shall pursue any permits or waivers from the United States Drug Enforcement Agency or any other federal agency that are necessary for the establishment of the industrial hemp ~~cultivation pilot research~~ program established by this Article. This research program shall consist primarily of demonstration plots planted and cultivated in North Carolina by selected growers. The growers shall be licensed pursuant to subdivision (2) of this section prior to planting any industrial hemp.
- (2) To issue licenses allowing a person, firm, or corporation to cultivate industrial hemp for ~~commercial research~~ purposes to the extent allowed by federal law, upon proper application as the Commission may ~~specify~~ specify, and in accordance with G.S. 106-568.53A. Each licensee shall provide a complete and accurate legal description of the location of the industrial hemp farming operation, including GPS coordinates, and the license shall be issued for cultivation only in those locations identified in the application and shall include on its face the description of those areas. The Department shall

provide administrative support to the Commission for the processing of applications and issuance of licenses.

- (3) To support the Commission's activities, and to reimburse the Department for expenses associated with the issuance of cultivation licenses under subdivision (2) of this section, the Commission may charge the following fees:

- a. An initial, graduated license fee, to be paid by each cultivator, based upon the number of acres proposed for cultivation of industrial hemp, not to exceed ten thousand dollars (\$10,000), with incentive provisions to encourage the participation of small acreage farmers.
- b. An annual fee that is the sum of two hundred fifty dollars (\$250.00) and two dollars (\$2.00) per acre of industrial hemp cultivated.

In setting fees under this subdivision, the Commission may create fair and reasonable licensing preferences for license applicants from North Carolina counties that have been recognized as economically depressed or disadvantaged. The Department shall collect and manage all fees charged by the Commission and shall remit all funds collected under this subdivision to the Commission at least monthly. The Department may retain its actual expenses associated with the issuance of cultivation licenses from the amount to be remitted to the Commission.

- (4) To receive gifts, grants, federal funds, and any other funds both public and private needed to support the Commission's duties and programs.
- (5) To establish procedures for reporting to the Commission by the growers and processors for agricultural or academic research and to collaborate and coordinate research efforts with the appropriate departments or programs of North Carolina State University and North Carolina A & T State University.
- ~~(6) To study and investigate marketplace opportunities for hemp products to increase the job base in the State by means of employment related to the production of industrial hemp.~~
- ~~(7) To study and investigate methods of industrial hemp cultivation that are best suited to soil conservation and restoration.~~
- (8) To ~~propose to the Board of Agriculture for adoption~~ reasonable adopt rules and regulations necessary to carry out the purposes of this Article, which shall include, but are not limited to, rules for all of the following:
 - a. Testing of the industrial hemp during growth to determine tetrahydrocannabinol levels. Testing methods and protocols shall comply in all respects with any and all applicable federal requirements.
 - b. Supervision of the industrial hemp during its growth and harvest, including rules for verification of the type of seeds and plants used and grown by licensees.
 - c. The production and sale of industrial hemp, consistent with the rules of the United States Department of Justice and Drug Enforcement Administration for the production, distribution, and sale of industrial hemp.
 - d. Means and methods for assisting law enforcement agencies to efficiently ascertain information regarding the legitimate and lawful production of industrial hemp.
 - e. Strategies and programs for the promotion of industrial hemp products and markets, in conjunction with the North Carolina Department of Agriculture, the North Carolina Department of Commerce, the University of North Carolina system, and the community college system.
 - f. The fees authorized by subdivision (3) of this section.

The Commission shall ~~include in its rulemaking proposals the adoption~~ adopt by reference or otherwise the federal regulations in effect regarding industrial hemp and any subsequent amendments to those regulations. No North Carolina rule, regulation, or statute shall be construed to authorize any person to violate any federal law or regulation.

- (9) To undertake any additional studies relating to the production, distribution, or use of industrial hemp as requested by the General Assembly, the Governor, or the Commissioner of Agriculture.
- (10) To notify the State Bureau of Investigation and all local law enforcement agencies of the duration, size, and location of all industrial hemp demonstration plots authorized pursuant to the industrial hemp research program."

SECTION 4. Article 50E of Chapter 106 of the General Statutes is amended by adding two new sections to read:

"§ 106-568.53A. Responsibilities of licensees.

A person granted an industrial hemp license pursuant to this section shall:

- (1) Maintain records that demonstrate compliance with this Article and with all other State laws regulating the planting and cultivation of industrial hemp.
- (2) Retain all industrial hemp production records for a minimum of three years.
- (3) Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the Commission, the State Bureau of Investigation, or the chief law enforcement officer of the unit or units of local government where the farm is located.
- (4) Maintain a current written agreement with a State land grant university that states that the grower is a participant in the industrial hemp research program managed by that institution.

"§ 106-568.55. Authorized research purposes.

As part of the industrial hemp research program directly managed by a State land grant university, a licensed grower may engage in any of the following research activities:

- (1) Studying and investigating marketplace opportunities for hemp products to increase the job base in the State by means of employment related to the production of industrial hemp.
- (2) Studying and investigating methods of industrial hemp cultivation that are best suited to soil conservation and restoration.
- (3) Overseeing and analyzing the growth of industrial hemp by licensed growers for agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of various varieties of industrial hemp that may be suitable for various commercial hemp products.
- (4) Conducting seed research on various types of industrial hemp that are best suited to be grown in North Carolina, including seed availability, creation of North Carolina hybrid types, and in-the-ground variety trials and seed production. The Commission may establish a program to recognize certain industrial hemp seeds as being North Carolina varieties of hemp seed.
- (5) Studying the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the State, including by commercial marketing and sale of industrial hemp.
- (6) Reporting on the estimated value-added benefits, including environmental benefits, to North Carolina businesses of an industrial hemp market of North Carolina-grown industrial hemp varieties.
- (7) Studying the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and use.
- (8) Researching and promoting on the world market industrial hemp and hemp seed that can be grown in the State.
- (9) Promoting research into the development of industrial hemp and commercial markets for North Carolina industrial hemp and hemp products.
- (10) Studying the feasibility of attracting federal or private funding for the North Carolina industrial hemp research program.
- (11) Studying the use of industrial hemp in new energy technologies, including electricity generation, biofuels, or other forms of energy resources; the growth of industrial hemp on reclaimed mine sites; the use of hemp seed oil in the production of fuels; and the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy."

SECTION 5. Article 50E of Chapter 106 of the General Statutes is amended by adding two new sections to read:

"§ 106-568.56. Civil penalty.

(a) In addition to any other liability or penalty provided by law, the Commissioner may assess a civil penalty of not more than two thousand five hundred dollars (\$2,500) per violation against any person who:

- (1) Violates any provision of this Article or a rule adopted by the Commission, or conditions of any license, permit, or order issued by the Commission.
- (2) Manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp. This penalty may be imposed in addition to any other penalties provided by law.
- (3) Provides the Commission with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article.
- (4) Tampers with or adulterates an industrial hemp crop lawfully planted pursuant to this Article.

(b) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant to this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

"§ 106-568.57. Criminal penalties.

(a) Any person that manufactures, distributes, dispenses, delivers, purchases, aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, purchase, or possesses with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana on property used for industrial hemp production, or in a manner intended to disguise the marijuana due to its proximity to industrial hemp, shall be deemed guilty of a Class I felony. This penalty may be imposed in addition to any other penalties provided by law.

(b) Any person that provides the Commission with false or misleading information in relation to a license application or renewal, inspection, or investigation authorized by this Article shall be deemed guilty of a Class 1 misdemeanor.

(c) Any person that tampers with or adulterates an industrial hemp crop lawfully planted pursuant to this Article shall be deemed guilty of a Class 1 misdemeanor."

SECTION 6. G.S. 90-87(16) reads as rewritten:

"(16) "Marijuana" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil, or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination. The term does not include industrial hemp as defined in G.S. 106-568.51, when the industrial hemp is produced and used in compliance with rules issued by the Board of Agriculture upon the recommendation of the North Carolina Industrial Hemp Commission."

SECTION 7. Section 3 of S.L. 2015-299 reads as rewritten:

"SECTION 3. ~~The Board of Agriculture–North Carolina Industrial Hemp Commission may adopt temporary rules to implement the provisions of this act and shall adopt permanent rules as recommended by the North Carolina Industrial Hemp Commission.~~ act. The temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective."

SECTION 8. Section 4 of S.L. 2015-299 reads as rewritten:

"SECTION 4. Section 2 of this act becomes effective on the first day of the month following the adoption of ~~permanent–temporary~~ rules pursuant to Section 3 of this act and applies to acts involving the production, possession, or use of industrial hemp occurring on or after that date. The remainder of this act is effective when it becomes law. This act shall expire on June 30 of the fiscal year in which the North Carolina Industrial Hemp Commission adopts and submits to the Governor and to the Revisor of Statutes a resolution that a State pilot program allowing farmers to lawfully grow industrial hemp is no longer necessary because (i)

the United States Congress has enacted legislation that removes industrial hemp from the federal Controlled Substances Act and (ii) the legislation has taken effect."

SECTION 9. Section 5 of this act becomes effective December 1, 2016, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of July, 2016.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 3:55 p.m. this 11th day of July, 2016

TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Hemp Commission

RULE CITATION: 02 NCAC 62 .0101

DEADLINE FOR RECEIPT: 1 p.m., Wednesday, February 15, 2017

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, please reinsert the colon after "following" Since you published it that way, you do not need to show it as a change; simply do it.

In (a), line 4, I take it "approved" is as set forth in this Rule?

In (a)(1), line 9, the citation is to "G.S." not "NCGS" (See Rule 26 NCAC 02C .0109(b)(1))

In (b), line 17, I take it "true to type" is a term used by the NCCIA and known to your regulated public?

In (d), line 22, I take it the terms "agricultural co-operative enterprise" and "farm aggregator" are known to your regulated public?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: February 14, 2017

02 NCAC 62 .0101 is adopted with changes under temporary procedures as follows:

02 NCAC 62 .0101 APPROVED SEED FOR PLANTING

(a) Approved seed or transplants for cultivating industrial hemp in North Carolina shall be from one of the following

(1) Seed or transplants produced from seed or living plant parts that meet the criteria for Breeder, Foundation, Registered, or Certified categories as defined by the North Carolina Crop Improvement Association (NCCIA), including certification by other seed agencies recognized by NCCIA. All such seed and transplants shall include a certifying tag of varietal purity issued by NCCIA (www.nccrop.com) or another official certifying agency as defined in NCGS 106-277.2(23); or

(2) Seed or transplants produced lawfully under an industrial hemp pilot program within the United States provided that the seed or transplants have accompanying documentation of:

A. Being produced by a licensed grower within the state of ~~production, and~~ [production; and](#)

B. Have accompanying documentation that the crop from which the seed or transplants were harvested had a THC analysis of 0.3% or less by dry weight.

(b) Growers or other organizations in North Carolina may produce seed or transplants for distribution or sale for cultivation, if the source is Subparagraph (a)(1) above, in subsequent years only if it is overseen by NCCIA and certified by NCCIA to be true to type under American Organization of Seed Certifying Associations (AOSCA) guidelines. No other seed or transplants may be produced in North Carolina for distribution or sale in North Carolina.

(c) All seed or transplants produced in North Carolina for distribution or sale in North Carolina to be utilized for cultivation of industrial hemp shall include a certifying tag of varietal purity issued by NCCIA or another official certifying agency as defined in G.S. 106-277.2(23).

(d) A business entity, including an agricultural co-operative enterprise (“co-op”) or other farm aggregator (“aggregator”) who contracts with one or more permitted growers, may, upon registering with the Commission, obtaining any required permitting from the United States Drug Enforcement Agency, and pursuant to Federal and State law, obtain bulk quantities of seed or transplants approved under this Rule for distribution to permitted growers. A permitted grower may own and plant seed or transplants obtained from such registered ~~op-ops~~ [co-ops](#) or aggregators, who ~~must~~ [shall](#) document quantities delivered to each named grower within ten days of delivery.

History Note: G.S. ~~106-568.50-58~~ [106-568.53](#);
[Eff. February 24, 2017.](#)



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Industrial Hemp Commission

2. Rule citation & name: 02 NCAC 62 .0102 Control of Volunteers

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 12/28/16
- b. Proposed Temporary Rule published on the OAH website: 1/5/17
- c. Public Hearing date: 1/12/17
- d. Comment Period: 1/5/17 – 1/27/17
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 1/5/17
- f. Adoption by agency on: 2/13/17
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2016-93, Section 7
Effective date: July 11, 2016
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: S.L. 2016-93 gave rule-making authority to the newly created Industrial Hemp Commission to promulgate rules to implement the industrial hemp pilot project. 62 .0102 directs license holders to monitor and destroy volunteers, or feral plants.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The enacted legislation specifically tells the Industrial Hemp Commission to adopt temporary rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Christina L. Waggett

Phone: 919-707-3008

E-Mail: Christina.waggett@ncagr.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Thomas A. Melton, III

Title: Commission Chair

E-Mail: tmelton@ncsu.edu

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Hemp Commission

RULE CITATION: 02 NCAC 62 .0102

DEADLINE FOR RECEIPT: 1 p.m., Wednesday, February 15, 2017

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 5, delete the comma after "discovered"

In (c), line 7, I believe you should replace "provision" with "Rule"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: February 14, 2017

02 NCAC 62 .0102 is adopted with changes under temporary procedures as follows:

02 NCAC 62 .0102 CONTROL OF VOLUNTEERS

(a) Volunteers, or feral plants, from a previous years' planting ~~must~~ shall be monitored and destroyed ~~immediately~~ as soon as it is discovered, for three years after cultivation.

(b) It shall be the responsibility of the license holder to monitor and destroy volunteers.

(c) The responsibilities of the license holder in this provision may be transferred to another entity by mutual ~~written~~ agreement ~~in writing~~ with both parties' signatures.

History Note: G.S. ~~106-568.50-58~~ 106-568.53;

Eff. February 24, 2017.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Industrial Hemp Commission

2. Rule citation & name: 02 NCAC 62 .0103 Sampling of THC Level

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 12/28/16
- b. Proposed Temporary Rule published on the OAH website: 1/5/17
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- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

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- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2016-93, Section 7
Effective date: July 11, 2016
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: S.L. 2016-93 gave rule-making authority to the newly created Industrial Hemp Commission to promulgate rules to implement the industrial hemp pilot project. 62 .0103 directs the sampling of the plants for THC levels.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The enacted legislation specifically tells the Industrial Hemp Commission to adopt temporary rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Christina L. Waggett

Phone: 919-707-3008

E-Mail: Christina.waggett@ncagr.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Thomas A. Melton, III

Title: Commission Chair

E-Mail: tmelton@ncsu.edu

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Hemp Commission

RULE CITATION: 02 NCAC 62 .0103

DEADLINE FOR RECEIPT: 1 p.m., Wednesday, February 15, 2017

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, replace "are" with "shall be"

In (c), line 10, I believe you are trying to state that random inspections will occur based upon availability of agency personnel. Why not state "... or randomly, based upon the availability of Division personnel."?

On line 11, I take it your regulated public knows what "distinct" means?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: February 14, 2017

02 NCAC 62 .0103 is adopted with changes under temporary procedures as follows:

02 NCAC 62 .0103 SAMPLING OF THC LEVEL

(a) All plantings of industrial hemp are subject to sampling for THC levels. Licensees to cultivate industrial hemp under these Rules are subject to sampling and analysis of THC levels at any time by the North Carolina Department of Agriculture and Consumer Services' Plant Industry Division or law enforcement agencies. The Division or law enforcement agency collecting the sample shall notify the license holder at the time the sample is collected.

(b) License holders are responsible for notifying the Division at the time of initiation of floral buds.

(c) The Division shall sample all fields, or greenhouses, prior to [harvest, if practicable, or randomly and based on perceived risk at the discretion of the Division.] harvest or based upon risk perceived by the Division. The sampling unit shall be defined as a distinct field, greenhouse, or variety planted within a field or greenhouse, whichever is smaller.

[d) When industrial hemp is sampled for THC levels, the sampling method shall be per guidelines adopted by the Division for collecting regulatory samples of industrial hemp.]

[e) (d) Representatives of the Division collecting or transporting the samples shall have the legal right to possess industrial hemp in North Carolina for purposes of collecting the sample and transporting the sample to a laboratory for analysis. The laboratory performing the analysis shall have the legal right to possess industrial hemp, perform the analysis, and retain a portion of the sample.

[f) The laboratory performing the analysis for THC levels shall handle the sample in a manner consistent with established regulatory protocols for maintaining the sample and reporting the results.]

[g) (e) The license holder shall be responsible for the cost of all laboratory analytical services of the sample, billable to the license holder by the laboratory performing the analysis.

History Note: G.S. 106-568.50-58 106-568.53(8)(a);
Eff. February 24, 2017.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Industrial Hemp Commission

2. Rule citation & name: 02 NCAC 62 .0104 Reporting of Sampling

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 12/28/16
- b. Proposed Temporary Rule published on the OAH website: 1/5/17
- c. Public Hearing date: 1/12/17
- d. Comment Period: 1/5/17 – 1/27/17
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 1/5/17
- f. Adoption by agency on: 2/13/17
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2016-93, Section 7
Effective date: July 11, 2016
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: S.L. 2016-93 gave rule-making authority to the newly created Industrial Hemp Commission to promulgate rules to implement the industrial hemp pilot project. 62 .0104 deals with the reporting of the THC sampling.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The enacted legislation specifically tells the Industrial Hemp Commission to adopt temporary rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Christina L. Waggett

Phone: 919-707-3008

E-Mail: Christina.waggett@ncagr.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Thomas A. Melton, III

Title: Commission Chair

E-Mail: tmelton@ncsu.edu

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Hemp Commission

RULE CITATION: 02 NCAC 62 .0104

DEADLINE FOR RECEIPT: 1 p.m., Wednesday, February 15, 2017

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), is the laboratory the one doing the reporting? If so, consider rewriting in the active voice, "As soon as it is available, the laboratory shall submit the results of the THC analysis to the ..."

In (b), line 6, I believe you need to insert a "shall" before "require"

In (c)(1), line 12, please insert a comma after "processed"

On line 13, should this be "and" instead of "or"? Or will you have stalks that do not have seeds, or seeds without stalks, such that this should be separable?

In (c)(2), line 15, should "transplant" be singular? If not, remove the "a" from before "transports"

On line 16, replace "which" with "that"

On line 19, state "G.S. 106-277.2(23)"

In (d), so that I'm clear – all co-mingled plant parts will be destroyed in the manner set out in Paragraph (c)?

In the History Note, the citations are G.S. 106-568.53(1)(8); 106-568.53A;

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: February 14, 2017

02 NCAC 62 .0104 adopted with changes under temporary procedures as follows:

02 NCAC 62 .0104 REPORTING OF SAMPLING

(a) As soon as it is available, the results of the THC analysis shall be reported to the North Carolina Department of Agriculture and Consumer Services' Plant Industry Division and the holder of the license.

(b) Samples with a THC level equal to or below 0.3% THC require no further action and the area or harvested plant material from which the sample was obtained shall be released for marketing or further processing.

(c) Samples with a THC level greater than 0.3% THC shall be reported by the Division to the Industrial Hemp Commission and the licensee. The license holder may request a re-test of the sample. If no re-test is requested, or the re-tested sample is greater than 0.3% THC, the area represented by the sample, or any harvested plant parts from the area represented by the sample shall be subject to the following disposition:

(1) Industrial hemp stalks may be harvested, processed and used for fiber ~~and/or~~ or any other lawful purpose; or

(2) Industrial hemp seed may be harvested, processed, and rendered non-viable for food products, provided the source of the seed or transplants is seed or a transplants produced from seed or a living plant part which meets the criteria for Breeder, Foundation, Registered, or Certified categories as defined by the North Carolina Crop Improvement Association (NCCIA), including certification by other seed agencies recognized by NCCIA, and include a certifying tag of varietal purity issued by NCCIA or another official certifying agency as defined in NCGS 106-277.2(23).

(d) If industrial hemp plant parts are harvested from a field, greenhouse, or a variety within a field or greenhouse, and are co-mingled with plant parts from another field, greenhouse, or variety within a field or greenhouse, prior to having knowledge of the results of the sample, the license holder does so at his or her own risk and with full knowledge that if an analysis of greater than 0.3% THC is returned, all co-mingled plant parts shall be destroyed.

(e) No plants parts harvested from a planting being tested shall be marketed until released by the ~~division.~~ Division.

*History Note: G.S. ~~406-568.50-58~~ 106-568.52(1)(8) and 106-568.52A;
Eff. February 24, 2017.*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Industrial Hemp Commission

2. Rule citation & name: 02 NCAC 62 .0105 Licenses

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 12/28/16
- b. Proposed Temporary Rule published on the OAH website: 1/5/17
- c. Public Hearing date: 1/12/17
- d. Comment Period: 1/5/17 – 1/27/17
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 1/5/17
- f. Adoption by agency on: 2/13/17
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2016-93, Section 7
Effective date: July 11, 2016
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: S.L. 2016-93 gave rule-making authority to the newly created Industrial Hemp Commission to promulgate rules to implement the industrial hemp pilot project. 62 .0105 lays out how to obtain a license to grow hemp in the pilot program.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The enacted legislation specifically tells the Industrial Hemp Commission to adopt temporary rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Christina L. Waggett

Phone: 919-707-3008

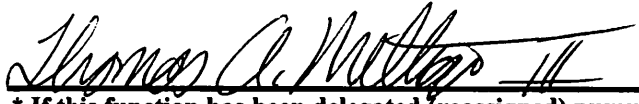
E-Mail: Christina.waggett@ncagr.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Thomas A. Melton, III

Title: Commission Chair

E-Mail: tmelton@ncsu.edu

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Hemp Commission

RULE CITATION: 02 NCAC 62 .0105

DEADLINE FOR RECEIPT: 1 p.m., Wednesday, February 15, 2017

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (f), line 19, consider deleting "full"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: February 14, 2017

02 NCAC 62 .0105 is adopted with changes under temporary procedures as follows:

02 NCAC 62 .0105 LICENSES

(a) A license to cultivate industrial hemp in North Carolina issued by the Industrial Hemp Commission shall allow the license holder to obtain seed pursuant to these Rules for planting, possess seed for planting, cultivate the crop, harvest plant parts, possess and store harvested plant parts, and transport plant parts to a market for sale.

(b) Two types of licenses shall be issued by the Commission for cultivation of industrial hemp in North Carolina:

(1) Research Only – for a university or government agency to cultivate industrial hemp for purposes of research only, with no intention to market the final product; and

(2) Research with Intent to Market – for a university, government agency, or private entity working with a university to cultivate industrial hemp with intent to market a final product.

(c) Applications for cultivation of industrial hemp in North Carolina may be made at any time during the year.

(d) Applications shall be handled and processed by the North Carolina Department of Agriculture and Consumer Services' Plant Industry Division and reviewed for approval or denial at the next scheduled meeting of the Industrial Hemp Commission.

(e) Licenses may be applied for and issued for one or three years and shall be valid for twelve or 36 months after the date of issue, whichever is applicable.

(f) Failure to comply with any of these Rules or the provisions of G.S. [106-568.53(A)] 106-568.53A shall result in an automatic revocation of the license for the full remaining period of the license.

(g) An analytical testing of THC levels greater than 0.3% shall not result in revocation of a license so long as the crop is destroyed in accordance with these [rules.] Rules.

History Note: G.S. ~~106-568.50-58~~106-568.53(2);

Eff. February 24, 2017.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Industrial Hemp Commission

2. Rule citation & name: 02 NCAC 62 .0106 Fees

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 12/28/16
- b. Proposed Temporary Rule published on the OAH website: 1/5/17
- c. Public Hearing date: 1/12/17
- d. Comment Period: 1/5/17 – 1/27/17
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 1/5/17
- f. Adoption by agency on: 2/13/17
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2016-93, Section 7
Effective date: July 11, 2016
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: S.L. 2016-93 gave rule-making authority to the newly created Industrial Hemp Commission to promulgate rules to implement the industrial hemp pilot project. 62 .0106 lays out the fees for license holders.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The enacted legislation specifically tells the Industrial Hemp Commission to adopt temporary rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☒ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☐ No

9. Rule-making Coordinator: Christina L. Waggett

Phone: 919-707-3008

E-Mail: Christina.waggett@ncagr.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Thomas A. Melton, III

Title: Commission Chair

E-Mail: tmelton@ncsu.edu

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Hemp Commission

RULE CITATION: 02 NCAC 62 .0106

DEADLINE FOR RECEIPT: 1 p.m., Wednesday, February 15, 2017

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please submit the Rule for a fee consult, as required by G.S. 150B-21.1(b3).

In (a), line 4, please put the period inside the quotation marks. "Market."

In (d), line 9, state "will apply as set forth in Paragraph (c) of this Rule."

On line 11, please capitalize "Division"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: February 14, 2017

02 NCAC 62 .0106 is adopted with changes under temporary procedures as follows:

02 NCAC 62 .0106 FEES

(a) This section Rule applies only to the license type “Research with Intent to Market”.

(b) There shall be an initial fee for first time license holders. The graduated fee shall be \$250 for up to and including 49 acres and \$500 for 50 acres or more.

(c) If a license is issued for one year, an annual fee of \$250 plus \$2 per acre, or \$2 per 1,000 square feet of greenhouse, whichever is applicable, shall be assessed.

(d) If a license is issued for three years, the same fee schedule will apply as in (c) of this Rule. The annual fee assessed each licensee shall be based on a revised reporting of intended acreage or greenhouse space for industrial hemp in each year. It shall be the responsibility of the license holder to report to the division each year the intended area to be cultivated.

(e) Fees paid for a license are not refundable once the licensee takes procession of seed or transplants or if the license is revoked for any cause over the duration of the license.

(f) The initial and annual fees are due annually within 30 days of the date of the issuance of the license or before the licensee takes procession possession of the seed or transplants, whichever is earlier.

(g) The license holder shall be responsible for the cost of all laboratory analytical services.

History Note: G.S. ~~106-568.50-58~~ 106-568.53(3);
Eff. February 24, 2017.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Industrial Hemp Commission

2. Rule citation & name: 02 NCAC 62 .0107 Application for Licenses

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 12/28/16
- b. Proposed Temporary Rule published on the OAH website: 1/5/17
- c. Public Hearing date: 1/12/17
- d. Comment Period: 1/5/17 – 1/27/17
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 1/5/17
- f. Adoption by agency on: 2/13/17
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2016-93, Section 7
Effective date: July 11, 2016
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: S.L. 2016-93 gave rule-making authority to the newly created Industrial Hemp Commission to promulgate rules to implement the industrial hemp pilot project. 62 .0107 lays out the application process.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The enacted legislation specifically tells the Industrial Hemp Commission to adopt temporary rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Christina L. Waggett

Phone: 919-707-3008

E-Mail: Christina.waggett@ncagr.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Thomas A. Melton, III

Title: Commission Chair

E-Mail: tmelton@ncsu.edu

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Hemp Commission

RULE CITATION: 02 NCAC 62 .0107

DEADLINE FOR RECEIPT: 1 p.m., Wednesday, February 15, 2017

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 6, please capitalize "Commission"

In (a)(2), line 8, state "of the applicant,"

And also in (a)(2), do you want the update every year and when it changes? If so, change "or" to "and"

In (a)(8), line 22, please capitalize "Part"

On line 23, why is "STATE" capitalized? It is not on line 20.

In (a)(13), line 3, delete "but not limited to"

In (a)(14), line 6, strike through "division" and "commission"

In (a)(15), isn't this addressed by (a)(2)?

In the History Note, I think you mean "G.S. 106-568.53(a)(2); 106-568.53A;"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: February 14, 2017

02 NCAC 62 .0107 is adopted with changes under temporary procedures as follows:

02 NCAC 62 .0107 APPLICATION FOR LICENSES

(a) Growers in North Carolina who wish to cultivate industrial hemp shall submit to the Industrial Hemp Commission an application for a license to do so. The application shall include the following information for consideration by the commission:

- (1) Type of License as set forth in Rule .0105 of this Section;
- (2) Name, address, and business name and address, if applicable, of applicant, updated annually, or as needed;
- (3) [Duration] Desired duration of License (one or three years);
- (4) Intended location(s) of planting, including address, GPS coordinates, and acreage, or square feet of greenhouse space;
- (5) Intended variety name, origin, and seed or plant certifying agency for each planting. This information must conform to Rule .0101 of this Section;
- (6) Intended marketable portion of the plant (seed, fiber, hurd, cannabinoids, not including THC, or certified planting seed or propagule as set forth in Rule .0101 of this Section);
- (7) Intended market, and intended purchaser's name and address if license is of the type "Research with Intent to Market";
- (8) Written statement of the research objective and data or observations to be collected and reported to North Carolina State University (NC State) or North Carolina A&T State University (NCA&T). The research objective [must] shall conform to the authorized research purposes set forth in G.S. 106-568.55. The written statement in this [section] part constitutes a written agreement between the license holder and NC STATE or NCA&T;
- (9) Evidence of income from a farming operation. At least one of the following from the previous year must be included and show income from crop or animal production for the applicant:
 - A. For individual filers, Schedule F of the Form 1040, U.S. Individual Income Tax Return;
 - B. For S corporation filers, Page 1 and Schedule B, of the Form 1120S, U.S. Income Tax Return for S Corporation;
 - C. For C corporation filers, Page 1 and Schedule K, of the form 1120, U.S. Corporation Income Tax Return; or
 - D. For partnership filers, Page 1 of the Form 1065, U.S. Return of Partnership Income and Schedule F of the Form 1040, U.S. Individual Income Tax Return.
- (10) Intended storage location (expressed in GPS coordinates) for harvested plant parts;
- (11) Agreement to provide access to the North Carolina Department of Agriculture and Consumer Services' Plant Industry Division and law enforcement agencies at any time for sampling in the field or storage;

1 (12) Agreement to ensure the monitoring and destruction of volunteers for three years following
2 cultivation regardless of land lease or ownership status during that period;

3 (13) Agreement to maintain all records, including but not limited to those for agronomics, contracts,
4 sampling, storage, expenses, transportation and delivery, and income, while the license is valid and
5 for three years thereafter;

6 (14) Agreement to notify the [division] Division and the [commission] Commission if there are any
7 changes or deviations from the intentions stated in the license within one month of a known
8 change or deviation; and

9 (15) Agreement to notify the [division] Division if there are any changes to the license holder's address
10 within one month of a change for the duration of the license.

11 (b) Applicants shall disclose the date and location of any conviction of any criminal offense (other than
12 misdemeanor traffic offenses) committed in any jurisdiction. Failure to comply with this requirement [in a complete
13 and truthful manner] shall be grounds for denial, suspension, or revocation of a permit, as may be determined by the
14 Industrial Hemp Commission.

15 (c) The following applicants shall not be granted a permit:

16 (1) Any applicants with any felony conviction in the prior ten years or; or

17 (2) Any drug-related or controlled substance felony conviction at any time.

18
19
20 History Note: G.S. ~~106-568.50-58~~ 106-568.53 and 106-568.53A;
21 Eff. February 24, 2017.
22



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Industrial Hemp Commission

2. Rule citation & name: 02 NCAC 62 .0108 Reporting Requirements

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 12/28/16
- b. Proposed Temporary Rule published on the OAH website: 1/5/17
- c. Public Hearing date: 1/12/17
- d. Comment Period: 1/5/17 – 1/27/17
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 1/5/17
- f. Adoption by agency on: 2/13/17
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2016-93, Section 7
Effective date: July 11, 2016
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: S.L. 2016-93 gave rule-making authority to the newly created Industrial Hemp Commission to promulgate rules to implement the industrial hemp pilot project. 62 .0108 spells out the reporting requirements of the license holders.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The enacted legislation specifically tells the Industrial Hemp Commission to adopt temporary rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Christina L. Waggett

Phone: 919-707-3008

E-Mail: Christina.waggett@ncagr.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Thomas A. Melton, III

Title: Commission Chair

E-Mail: tmelton@ncsu.edu

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

TEMPORARY RULES
REQUEST FOR TECHNICAL CHANGE

AGENCY: Industrial Hemp Commission

RULE CITATION: 02 NCAC 62 .0108

DEADLINE FOR RECEIPT: 1 p.m., Wednesday, February 15, 2017

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, delete the comma after “report” and “expiration”

In (b), line 12, so that I’m clear – is this referring to .0107(a)(8)?

In (c), line 13, please capitalize “Commission”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: February 14, 2017

02 NCAC 62 .0108 is adopted with changes under temporary procedures as follows:

02 NCAC 62 .0108 REPORTING REQUIREMENTS

(a) License holders shall report, annually and at the time of the license expiration, to the Industrial Hemp Commission, the following information:

(1) Acreage, or greenhouse space planted, harvested, and varieties grown;

(2) Weight and type of plant part marketed, purchaser, and research information provided to NC State or NCA&T; and

(3) Current industrial hemp plant parts in storage and location of storage.

(b) License holders shall report annually to NC State or NC A&T data or observations to be collected and reported in provided forms or templates from the cultivation of industrial hemp as stated on the license application set forth in Rule 02 NCAC 62 .0107.

(c) Processors of industrial hemp in North Carolina shall register with the commission and at the end of each calendar year report the total weight and type of industrial hemp processed from the North Carolina Industrial Hemp pilot program to the Industrial Hemp Commission.

History Note: G.S. ~~106-568.50-58~~ 106-568.53A;
Eff. February 24, 2017.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Industrial Hemp Commission

2. Rule citation & name: 02 NCAC 62 .0109 Adoption by Reference

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 12/28/16
- b. Proposed Temporary Rule published on the OAH website: 1/5/17
- c. Public Hearing date: 1/12/17
- d. Comment Period: 1/5/17 – 1/27/17
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 1/5/17
- f. Adoption by agency on: 2/13/17
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2016-93, Section 7
Effective date: July 11, 2016
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: S.L. 2016-93 gave rule-making authority to the newly created Industrial Hemp Commission to promulgate rules to implement the industrial hemp pilot project. 62 .0109 adopts by reference Section 7606 of the Agricultural Act of 2014.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The enacted legislation specifically tells the Industrial Hemp Commission to adopt temporary rules.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Christina L. Waggett

Phone: 919-707-3008

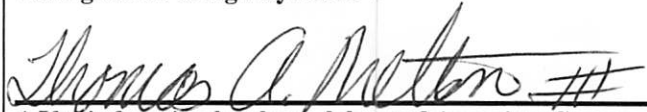
E-Mail: Christina.waggett@ncagr.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Thomas A. Melton, III

Title: Commission Chair

E-Mail: tmelton@ncsu.edu

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

02 NCAC 62 .0109 is adopted with changes under temporary procedures as follows:

02 NCAC 62 .0109 ADOPTION BY REFERENCE

The North Carolina Industrial Hemp Commission adopts by reference Section 7606 of the Agricultural Act of 2014 (Public Law 113-79) and all subsequent ~~amendments;~~ amendments and editions. The Act may be accessed at no charge at <https://www.gpo.gov/fdsys/pkg/PLAW-113publ79/pdf/PLAW-113publ79.pdf>.

History Note: *G.S. ~~106-568.50-58~~ 106-568.53(8);*
Eff. February 24, 2017.