

West Virginia Department of Agriculture

Kent A. Leonhardt, Commissioner
Joseph L. Hatton, Deputy Commissioner



Dear Applicant,

8/16/2023

The next application period for growing industrial hemp will begin on **September 1 and continue through October 31, 2023** for the 2024 growing season. **Processors may apply outside of this time period** if the application does not include growing locations.

There are ongoing changes to the Legislative Rule the WVDA uses to define the Industrial Hemp program (61CSR29). WVDA policy may change as well. This letter is intended to be a partial list of changes that you should be aware of as the applicant, and possibly a participant in WV's Industrial Hemp program.

Application Process:

Application packets, for the purpose of growing industrial hemp, must be post marked between September 1 through October 31 of this year. Applications, for the purpose of processing and commercially drying industrial hemp, will be accepted outside of these dates. **Registered mail will be helpful if you require feedback on delivery.** This letter will be updated as needed so **watch our website for necessary changes.**

At this time, only physically signed, original applications are accepted. Copies or faxes are not sufficient. Print neatly, or type, and make sure you submit the most recent version of the application. The most recent version will be posted on the WVDA website under the industrial hemp link. Answer all questions completely and accurately. Incomplete, illegible or incorrect information on applications may be grounds for rejection. Deeds, leases and maps may be submitted as copies since they are not part of the actual application.

Each location included as part of an application will require a separate "**Attachment A**" or "**Attachment B**" (page 3 or 4 of application). The attachment will include GPS information, an aerial view photograph of the property with property lines marked, and a copy of the deed. GPS information may be obtained by locating the area on Google Maps. Latitude/Longitude should be in decimal degrees and carried to 6 decimal places. (example: 38.441809 latitude, -81.682562 longitude). The aerial view may be obtained from Google Maps as well using satellite view, then printing. Mark the approximate property boundaries with a marker. **Plants grown/processed/stored in an area not listed on the license will not be considered part of the WVDA Industrial Hemp Program.**

A lease agreement is required for any property included on an application which does not belong to the applicant. The term of the agreement should be for the 2024 calendar year, at a minimum. Requirements listed in the previous paragraph apply to leased property as well. As indicated on "Attachment A" and "Attachment B" of the application, the property owner is required to submit the same background reports as the applicant.

mailing address: 1900 Kanawha Blvd. East, Charleston, WV 25305-0170

physical address: 217 Gus R. Douglass Lane, Charleston, WV 25312

telephone: 304-558-3550 • fax: 304-558-2203

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Verify the amount of payment for application fees. Application packages with incorrect or missing payments will not be considered. The structure for application and licensing fees is as follows:

1. **Application Fee** : \$100.00 X the number of non-contiguous locations (Attachment A) that are attached to the application plus \$100 x the number of Attachment B's. **Include only the application fee at the time of submission.** (*non-contiguous = not included on same deed, different owner or located more than a mile from other locations*) (**Application fees are non-refundable.**)
2. **License Fee:** If the application is approved, an additional License Fee will be required: \$100.00 + \$5.00 per total acreage for all properties applied for and \$500 per processor facility (Attachment B). (**Do not enclose this payment with your application.** *You will be invoiced for the correct amount if your application is approved.*)
3. Areas added to applications/licenses after the application period has closed may require a \$50 **Alteration Fee** in addition to \$100, if non-contiguous, and \$5 per acre to add it to the license for growing areas. To add a processing site the \$50 Alteration Fee applies but the licensing fee is an additional \$500. To add a location to a license, once issued, submit an "Attachment A" or "Attachment B" with map, deed and other documentation as needed. An invoice will be delivered to you for the correct amount if approved.

Review Process:

Applications received within the application period will be evaluated as they arrive. Initially the application will be checked for completeness and legibility. Any *obvious* insufficiencies will be emailed back to the applicant for correction. **Corrections by the applicant will be accepted until the last day of the application period without an "Alteration Fee" being required.** Applicants who submit later in September may not have an opportunity to correct or submit information as per our emailed request.

After the application period has ended, applications which are still incomplete, may be refused. Application packages containing all the required information will be considered by WVDA personnel as follows:

1. Accept your application and issue a "**Letter of Intent**". (**Pending receipt/review of required background checks, and receipt of your License Fee.**) *A Letter of Intent does not permit the possession of industrial hemp plant material or seed. It is a letter indicating our intent to issue your Full License when all background checks and payments are received.*
2. Accept your application and issue a "**Full License**" when all background checks are currently on file and fees are paid.
3. Refuse the license based on the content of the application or background checks.

In each of the previous situations the WVDA will return an email describing your status. Existing licensees who are renewing will be considered first to avoid a lapse in their license. Otherwise, a response will be issued as soon as possible, pending the volume of applicants.

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Attachment A:

Include a separate "Attachment A" for each, non-contiguous location. Attach all required information in bundles per location for our review.

If the applicant is the landowner of the property, each bundle should include:

- Attachment A coversheet completed fully and physically signed.
- Map with boundaries of the property sketched and the center of each area (grow, store, process) marked.
- A copy of the deed to the property with the landowner's name showing the same as on **Attachment A**.
- State and federal background checks for first time applicants are required.

If the applicant is not the landowner, each bundle should include:

- Attachment A coversheet completed fully.
- Map with boundaries of the property sketched and the center of each area (grow, store, process) marked.
- A copy of the deed to the property with the landowner's name showing the same as on **Attachment A**.
- A lease between the landowner of record and the applicant for the time period ending the last day of the license year you are applying for.
- State and Federal background checks for the first-time applicant and the landowner are required.

If the applicant is a business, each bundle should include:

- Attachment A coversheet completed fully.
- Map with boundaries of the property sketched and the center of each area (grow, store, process) marked.
- A copy of the deed to the property with the landowner's name showing the same as on **Attachment A**.
- A lease between the landowner and the company with the time period including the industrial hemp license's term.
- Appropriate documentation indicating the applicant is a member of the organization and permitted to sign/apply on behalf of the company.
- State and federal background checks for first time applicants and for all of the company's primary officers.

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Attachment B:

Include a separate "Attachment B" for each processing facility. Attach all required information in bundles per location for our review.

If the applicant is the landowner of the property, each bundle should include:

- Attachment B coversheet completed fully and physically signed.
- Map with boundaries of the property sketched and the center of each processor facility marked.
- A copy of the deed to the property with the landowner's name showing the same as on **Attachment B**.
- State and federal background checks for first time applicants are required.

If the applicant is not the landowner, each bundle should include:

- Attachment B coversheet completed fully.
- Map with boundaries of the property sketched and the center of each processor facility marked.
- A copy of the deed to the property with the landowner's name showing the same as on **Attachment B**.
- A lease between the landowner of record and the applicant for the time period ending the last day of the license year you are applying for.
- State and Federal background checks for the first-time applicant and the landowner are required.

If the applicant is a business, each bundle should include:

- Attachment B coversheet completed fully.
- Map with boundaries of the property sketched and the center of each processor facility marked.
- A copy of the deed to the property with the landowner's name showing the same as on **Attachment B**.
- A lease between the landowner and the company with the time period including the industrial hemp license's term.
- Appropriate documentation indicating the applicant is a member of the organization and permitted to sign/apply on behalf of the company.
- State and federal background checks for first time applicants and for all of the company's primary officers.

As the applicant, you need to demonstrate control of the property, using copies of legal documents, between the applicant and landowner before the WVDA will be able to issue a license. Your situation may be obvious to you but will not be to us. Attempt to explain the situation by organizing your application and supporting documentation. (A completed application, with all documentation is required each year, even if you were licensed previously.) If you are submitting multiple **Attachment A** or **Attachment B** which require the same deed, copy the deed for use in each **Attachment**. The more organized your application is, the easier it is to approve. Each bundle should be complete with all documents as listed above.

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Section 3: PLANTING / HARVESTING PLANS

Most of the refused applications from previous years are related to this section of the application. This question is the only part of the application that deals with your intent and knowledge of the proposed operation. Answer every part of this question in detail and attach additional sheets to your application as needed.

Site Selection: Why did you select this site? Drainage? Exposure? Etc.

Planting: How are you going to plant? Seed or Clones? When? Spacing? Etc.

Maintenance: How will you control weeds, insects, deer, diseases? How will you irrigate?

Harvesting: Are you going to harvest by hand, machine? What machine? When? How many employees?

Post-Harvest Utilization: What is the end use of your crop? Multiple, fiber, CBD, get specific... Do you have a buyer?

Proposed Seed Source: Where are you going to purchase your seed or plants from? Are they a licensed grower in WV or another state?

Availability of Seed or Clones: Do you have a confirmation that the seed is available to you? Do you have alternative sources? What varieties?

Any response which basically indicates “**Same as last year**”, will be returned to the applicant for additional information. This section is one of the last areas we review on an application. It is imperative you put effort into this question since you will have less opportunity to correct or add information.

Background Check Process:

Applicant:

Each approved, first time applicant will be required to have fingerprints recorded for the purpose of background checks. A WV State Police background check **and** an FBI Background Check must be completed, reviewed and included in your file. Both reports will be evaluated by the WVDA, considering past felony or drug related convictions. (Email hemp@wvda.us for further details on what might cause a refusal based on a background check.) *(The applicant is solely responsible for the entire background check process including the associated fees.)*

A company applying for an industrial hemp license will require each of its major officeholders submit background checks as part of the company's application.

Landowners:

For each “Attachment A” at least one of the landowners must undergo the same background requirements listed above for the Applicant.

Background reports submitted to the WVDA for consideration will require renewal after three years. The report date indicated by the WV State Police or the FBI will be used when determining the age of the report.

The WVDA no longer accepts background checks by email. All background checks must be submitted as a hard copy, delivered in person, by US Mail, or courier. There will be no exceptions.

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Licensing:

Generally, you will receive an email when the application is reviewed. The email will ask for further information to complete your application, or we will forward an invoice for required licensing fees. Once all the pieces are in place, the WVDA may issue the **"Full License"**. An email version and hard copy of the license will be sent to you at that time. It is imperative all applicants be aware that without a current **"Full License"** it is illegal to possess any form of cannabis plant material. Cannabis sativa in the hands of an individual not involved in the WVDA's Industrial Hemp Program may be considered a controlled substance and subject to applicable laws.

Licensee's should be aware of these important sections of the Legislative Rule regarding industrial hemp:

3.9. A copy of the license shall be displayed at each location where a licensed activity takes place.

4.1. Within 60 days of being issued a license, the licensee shall certify to the Commissioner that he or she has provided a copy of that license to both the sheriff of the county in which the hemp is being grown and the local detachment of the West Virginia State Police.

The notification form and contact information for local authorities is posted on our website for your use. You may email a completed **Notification Form** to us at: hemp@wvda.us . Otherwise mail the form to the contact information at the end of this letter.

Obtaining Seed and Import Permits:

The Drug Enforcement Administration no longer requires an import permit to bring industrial hemp seed into the US. However, a federal phytosanitary certificate from the country of origin **will** be required to make entry.

It is the applicant's responsibility to locate and purchase seed, wherever the origin. It is your responsibility to verify the legitimacy by retaining information regarding seed certification, licensure, supplier's contact information, variety, date, amount ordered, etc. (For the purpose of this program, seed and other propagative material is viewed similarly.)

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Harvest Responsibilities:

Once the crop is established the applicant is responsible for notifying the WVDA, 30 days before the projected harvest date. The WVDA will arrange to visit and collect sample/s to verify the total THC content is below 0.3%. *(The cost of the visit, sampling and testing is the responsibility of the applicant. Costs can be estimated by the "Industrial Hemp Sampling Invoice". If the crop is tested and found to be more than the amount allowed, destruction may be required.)* Additional information about sampling and testing are posted on our website.

After the crop is harvested the applicant must complete a "Post-Harvest Report". The report is due before the end of the calendar year. A renewal license may not be issued following a failure to submit the Post-Harvest Report for the previous year.

Farm Service Agency Reporting:

Due to USDA requirements in reporting, it is now necessary for growers to obtain information from the Farm Service Agency (FSA) about your operation. Upon the WVDA's sampling visit, you will need to provide your FSA 'Farm Number', 'Tract Number', and 'CLU/Field'.

As a grower you will need to contact your local FSA office and obtain this information. Keep in mind that there is a deadline for reporting your crop. Anyone who waits until after July 31, will be charged a late fee by the FSA. FSA reporting details can be found on our webpage:

<https://agriculture.wv.gov/divisions/plant-industries/industrial-hemp/>

This letter is not meant to address every possible question about the process. Additional questions may be emailed to hemp@wvda.us. Furthermore, the WVDA may need to contact you regarding questions we have about your application. It is imperative that you monitor the email address you provide on your application and ensure messages from the WVDA do not get filtered as junk mail. Please enter a description in the subject line to help in directing the question or comment.

Regards,

Michael C. Arnold
Plant Regulatory Programs Coordinator
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