

DEC 03 2015

COMMISSIONER
DOUG GOEHRING



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**NORTH DAKOTA
DEPARTMENT OF AGRICULTURE**

STATE CAPITOL
600 E. BOULEVARD AVE. - DEPT. 602
BISMARCK, ND 58505-0020

December 3, 2015

Ms. Vonette J. Richter
Assistant Code Revisor
North Dakota Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

Dear Ms. Richter:

The Notice of Intent to Amend Administrative Rules and a copy of the proposed rules are enclosed as required by N.D.C.C. § 28-32-10(1).

Sincerely,

A handwritten signature in blue ink, appearing to read "Rachel Seifert-Spilde".

Rachel Seifert-Spilde
Industrial Hemp Program Coordinator

Enclosures

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NOTICE OF INTENT TO AMEND NORTH DAKOTA
ADMINISTRATIVE CODE CHAPTER 7-14-02

TAKE NOTICE that the North Dakota Department of Agriculture will hold a public hearing to address a proposal to amend North Dakota Administrative Code, Chapter 7-14-02 from 10:00 am to 12:00 pm on Wednesday, January 6, 2016, in the Lewis and Clark Room, State Capitol Building, 600 East Boulevard Avenue, Bismarck, North Dakota. The proposed administrative rule changes primarily update and clarify the rules to support N.D.C.C.4-41.

The proposed rules may be reviewed at:

ND Department of Agriculture
600 East Boulevard Avenue, 6th Floor
Bismarck, ND 58505-0020

A copy of the proposed amendment and/or a regulatory analysis may be requested by writing the above address or calling 701-328-4128. Written or oral comments on the proposed rules sent to the above address or telephone number and received by January 18, 2016 will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Department of Agriculture at the above telephone number or address at least ten (10) days prior to the public hearing.

Dated this 3rd day of December, 2015.

A handwritten signature in blue ink, appearing to read "Rachel Seifert-Spilde".

Rachel Seifert-Spilde
Industrial Hemp Program Coordinator

Small entity regulatory analysis

The proposed rule regarding 7-14-02 is not expected to have an impact on the regulated community in excess of \$50,000.

1. Was establishment of a less stringent compliance or reporting requirements for small entities considered? To what result?

Yes. The industrial hemp law, to be effective, requires compliance by all individuals and entities. Permitting "less stringent compliance" by small entities would run counter to the purpose of the law. The inclusion of industrial hemp on the Drug Enforcement Agency's controlled substance schedule and the numerous federal regulations associated with that listing do not allow for less stringent compliance by small entities.

2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? To what result?

Yes. However, the industrial hemp law's compliance and reporting requirements are necessary given the federal status of industrial hemp.

3. Was consolidation or simplification of compliance or reporting requirements for small entities considered? To what result?

Yes. However, the requirements are not burdensome. Regulations are drafted in such a way to be as consolidated and simplified as possible.

4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? To what result?

No performance standards were established.

5. Was exemption of small entities from all or any part of the requirements in the proposed rule considered? To what result?

Yes. However, the inclusion of industrial hemp on the Drug Enforcement Agency's controlled substance schedule and the federal regulations associated with that listing do not allow for exemptions by small entities.

Small Entity Economic Impact Statement

1. Which small entities are subject to the proposed rule?

Persons desiring to grow or process industrial hemp for commercial or research purposes.

2. What are the administrative and other costs required for compliance with the proposed rule?

By law the commissioner assesses each applicant a fee of five dollars per acre. The minimum fee assessed must be one hundred fifty dollars per applicant.

3. What is the probable cost and benefit to private persons and consumers who are affected by the proposed rule?

The probable cost for research isn't applicable. However, should industrial hemp be approved for commercial production in the future, this may result in increased cost to the consumer due to licensing costs of growers and processors.

4. What is the probable effect of the proposed rule on state revenues?

There are no state revenues to consider. Licensing fees remain the same based on law. Licensing fees are deposited in the commissioner's operating fund and are appropriated to the commissioner for use to enforce the law.

5. Is there any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule?

No.

Fiscal Note

Please note the effect of the rules changes on state revenues and expenditures, including any effect on funds controlled by the agency.

An additional requirement for the department-approved and supervised onsite incineration of non-exempt plant material is included in the proposed rules. This additional onsite visit will increase departmental cost, but will provide an effective, pragmatic, cost-effective method for licensee non-exempt plant material disposal/destruction.

Industrial Hemp Rules Change Summary

- Remove definition and references to CBL
- Replace certify with report and remove reference to certified seed
- Revise definition of industrial hemp to focus solely on THC content instead of CBL to THC ratio
- Clarifies all crop not sold or removed from the site (instead of marketed) needs to be re-licensed the following year
- Clarifies that nonexempt plant material must be exported or sold to a United States drug enforcement administration registered reverse processor or fully incinerated onsite in a manner approved and supervised by the commissioner.
- Language that conflicts with the law that requires licensees to obtain DEA registration in order to make their ND license effective has been removed.
- The requirement that the department submit licenses to DEA annually for their approval has been removed.
- The requirement for seed testing prior to planting has been removed.
- Changes the requirement of licensees to notify the commissioner from 2 weeks to 30 days prior to harvest.
- Clarifies that the cost of all THC testing be paid by the licensee.
- Includes that a person may not plant seed whose parent plant has not been tested for delta 9 THC.