

## **Issues Regarding Article 26 of the State Fire Marshal's Temporary Regulations Concerning Hemp Processing**

### **K.A.R. 22-26-1. Definitions.**

***Finished Products and Intermediate Substance*** - as defined an intermediate substance has more than the allowable THC limit and will be subject to further processing to yield finished products. As defined a finished product has under the allowable THC limit and in a form suitable for sale.

In application, some intermediate substances as defined above having more than the allowable THC limit are in a form suitable for sale. They can and are being made into consumer products that are below the allowable THC limit and would not need to undergo further processing before becoming a part of that consumer product.

To operate a competitive business, processors need to be able to ship intermediate substances to other licensed processors without meeting the definition of a finished product as long as that substance is destined to be below the allowable THC limit before it gets to the final consumer.

### **K.A.R. 22-26-10. Acquisition of hemp, by-products, intermediate substances, or seeds for processing.**

This regulation states that processors shall obtain hemp, by-products, intermediate substances, or seeds only from legal sources.

Other states are not enforcing a rule banning the shipment of non-diluted intermediate substances above the allowable THC content. How is the transportation and receiving of out-of-state non-diluted intermediary substances affected by K.A.R. 22-26-14?

### **K.A.R. 22-26-11. Inventory control; reports.**

This regulation establishes that processors record hemp received, shipped, and in all stages of processing and report the weights and locations on a daily basis to the State Fire Marshal. It does not take into account hemp that is in-process. In a processing facility hemp can undergo multiple intricate stages of processing. Sometimes processes do not finish at the end of the day and hemp or hemp products may be left inside of machinery overnight or mixed with other processing substances. When hemp products are still in-process sometimes the product can be unweighable and difficult to define within the context of the stages proposed in the regulation. This ambiguity adds an unnecessary difficulty and complexity when trying to comply with the inventory report.

It seems the intention of this inventory report is to track every gram of hemp in a processing facility along every stage of its processing cycle every day. A much simpler and streamlined mass balance inventory control report should be taken into consideration that will still have the intended outcome of tracking all hemp and hemp products incoming, within, and leaving a processing facility.

**K.A.R. 22-26-12. Disposal of hemp waste.**

This regulation requires the processor incorporate hemp waste into solid waste materials such that the resulting mixture is less than 50 percent hemp waste. Some hemp wastes from a processing facility resemble tar, plastic like substances, thick oils, or liquids that cannot be blended into solid waste materials.

Clarification on how to dispose of hemp wastes that cannot be blended into solid waste materials need to be made.

**K.A.R. 22-26-14. Chain of custody for transportation of intermediate substances.**

This regulation states no material having greater than the allowable THC content shall leave a hemp processing facility. It requires a processor to go through a lengthy list of requirements to transport and receive intermediate substances that have no greater than the allowable THC content and submit that documentation to the Fire Marshal. Some of those requirements include placing tamper evident tape on containers, placing a lock and metal tamperproof seal on the doors of the transport vehicle, taking digital photos of the seals on the individual containers, taking digital photos of the containers after they are loaded into the transport vehicle and taking digital photos of the metal tamperproof seal after it is applied. When the shipment is received the receiving party has to also take photos of the same steps as they unseal and unload the shipment.

This regulation places unnecessary and cumbersome transport rules on below .3% THC intermediate substances. It may require a processor to purchase a vehicle just for transport that can meet all the requirements of securing the doors with an external lock and metal tamperproof seal. If the product being transported is below the allowable THC limit the substance in question should be legal to ship. With the proper documentation any hemp products or derivatives below .3% THC can be shipped via the USPS. In addition, does this regulation allow for shipment of samples of undiluted intermediate substances for 3<sup>rd</sup> party testing? Which is necessary to the operation of a processing facility.

**K.A.R. 22-26-16. Testing.**

This regulation allows for the Fire Marshal to take samples of hemp and be analyzed at the processor's expense.

Hemp potency testing from third party labs usually costs around \$100 per test. With the processor having to pay up to a \$1,000 registration fee the cost of testing should be included in this fee or a cap placed on the total amount that a processor can be billed for such testing.