WEST VIRGINIA SECRETARY OF STATE
KRIS WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
10/29/2026 10:03:55 AM
Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Agriculture

RULE TYPE: Legislative TITLE-SERIES: 61-30

RULE NAME: Select Plant-Based Derivatives And
Select Plant-Based Derivative Products

CITE AUTHORITY: §19-12E-7, 19-12E-12

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Amie J Minor -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 61
LEGISLATIVE RULE
WEST VIRGINIA DEPARTMENT OF AGRICULTURE

SERIES 30
SELECT PLANT-BASED DERIVATIVES AND SELECT PLANT-BASED DERIVATIVE PRODUCTS-HEMP ~~AND KRATOM~~

§61-30-1. General.

1.1. Scope. -- This legislative rule provides for the registration and regulation of select plant-based derivative hemp products sold within the State of West Virginia.

1.2. Authority. -- W. Va. Code §19-12E-7; §19-12E-12~~; §19-12F-5~~.

1.3. Filing Date. -- ~~April 20, 2026~~

1.4. Effective Date. -- ~~April 20, 2026~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect on August 1, ~~2031~~ 2032.

§61-30-2. Definitions.

2.1. "Alcohol Beverage Control Administration Commissioner" means the West Virginia Alcohol Beverage Control Administration Commissioner or his or her designee.

2.~~1.~~2. "Cannabidiol" or "CBD" means the compound by the same name derived from the hemp variety of the Cannabis sativa L. plant.

2.~~2~~3. "Cannabinoid" or "Phytocannabinoid" means any of the various naturally occurring, biologically active chemical constituents (such as cannabidiol or cannabinol) of hemp or cannabis, including those (such as THC) that possess psychoactive properties.

2.~~3~~4. "Commercial sales" means the sale of products in the stream of commerce direct to the endpoint consumer.

2.~~4~~ 5. "Commissioner" means the Commissioner of Agriculture or his or her designee.

~~2.5. "Confiscation" means seizure of a select plant-based derivative product or product by the Commissioner/the Department.~~

2.6. "Consumable" means a select plant-based derivative product or products intended for human and/or animal consumption.

2.7. "Crop" means hemp ~~or *Mitragyna speciosa* (hereafter "kratom")~~ grown under a single registration.

2.8. "Department" means the West Virginia Department of Agriculture and its employees.

2.9. "Distributor," "Retailer," or "Seller" means any person who sells, exposes for sale, offers for sale, exchanges, barters, gives, parcels out, allots shares, or dispenses a select plant-based derivative product or products.

2.10. "Embargo" means to remove a product from circulation by confiscation ~~(when a regulatory body, such as the Department, orders or otherwise prevents a product or product from being distributed or sold)~~.

2.11. "Final product" means the product that is packaged and is ready to be made available to the consumer by distribution or sale.

2.12. "Grower" means any person, joint venture, cooperative, or entity that grows hemp ~~or kratom~~.

2.13. "Fiber product" or "hemp fiber product" means a hemp product that is manufactured with suitable fiber for textiles, rope, paper, hempcrete, building, or fiber materials.

2.14. "Handling" means processing or storing hemp ~~or kratom~~ plants for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process hemp ~~or kratom.~~ "Handling" also includes processing or storing hemp ~~or kratom~~ plants in a vehicle for any period other than during its actual transport from the premises of one licensed person to cultivate or process hemp ~~or kratom~~ to the premises of another licensed person. "Handling" does not mean possessing or storing finished hemp ~~or kratom~~ products.

2.15. "Hemp" means all parts and varieties of the plant Cannabis sativa L., and ~~including~~ includes the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total THC concentration of not more than 0.3% ~~delta-9 tetrahydrocannabinol~~ on a dry-weight basis.

2.16. "Hemp product" or "Hemp commodity" means any product derived from, or made by, processing hemp plants or plant parts, that are prepared in a form available for commercial sale. This includes, but is not limited to:

2.16.~~a~~1. Hemp seed derivatives;

2.16.~~b~~2. Hemp concentrates or extracts;

2.16.~~c~~3. Hemp edibles and drinks;

2.16.~~d~~4. Hemp tincture;

2.16.~~e~~5. Hemp topicals and lotions;

2.16.~~f~~6. Hemp transdermal patches;

2.16.~~g~~7. Hemp fiber/fiber products;

2.16.~~h~~8. Hemp seed processed such that it is incapable of germination and processed such that is suitable for human consumption;

2.16.~~i~~9. Hemp seed pressed or otherwise processed into oil;

2.16.~~j~~10~~.~~ Hemp aerosols;

2.16.~~k~~11. Hemp vaping products;

2.16.~~l~~12. Smokable hemp products that are properly packaged, labeled, and sealed in a manner approved by the Commissioner; and

2.16.~~m~~13. Pet treats or by-products used in animal feed;

2.16.~~n~~14. The term "hemp product" or "hemp commodity" does not include:

~~2.16.n.1~~2.16.14.a. Hemp that has not been processed in any form;

~~2.16.n.2~~2.16.14.b. Hemp that has been minimally processed, for purposes of transfer or storage, including chopping, separating, or drying; and

~~2.16.n.3~~2.16.14.c. Agricultural hemp seed.

2.17. "Informational panel" means any part of the label that is not the primary label.

2.18. "Intended for human consumption" means to ingest, inhale, or topically apply to the skin or hair.

~~2.19. "Kratom" means any portion of the specified strain of botanical Mitragyna speciosa.~~

~~2.20. "Kratom product" means any product manufactured from any part of the Mitragyna speciosa plant, which is intended or marketed for consumption, and contains the alkaloids known as mitragynine and 7-hydroxymitragynine. The legal limit of 7-hydroxymitragynine (7-OH) must be no greater than 10 milligrams per dose.~~

2.19.~~21.~~ "Lot" means any amount of hemp ~~or kratom~~ product of the same type and processed at the same time using the same ingredients, standard operating procedures, and batches.

2.20.~~22.~~ "Manufacturer" or "processor" means a person who or entity which compounds, converts, or processes raw hemp ~~or kratom~~ into any commodity or product.

2.~~2.3~~21. "Manufacturing" means compounding, converting, or processing raw hemp ~~or kratom~~ into any commodity or product.

2.~~24~~22. "Non-intoxicating cannabinoids" means substances extracted from certified hemp plants that do not produce intoxicating effects when consumed. Cannabinoids that do not cause impairment, such as CBD, are considered non-intoxicating.

2.~~25~~23. "Permittee" means any person or entity/entities with a permit issued by the Department to manufacture, distribute, or sell select plant-based derivative products.

2.~~26~~24. "Person" means any corporation, individual, partnership, organization, or society.

2.~~27~~25. "Plant-based" means derived or made from plants.

2.~~28~~26. "Primary label" means the part of the label to be prominently displayed to the consumer at retail.

2.~~29~~27. "Processing" means converting an agricultural commodity, or a non-agricultural commodity specified as a select-plant based derivative, into a marketable form.

2.~~30~~28. "Products covered under W~~est~~. ~~Virginia~~Va. Code §19-12E-1 *et seq.* ~~and 19-12F-1 *et sec*~~" means products which are naturally occurring, non-synthetic substances that are derived from hemp (Cannabis sativa L.) ~~or kratom (*Mitragyna* speciosa)~~ plants.

2.~~31~~29. "Retail facility" or "retail establishment" means the physical location from which select plant-based derivative products are sold direct to consumers.

2.~~32~~30. "Select Plant-Based Derivative" means plant-derived compounds referring to materials or ingredients that originate from plants.

2.~~33~~31. "Summary Suspension" means an order issued by the Commissioner that immediately suspends a permit issued under this rule and prohibits the permit holder from manufacturing, distributing, selling, or offering for sale hemp or hemp products, or otherwise engaging in activities authorized by the permit ~~or "Permit revocation" are suspensions issued when the circumstances of any cases constitutes a hazard to public health, safety, and/or welfare, thereby requiring immediate action~~.

2.~~34~~32. "THC" means tetrahydrocannabinol and is used interchangeably with~~"~~ "Total THC"~~.~~ ~~Which~~ which means the quantifiable amount of Delta-9 THC plus 0.877 of the amount of tetrahydrocannabinolic acid in a product.

2.~~35~~33. "THC-free" means a hemp product that contains a non-detectable or non-quantifiable amount per serving of tetrahydrocannabinol.

2.~~36~~34. "White label" means a manufactured hemp ~~or Mitragyna speciosa~~ product that is manufactured or processed by one person or entity but sold by another person or entity under their own label.

§61-30-3. Regulatory authority.

3.1. The Department has the authority to regulate hemp ~~and kratom~~ products for the purposes of consumer protection and public safety. The Department further has the authority to approve or deny registration of products. The Department may deny a registration of a product considered to be potentially hazardous, as well as products which pose a threat to consumer safety or are otherwise considered to be harmful. The Department shall deny or revoke registration of any hemp product that contains any amount of kava (Piper methysticum), valerian root, yohimbe bark, willow bark, California poppy, *Boswellia serrata* resin, *Corydalis yanhusuo*, passion flower, psychoactive mushrooms, kanna, or kratom. The Department shall also deny or revoke registration of any hemp product that contains any natural or synthetic ingredient that is intended to, or could be reasonably anticipated to, enhance, potentiate, or synergize the pharmacological, psychoactive, intoxicating, or physiological effects of any cannabidiol, CBD, cannabinoid, or phytocannabinoid. ~~The Department shall deny registration of any kratom product that contains kava (Piper methysticum), psychoactive mushrooms, cannabinoids, phytocannabinoids, or any other natural or synthetic ingredient that is intended to, or could be reasonably anticipated to, enhance, potentiate, or synergize the pharmacological, psychoactive intoxicating, or physiological effects of kratom.~~

3.2. Rules governing the requirements for licensing, cultivating, testing, processing, supervision, production, and sale of raw hemp in West Virginia are found in 61 C.S.R. 29.

3.3. The provisions of ~~rules provided in~~ this rule are in addition to any requirements imposed by the United States Department of Agriculture, the federal Food and Drug Administration, or any other federal agency with regulatory authority over hemp or hemp products.

§61-30-4. Permitting and Registration of hemp ~~and kratom~~ products or extracts.

4.1. The commissioner may issue manufacturer, processor, distributor, product, and retail permits. Any person offering for sale or ~~is~~ selling hemp or hemp ~~and /or kratom~~ products must obtain the required permit, and ~~-~~all hemp or hemp ~~and kratom~~ products available for distribution or sale in West Virginia, including products manufactured in West Virginia, another state, or another country, shall be registered by the permittee annually with the Department as specified by the application provisions for product registrations in subsection 4.2 of this ~~Rule~~ rule.

4.2. Applications for permittees seeking to register hemp ~~and kratom~~ product(s) shall be made to the Department on a registration form provided by the Department and made available ~~up~~on the Department's website, and shall include the following information:

4.2.~~a~~1. The name and address of the registrant;

4.2.~~b~~2. The name and address of the person whose name shall appear on the label, if different from the registrant's;

4.2.~~c~~3. The name of the product;

4.2.~~d~~4. The origin of the raw hemp ~~or kratom~~ from which the final product was manufactured;

4.2.~~e~~5. A complete copy of the label that will appear on the product; and

4.2.~~f~~6. The associated registration fee, as indicated below.

4.3. Registrations shall expire on December 31 of the year for which the registration was issued, regardless of the date the registration is received.

4.4. The application for registration shall be due by January 1 of each calendar year.

4.5. A separate registration fee of $200.00 for each hemp ~~and kratom~~ product shall be paid to the Department with the submission of the application.

4.5.~~a~~1. In lieu of the $200.00 registration fee set forth in subsection 4.5 of this rule, a registration fee of $100.00 per hemp ~~or kratom~~ product shall be paid to the Department with the submission of the application~~,~~ if the hemp ~~and kratom~~ material(s) are grown~~,~~ and harvested in West Virginia~~, and~~ the product is manufactured in West Virginia, and the product~~s are~~ is registered with the West Virginia Grown ~~p~~Program.

~~4.5.a.1~~4.5.1.a. Registration for products under this subdivision must include a copy of the registrant's West Virginia processing/cultivation license, or credible evidence of where the product was cultivated and processed.

~~4.5.b.~~ 4.6. A renewal fee of $200.00 for each hemp ~~and kratom~~ product shall be submitted to renew a product's registration. Renewal fees shall be accompanied by a form provided by the Department identifying the product to which the fee corresponds.

~~4.5.c.~~ 4.7. The annual fee for hemp ~~and kratom~~ product registrations shall be capped at $1,000 ~~each~~ per registrant for products that are manufactured and sold in West Virginia.

~~4.5.d.~~ 4.7.1. In lieu of the $1,000 registration ~~cap~~ fee cap ~~stated~~ set forth in ~~subdivision 4.5.c~~ subsection 4.7 of this rule, a registration ~~cap~~ fee cap of $500.00 per registrant shall be paid for hemp ~~and kratom~~ products that are grown, harvested, and manufactured in West Virginia~~,~~ and that are registered with the WV Grown Program. Registration for hemp ~~and kratom~~ products under this subdivision must include a copy of the WV processing-/cultivation license and the registrant's West Virginia Grown Certificate.

~~4.5.e. For hemp and kratom product registrations, the~~ 4.8. The annual fee for hemp product registrations shall be capped at $2,000 per registrant when such products: are white labeled by a West Virginia vendor, are for sale in West Virginia, and contain West Virginia-grown hemp ~~or kratom~~.

~~4.5.e.1.~~ 4.8.1. Notwithstanding the provisions of ~~4.5.e.~~ subsection 4.8, the white labeler is still responsible for, and will be subject to, all fines and enforcement actions related to white labeled products in accordance with state law.

~~4.5.f.~~ 4.9. Hemp ~~and kratom~~ products with the same chemical composition and concentration but different net quantities will qualify as one product for purposes of product registration.

~~4.5.g. Hemp and kratom product registrations that come from an international entity shall be required to pay a foreign check fee of $35.00.~~

~~4.6.~~ 4.10. The Department may deny or delay registrations and renewals that are incomplete or erroneous and have had no action taken for 60 calendar days.

~~4.7.~~ 4.11. A new registration is required for any of the following:

~~4.7.a.~~ 4.11.1. Changes in the chemical composition, concentration, or formula of the hemp ~~or kratom~~ product; or

~~4.7.b.~~ 4.11.2. Changes to health-related label claims for active ingredients.

~~4.8.~~ 4.12. The person or entity registering the product is responsible for the completeness and accuracy of all information submitted.

~~4.9.~~ 4.13. As a condition of registration, all registrants are required to retain documentation for a minimum of two years after the final product manufacture date for each product lot demonstrating the source of the hemp ~~or kratom~~ that was utilized to manufacture the hemp ~~or kratom~~ product, including documentation that the product was grown by a licensed hemp ~~or kratom~~ grower. Such documentation shall be made available to the Department upon request.

§61-30-5. Registration to distribute or ~~and~~ sell hemp or hemp products.

5.1. Any person distributing, offering for sale, or selling hemp or hemp products in this state shall have a permit issued by the commissioner and be otherwise authorized to do business in this state. All retail facilities, including online domains and websites, as well as restaurants and other venues holding a West Virginia Alcohol Beverage Control Administration permit to sell beverages containing hemp are required to register with the Department for a permit to sell hemp or hemp products in West Virginia. Per W. Va. Code §19-12E-12(d)(5), the commissioner shall maintain and publish a list of all permits issued on the Department's website.

5.2. Application to sell at retail and distribute hemp or hemp products shall be made to the Department on a form provided by the Department, which is available on the Department's website, and shall include the following information:

5.2.~~a~~1. Name and address of the applicant's retail store; or, if the applicant is selling at an on-line store, this must be indicated on the form;

5.2.~~b~~2. Name and home address of the responsible party;

5.2.~~c~~3. The associated registration fee~~.~~;

5.2.~~d~~4. For hemp or hemp products listed under ~~West Virginia~~ W. Va. Code §19-12E-12, a letter of good standing with the West Virginia State Tax Division~~.~~;

~~5.2.e. For hemp products listed under West Virginia Code §19-12E-12 the applicant's social security number, federal employer identification number, or individual taxpayer identification number.~~

5.2.~~f~~ ~~e~~5. List of all distributors from whom retailers receive product(s)~~.~~;

5.2.~~f.~~6 A valid license issued by the West Virginia Alcohol Beverage Control Commissioner pursuant to W. Va. Code §16-9H-3, if such a license is required for the applicant to operate; and

5.2.~~g.~~7. A West Virginia Business Registration certificate.

5.3. A registration fee of $100.00 shall be paid to the Department with the ~~submission for~~ application to sell and distribute hemp or hemp products in West Virginia.

5.4. A registration fee shall be paid annually. Registrations shall expire on December 31 of the year for which the registration is issued, regardless of the date the registration is received.

5.5. Registrations shall be due on January 1 annually.

5.6. Retail establishments which exclusively sell self-manufactured products (products made "in-house" by the same retail establishment) are exempt from the requirement to pay a distribution fee, but annual registration is still required.

5.6.~~a.~~1. Retail establishments which exclusively sell products as defined in subsection 2.13 of this rule are exempt from registration requirements.

~~5.6.b. Hemp retail registrations from a foreign entity shall be required to pay a foreign check fee of $35.00.~~

~~5.6.c. Retail registration excludes restaurant sales for the on-site consumption of foods and drinks containing hemp or hemp-derived products. Restaurants selling take-home products are not exempt from registering as hemp retailers.~~

5.7. The Department may deny or delay registrations ~~for~~ in the case of incomplete applications.

5.8. Retail facilities that register with the Department will be provided a verification document, in the form of a certificate or otherwise, for display at the retail location, which will indicate that the retail facility

is an authorized location for the sale and/or distribution of hemp or hemp products. This certificate will be renewed annually. The correct and accurate certificate must be displayed at all times at the retail facility.

5.8.a1. Retailer/Distributor registrations issued by the Department are nontransferable and valid only for the specific person, entity, and physical location identified on the application and registration certificate.

5.8.b2. A change in ownership, transfer of business operations, or change in retail location shall require a new registration application and approval by the Department prior to the sale or distribution of hemp or hemp products at the new location.

5.8.c3. Each retail location operating within the state shall obtain a separate registration regardless of common ownership or affiliation.

~~5.9. A distributor of hemp products that does not itself engage in retail sales directly to consumers is not required to register under this section.~~

5.~~10~~9. The Department may revoke the registration of a retail facility to sell hemp or hemp products if it determines ~~they~~ that the facility has sold products to individuals ~~not meeting requirements of subsection 7~~8.14 ~~of this rule~~ under the age of 21. The list of approved hemp-derived cannabinoid products shall be public information and shall be published periodically on the Department's website (agriculture.wv.gov). A separate list of any persons or entities that have been subject to a permit revocation, withdrawal, suspension, nonrenewal, or other process whereby the person or entity has ceased to be a permit holder in good standing with the Commissioner shall be public information and shall be published on the Department's website (agriculture.wv.gov).

~~**§61-30-6. Registration to distribute and sell kratom products.**~~

~~6.1. All retail facilities, including online domains and websites, are required to register with the Department for a permit to sell kratom products in West Virginia. Per W. Va. Code §19-12F-8(g), the commissioner shall maintain and publish a list of all permits issued each year, which is available on the Department's website~~

~~6.2. Application to sell and distribute kratom products shall be made to the Department on a form provided by the Department, which is available on the Department's website, and shall include the following information:~~

~~6.2.a. Name and address of the applicant's retail store; or, if the applicant is selling through an online store, such must be indicated on the form;~~

~~6.2.b. Name and home address of the responsible party;~~

~~6.2.c. The associated registration fee;~~

~~6.2.d. Letter of good standing with the West Virginia State Tax Division; and~~

~~6.2.e. The applicant's social security number, federal employer identification number, or individual taxpayer identification number.~~

~~6.2.f. A List of all distributors from whom retailers receive product(s).~~

~~6.3. A nonrefundable application fee of $1,500 shall be paid to the Department to manufacture, process, distribute, or sell kratom products in West Virginia.~~

~~6.4. An annual registration fee of $300 shall be paid to the Department with the submission for application to manufacture, process, distribute, or sell kratom products in West Virginia.~~

~~6.5. A registration fee shall be paid annually. Registrations shall expire on December 31 of the year for which the registration was issued, regardless of the date the registration is received.~~

~~6.6. Registrations shall be due on January 1 annually.~~

~~6.7. Retail establishments that sell only kratom products that they manufacture themselves are exempt from the requirement to pay the fee to distribute but are not exempt from the requirement to register annually.~~

~~6.8. Kratom retail registrations that come from a foreign entity shall be required to pay a foreign check fee of $35.00.~~

~~6.9. The Department may deny or delay registrations for incomplete or erroneous applications and have had no action taken for 60 calendar days.~~

~~6.10. Retail facilities that register with the Department will be provided a verification document, in the form of a certificate or otherwise, for display at the retail location, which will indicate that the retail facility is an authorized location for the sale and/or distribution of kratom products. This certificate will be issued annually. The correct and accurate certificate must be displayed at all times at the retail facility.~~

~~6.11. The Department may revoke the registration of a retail facility to sell kratom products if it determines the facility has sold products to individuals not meeting requirements of subsection 8.14 of this rule. The Commissioner shall keep a list of any persons or entities that have been subject to a permit revocation, withdrawal, suspension, non-renewal, or other process whereby the person or entity has ceased to be a permit holder in good standing with the commissioner. The commissioner shall keep a list of all hemp-derived cannabinoid and kratom products that have been approved for sale or distribution in this state. Such list shall be public information and shall be published, by the commissioner on its website from time to time so as to reflect a current listing.~~

§61-30-~~7~~6. Displays, Advertising, and Marketing.

~~7~~6.1. For retail establishments selling hemp ~~and kratom~~ ~~derived~~ products intended for consumption, products shall be displayed only in areas that the store staff can see in direct ~~sign~~ sight or behind counters that deny public access.

~~7.~~6.2. For establishments~~,~~ and stores at fairs and festivals, farmers' markets, ~~etc.~~ and similar environments, hemp products intended for consumption must be in a controlled environment and not accessible to children.

~~7.~~6.3. Advertising on televisi~~.~~on, online, by radio, ~~and~~ or in print is prohibited when 30% or more of the listener/viewer/user group is comprised of persons under the age of 21.

~~7.~~ 6.4. The distribution of free samples of hemp ~~and kratom~~ products intended for consumption is prohibited, except for products distributed in an "adult-only facility."

~~7.~~ 6.4.1. Non-intoxicating cannabinoid products ~~are allowed to~~ may be offered reasonably for sampling at events by vendors, with prior approval from the Department. The vendor is responsible for checking the ID of all individuals and for the security~~,~~ and restriction of the samples, ~~and not being~~ which shall not be accessible to children. The event venue has the right to deny sampling.

§61-30-~~.~~7.8 Labeling.

~~8.~~7.1. Hemp ~~and kratom~~ products intended for human consumption as a food or dietary supplement shall be labeled in accordance with FDA guidelines for food or dietary supplement labeling.

~~8.~~7.2. Hemp ~~and kratom~~ products produced for topical absorption by humans shall be labeled in accordance with FDA guidelines for Cosmetic Products Warning Statements.

~~8.~~7.3. Hemp and hemp products shall not contain disease or drug claims on the label that are not approved by the FDA.

~~8.~~7.4. The product lot on the label must be traceable to the plant origin.

~~8.~~7.5. Hemp products ~~meant~~ intended for animal consumption shall be labeled and comply with the West Virginia Commercial Feed Law, ~~West Virginia~~ W. Va. Code §19-14-1 *et seq*.

~~8.~~7.6. Hemp seed products intended for cultivation shall be labeled in accordance with the West Virginia Seed Law, ~~West Virginia~~ W. Va. Code §19-16-1 *et seq*.

~~8.~~7.7. Product labels must be clear and legible.

~~8.~~ 7.8. Labels must be printed in English.

~~8.~~7.9. The following labeling is forbidden:

~~8.~~7.9.~~a~~1. Unless at least 51% of the hemp ~~or kratom~~ in the product is grown in the state of West Virginia, the product ~~cannot~~ shall not be labeled as a West Virginia product.

~~8.~~7.9.~~b~~2. The hemp product ~~cannot~~ shall not be labeled so as to be attractive to children. This restriction includes, but is not limited to:

~~8.7.9.b.1~~7.9.2.a. The use of cartoons~~;~~, cartoon characters, superheroes, television shows, video games, movies, or other similar characters or references;

~~8.7.9.b.2~~7.9.2.b. The use of images popularly used to advertise to children; ~~or~~

~~8.7.9.b.3~~7.9.2.c. The imitation of a candy or food label~~.~~; and

~~7.9.b.4~~7.9.2.d. The use of candy or confectionery-related terms in the product name, labeling, packaging, or marketing that would reasonably be expected to appeal to children. This restriction includes, but is not limited to, the use of the following terms:

~~7.9.b.4.A~~7.9.2.d.1 "Candy", "candies", or variants in spelling of those terms, including, but not limited to, "kandy" or kandeez":

~~7.9.b.4.B~~7.9.2.d.2. "Bubble gum", "cotton candy", "gummy bear", "gummy worm", "lollipop", or any phonetic spelling or descriptive variant of those terms; and

~~7.9.b.4.C~~7.9.2.d.3. Any other term or reference to candy, sweets, or dessert products that would reasonably be expected to appeal primarily to children.

~~8.~~7.9.~~e~~3. The label ~~cannot~~ shall not include false or misleading information. This includes untrue or unproven information that leads consumers to have an inaccurate impression of the product.

~~8.~~7.9.~~d~~4. The label ~~cannot~~ shall not include the use of the word "organic" unless referencing certified organic products that have been certified as organic in accordance with the National Organic Program, as provided for by the USDA.

~~8~~7.10. Hemp products ~~labels~~ will be considered misbranded when, upon analysis, ~~a~~ the Department finds that the product label's claim of the amount of cannabinoid in the product is either 15% above or below ~~15% of the amount of cannabinoid as declared on the label~~ the actual amount of cannabinoid in the product. ~~Kratom product labels will be considered misbranded when, upon analysis, the Department finds that the claim is either above or below 15% of the alkaloid amount declared on the label.~~

~~8~~7.11. The following requirements must be met for the primary label:

~~8.~~7.11.~~a~~1. The product must be identified with the generic or common name; and

~~8.~~7.11.~~b~~2. If the product label claim contains any amount of cannabinoids ~~and/or mitragynine or 7 hydroxymitragynine~~, the label must properly identify them.

~~8.~~7.12. The following requirements must be included on the informational panel:

~~8.~~ 7.12.~~a~~1. Manufacturer's name and contact information;

~~8.~~7.12.~~b~~2. Batch or lot number;

~~8.~~7.12.~~c~~3. Instructions for use and any preparation needed, if applicable;

~~8.~~7. 12.~~d~~4. List of all ingredients in descending order by weight or volume;

~~8.~~ 7.12.~~e~~5. Allergens, if applicable;

~~8.~~7.12.~~f~~6. Artificial food coloring, if applicable;

~~8.~~7.12.~~g~~7. Expiration or use by date, if applicable;

~~8.~~7.12.~~h~~8. Refrigeration or refrigerate-after-opening warnings, if perishable after opening; ~~and~~

~~8.~~7.12.~~i~~9. For edible products, the sodium, sugar, carbohydrates, and total fat per serving~~.~~; and

~~8.~~7.12~~.j~~10. The net weight or volume of the contents of the package, in both metric and US customary units ~~must be displayed~~.

~~8.7.12.j.1~~7.12.10.a. For capsules, soft gels, or similar products, the contents statement can be weight, volume, numerical count, or a combination of numerical count and weight or volume.

~~8.~~7.13. The cannabinoid content~~,~~ of hemp derived cannabinoid products, in milligrams, ~~and for kratom products, the mitragyna and 7-hydroxymitragynine content in percentage form may~~ must be posted on either the primary label or the informational panel, and must include:

~~8.~~7.13.~~a.~~1. ~~Any~~ In the case of a product label claiming a guaranteed cannabinoid (if applicable) ~~shall provide~~, a listing of all cannabinoids, and the total amount of the claimed cannabinoid content per package for all manufactured products; and

~~8.~~7.13.~~b~~2. Cannabinoid (if applicable) content per serving for all hemp and hemp products with designated serving sizes.

~~8.~~7.14. Any product containing hemp-derived cannabinoids ~~or kratom derivatives~~ must declare on the label, "NOT INTENDED FOR SALE TO PERSONS UNDER THE AGE OF 21"; "Keep out of reach of children"~~.~~; "Consult your physician before use if you are pregnant or taking any medication" and "Use of this product may impact drug testing results."

~~8~~7.14.~~a.~~1. It is unlawful to manufacture, package, import, distribute, or sell any hemp-derived ~~or kratom~~ product without the required label. The label is to be written in English using legible type and shall be placed in a conspicuous location on the outer packaging.

~~8~~7.15. Any product label claiming "THC-free" or "non-THC" shall not contain levels of THC above detectable levels as determined by the Department.

~~8.~~7.16. A QR code, or similar tool, may be used in lieu of labeling requirements on the physical label's informational panel for all required information except that required by subsections ~~8~~7.13 and ~~8~~7.14 and subdivision ~~8~~7.12.i of this rule.

§61-30-~~9~~8. Handling and transport.

~~9.~~8.1. It is lawful in West Virginia to transport and possess ~~kratom,~~ CBD and THC products, so long as the THC content does not exceed that permitted by law.

~~9~~.8.2. Hemp ~~and kratom~~ products may be legally transported across state lines and exported to foreign countries in a manner that is consistent with federal law and laws of respective foreign countries.

~~9~~.8.3. For time- and temperature-controlled products intended for human consumption, sellers must meet FDA guidance for maintaining safe handling, storage, and preservation of the product.

~~9~~8.4 Hemp ~~and Kratom~~ products cannot be legally sold to anyone under the verified age of 21.

8.4.~~a~~1. For direct, in-person transactions, the seller shall verify that the purchaser is at least 21 years of age through examination of a valid government-issued photographic identification and/or an age verification scanning device.

8.4.~~b~~2. Any website owned, managed, or operated by a person who manufactures, processes, distributes, offers for sale, or sells hemp or hemp products to persons in this state shall verify that a purchaser is 21 years of age or older prior to the completion of the sale.

8.4.~~c.~~ 3. Age verification required by subdivision 8.4.b shall be satisfied by requiring the individual to:

8.4.~~c.1~~3.a. Provide digital identification; or

8.4.~~c.2~~3.b. Comply with a commercial or governmental age verification system that verifies age using:

~~8.4.c.2.a~~8.4.3.b.1. Government-issued identification, including digital identification; or

~~8.4.c.2.b~~8.4.3.b.2. A commercially reasonable method that relies on public or private transactional data to verify the individual's age.

8.4.~~d~~4. Any person or entity distributing, offering to distribute or sell, or selling hemp or hemp products to persons in this state by means other than a direct, in-person transaction shall utilize an age-verification mechanism approved by the Commissioner.

~~9~~8.5. ~~A licensed retailer may employ whom he or she pleases so long as~~ The following restrictions apply to employees of licensed retailers:

~~9.~~8.5.1. An employee must be at least eighteen (18) years of age in order to sell hemp ~~or kratom~~ products to customers.

~~9.~~8.5.2. An employee must be at least twenty-one (21) years of age to take delivery of hemp ~~or kratom~~ products at a warehouse.

~~9.~~8.5.3. A retail outlet may employ a person between sixteen (16) and eighteen (18) years of age to work in a retail outlet if the Commissioner has beforehand provided written approval to employ such ~~form and~~ person, and the person will not be permitted to sell or take delivery of hemp products; such approval will not be unreasonably withheld. The authorization to employ persons under eighteen (18) years of age must be clearly stated on the retail outlet's registration certificate.

§61-30-~~10~~ 9. Inspection and testing.

~~10~~9.1. The Department shall conduct random inspections of hemp ~~and kratom~~ products distributed or made available for distribution in the state.

~~10~~9.2. The Department shall periodically sample, analyze, and test hemp ~~and kratom~~ products distributed within the state for compliance with registration, labeling requirements, and product safety, if applicable.

~~10~~9.3. The Department may conduct inspections of hemp ~~and kratom~~ products distributed or available for distribution and regulated entities for any reason that the Department deems necessary.

9.3.~~a~~1. The Department may enter and inspect any premises, retail establishment, storage facility, or location where hemp or hemp products are manufactured, processed, packed, stored, distributed, sold, or offered for sale within the state for purposes of determining compliance with registration, labeling, testing, product safety, and all other applicable requirements of this rule.

9.3.~~b~~2. The Department may inspect and copy records related to the manufacture, distribution, sale, registration, sourcing, testing, or transfer of hemp or hemp products to determine compliance with this rule.

~~10~~9.4. Samples taken by the Department ~~shall~~will be the official samples for the purpose of determining compliance with this rule and for imposing the administrative penalties provided in this rule.

~~10~~9.5. ~~Any official samples submitted by l~~Law enforcement, ~~any~~ agents other than the commissioner, ~~or by~~and consumers~~, must be~~ may submit~~ted~~ samples of hemp or hemp products to the Department~~s laboratory~~ for testing, ~~but are subject to~~provided that (a) the party requesting the test pays the associated fees ~~as~~ set by the C~~c~~ommissioner~~.~~, and (b) the ~~Unofficial~~ samples ~~must also be~~ are accompanied by a detailed chain of custody upon submission to the Department.

~~10~~9.6. Samples that are found to contain contaminants in excess of the ~~following levels~~ limits set by the Department ~~shall~~will be considered ~~adulterated~~contaminated. The Department will maintain a list of contaminants and the associated limits on its website. ~~and may be found at https://agriculture.wv.gov~~.

~~10~~9.6.~~a~~1. Pesticide limits~~.~~, residual solvent and processing chemical limits, toxic metal limits, microbiological limits for ingestible and inhalable products, mycotoxin limits, water activity, and foreign materials limits~~and~~ may be found on the Department's website. Limits set by the Department are subject to the following:~~The list of contaminants does not constitute authorization to use or apply any of the following during hemp or kratom cultivation or processing.~~

~~10~~9.6~~a.1~~1.a. The limit for ethanol does not apply to products that are intended to be orally consumed ~~products~~and that contain~~ing~~ alcohol.

~~10~~9.6.~~a.2~~1.b. The limit for ethanol or isopropyl alcohol does not apply to products that are intended to be topical products.

~~10~~9.6.~~b~~2. The Department shall have the ability to set acceptable maximum limits for products derived from ~~kratom, hemp~~, and hemp seed derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers.

§61-30-10. Enforcement actions on all hemp product violations and related penalties.

10.1. The Commissioner may assess administrative penalties for violations of this rule and W. Va. Code §19-12E-1 *et seq.*

10.2. Violations shall be classified according to severity, as follows:

10.2.~~a.~~1. Class I Violations include the following:

~~10.2.a.1~~10.2.1.a. Distributing, manufacturing, or offering for sale hemp or hemp products that are unsafe, contaminated, or that present an immediate human or animal health concern;

~~10.2.a.2~~10.2.1.b. Distributing, manufacturing, or offering for sale hemp or hemp products containing more than the THC content authorized by law and non-naturally occurring and fully synthetic products;

~~10.2.a.3~~10.2.1.b.1. Third offense registration violations;

~~10.2.a.4~~10.2.1.b.2. Failure to abide by the product labeling requirements of subdivision 7.9.b. or subsection 7.14. of this rule;

~~10.2.a.5~~10.2.1.b.3. Failure to abide by the display, advertising, or marketing requirements of section 6 of this rule;

~~10.2.a.6~~102.1.b.4. Offering for sale hemp or a hemp product for which the Department has denied registration or which the Department is unable to register; and

~~10.2.a.7~~10.2.1.b.5. Continuing to offer for sale hemp or a hemp product after a Class II or III final notice has been issued, while a permit is under a summary suspension, or while a product is subject to an embargo order.

10.2.~~b~~2. Class II Violations include the following:

~~10.2.b.1~~10.2.2.a. Submission of false, inaccurate, or misleading information on any application submitted to the Department;

~~10.2.b.2~~10.2.2.b. Failure to specify serving size and frequency of use on the hemp or hemp product label as required by this rule; and

~~10.2.b.3~~10.2.2.c. Distributing, manufacturing, or offering for sale hemp or a hemp product that fails to meet its label claims or is misbranded.

10.2.~~c~~3. Class III Violations include all other violations of W. Va. Code §19-12E-1 *et seq.* and of the provisions of this rule which are not specifically identified in subdivisions 10.2.a. or 10.2.b. or sections 11 or 12 of this rule.

10.3. Class III Violations.

10.3.~~a~~1. Upon an initial Class III violation:

10.3.~~a.1~~10.3.1.a. The Commissioner shall send a written "First Notice" to the individual or entity containing a short and plain description of each violation of this rule or W. Va. Code §19-12E-1 *et seq.*;

~~10.3.a.2~~10.3.1.b. The individual or entity will be assessed a $200.00 fine for each Class III violation;

~~10.3.a.3~~10.3.1.c. All unlawful hemp and hemp products, and all hemp or hemp products unlawfully possessed or offered for sale, will be embargoed by the Department and destroyed; and

~~10.3.a.4~~10.3.1.d. The individual or entity will be given 30 calendar days following the date of the First Notice to correct all violations of this rule and provide evidence thereof to the Department via letter or email to hempproducts@wvda.us.

10.3.~~b~~2. If a second Class III violation is found within one calendar year following the date of the "First Notice":

~~10.3.b.1~~10.3.2.a.. The Commissioner shall send a written "Second Notice" to the individual or entity containing a short and plain description of each violation of this rule or W. Va. Code §19-12E-1 *et seq.*;

~~10.3.b.2~~10.3.2.b. The individual or entity will be assessed a $500.00 fine for each Class III violation;

~~10.3.b.3~~10.3.2.c. All unlawful hemp and hemp products, and all hemp and hemp products unlawfully possessed or offered for sale, will be embargoed by the Department and destroyed; and

~~10.3.b.4~~10.3.2.d. The individual or entity shall be required to develop a written plan to remedy all violations and implement such written plan within 10 business days after the Second Notice has been sent.

10.3.~~c~~3. If a third Class III violation is found within one calendar year following the date of the "First Notice," the Commissioner shall (a) issue a fine of $1,000 per Class III violation; (b) embargo and destroy all unlawful hemp and hemp products, and all hemp or hemp products unlawfully possessed or offered for sale; and (c) issue an immediate summary suspension order, embargo order, or both. The Commissioner may also revoke the permit of a violator or refuse to grant or renew any retailer, distributor, or manufacturer permit required to sell, distribute, or manufacture hemp or hemp products in this state.

~~10.3.c.1~~10.3.3.a. The order will contain a short and plain statement of the reason for the order, the effective date of the order, and the length of time for which the order will be in effect, which may be indefinite.

~~10.3.c.2~~10.3.3.b. If an individual or entity subject to an order issued under this subsection contests the order, the individual or entity shall assert such contestation in writing within 14 calendar days of the date the order takes effect. Administrative proceedings held by or before the Commissioner or his or her designee concerning the contestation shall be conducted under the provisions of the Administrative Procedures Act set forth in W. Va. Code §29A-5-1 *et seq.*

10.4. Class II Violations.

10.4.~~a~~1. Upon an initial Class II violation:

~~10.4.a.1~~10.4.1.a. The Commissioner shall send a written "First Notice" to the individual or entity containing a short and plain description of each violation of this rule or W. Va. Code §19-12E-1 *et seq.*;

~~10.4.a.2~~10.4.1.a.1. The individual or entity will be assessed a $400.00 fine for each Class II violation;

~~10.4.a.3~~10.4.1.b. All unlawful hemp and hemp products, and all hemp or hemp products unlawfully possessed or offered for sale, will be embargoed by the Department and destroyed; and

~~10.4.a.4~~10.4.1.c. The individual or entity will be given 30 calendar days following the date of the First Notice to correct all violations of this rule and provide evidence thereof to the Department via letter or email to hempproducts@wvda.us.

10.4.~~b~~2. If a second Class II violation is found within one calendar year following the date of the "First Notice":

~~10.4.b.1~~10.4.2.a. The Commissioner shall send a written "Second Notice" to the individual or entity containing a short and plain description of each violation of this rule or W. Va. Code §19-12E-1 *et seq.*;

~~10.4.b.2~~10.4.2.b. The individual or entity will be assessed an $800.00 fine for each Class II violation;

~~10.4.b.3~~10.4.2.c. All unlawful hemp and hemp products, and all hemp or hemp products unlawfully possessed or offered for sale, will be embargoed by the Department and destroyed; and

~~10.4.b.4~~10.4.2.d. The individual or entity shall be required to develop a written plan to remedy all violations and implement such written plan within 10 business days after the Second Notice has been sent.

10.4.~~c~~3. If a third Class II violation is found within one calendar year following the date of the "First Notice," the Commissioner shall (a) issue a fine of $1,000 per Class II violation; (b) embargo and destroy all unlawful hemp and hemp products, and all hemp or hemp products unlawfully possessed or offered for sale; and (c) issue an immediate summary suspension order, embargo order, or both. The Commissioner may also revoke the permit of a violator or refuse to grant or renew any retailer, distributor, or manufacturer permit required to sell, distribute, or manufacture hemp or hemp products in this state.

~~10.4.c.1~~10.4.3.a. The order will contain a short and plain statement of the reason for the order, the effective date of the order, and the length of time for which the order will be in effect, which may be indefinite.

~~10.4.c.2~~10.4.3.b. If an individual or entity subject to an order issued under this subsection contests the order, the individual or entity shall assert such contestation in writing within 14 calendar days of the date the order takes effect. Administrative proceedings held by or before the Commissioner or his or her designee concerning the contestation shall be conducted under the provisions of the Administrative Procedures Act set forth in W. Va. Code §29A-5-1 *et seq.*

10.5. Class I Violations.

10.5.~~a~~1. Upon an initial Class I Violation, the Commissioner shall (a) issue a fine of $1,000 per Class I violation; (b) embargo and destroy all unlawful hemp and hemp products, and all hemp or hemp products unlawfully possessed or offered for sale by reason of a Class I violation; (c) send a written notice to the violator that describes the product or products that have been embargoed and contains a short and plain statement of each violation of this rule or W. Va. Code §19-12E-1 *et seq.*; and (d) issue an immediate summary suspension order, embargo order, or both. The Commissioner may also revoke the permit of a violator or refuse to grant or renew any retailer, distributor, or manufacturer permit required to sell, distribute, or manufacture hemp or hemp products in this state.

~~10.5.a.1~~10.5.1.a. The order will contain a short and plain statement of the reason for the order, the effective date of the order, and the length of time for which the order will be in effect, which may be indefinite.

~~10.5.a.2~~10.5.1.b. If an individual or entity subject to an order issued under this subsection contests the order, the individual or entity shall assert such contestation in writing within 14 calendar days of the date the order takes effect. Administrative proceedings held by or before the Commissioner or his or her designee concerning the contestation shall be conducted under the provisions of the Administrative Procedures Act set forth in W. Va. Code §29A-5-1 *et seq.*

10.6. A person who performs a recall by voluntarily removing product from sale or distribution in an effective manner, to limit the potential harm to the health and well-being of the public, may be eligible for exemptions from the normal enforcement policy. The Commissioner shall review the facts of each case when considering an exemption.

10.7. The Commissioner may suspend the standard enforcement policy in cases where such action is necessary to protect the public health, safety, and welfare.

10.8. Law enforcement or any agents other than the Commissioner shall work in consultation with the Department before, during, and after investigation of any retail, distribution, or manufacturing establishment.

10.9. The Alcohol Beverage Control Administration Commissioner may utilize his or her enforcement agents or persons to conduct investigations and enforcement related to underage sales of products. The Alcohol Beverage Control Administration shall notify the Department before an enforcement action occurs, when an enforcement action is occurring, and after an enforcement action is completed.

10.10. Nothing in this rule limits or supersedes the criminal penalties established under W. Va. Code §19-12E-12. Violations of this rule may be referred to appropriate law enforcement authorities or prosecuting attorneys for criminal enforcement.

§61-30-11. Enforcement actions on unregistered retailers, distributors, and manufacturers covered under W. Va. Code §19-12E-1 *et seq*.

11.1. If a retailer, distributor, or manufacturer of hemp or hemp products that is required to register with the Department fails to register, or fails to renew the registration annually, the Commissioner shall take enforcement actions against the retailer, distributor, or manufacturer as set forth in this section.

11.2. Upon the first offense:

11.2.~~a~~1. The retailer, distributor, or manufacturer will be notified in writing that they must register with the Department, and that the sale, distribution, or manufacture of hemp and hemp products without registration is prohibited;

11.2.~~b~~2. The retailer, distributor, or manufacturer will be given 15 business days from the date of the notice to register with the Department; and

11.2.~~c~~3. All hemp and hemp products shall be embargoed and destroyed.

11.3. Upon a second offense occurring within one calendar year following the first notice of violation:

11.3.~~a~~1. The retailer, distributor, or manufacturer will be notified in writing of their failure to register with the Department;

11.3.~~b~~2. All hemp and hemp products will be embargoed and destroyed;

11.3.~~c~~3. The retailer, distributor, or manufacturer will be issued a notice of violation and be required to pay a fine of $1,000; and

11.3.~~d~~4. The retailer, distributor, or manufacturer will be ineligible to apply for a permit from the Department for one calendar year.

11.4. Upon a third offense occurring within one calendar year following the first notice of violation:

11.4.~~a~~1. The retailer, distributor, or manufacturer will be notified in writing of their failure to register with the Department, and the retailer, distributor, or manufacturer will be permanently ineligible to apply for registration with the Department;

11.4.~~b~~2. The Department shall embargo and destroy all hemp and hemp products; and

11.4.~~c~~3. The retailer, distributor, or manufacturer shall be required to pay a fine of $1,000.

11.5. Any person or entity seeking to contest a suspension of eligibility to register with the Department under this section shall assert such contestation in writing within 14 days after the issuance of the notice of suspension. Administrative proceedings held by or before the Commissioner or his or her designee concerning the contestation shall be conducted under the provisions of the Administrative Procedures Act set forth in W. Va. Code §29A-5-1 *et seq.*

11.6. Law enforcement or any agents other than the Commissioner shall work in consultation with the Department before, during, and after investigation of any retail, distribution, or manufacturing establishment.

§61-30-12. Enforcement actions on unregistered products covered under W. Va. Code §19-12E-1 *et seq*.

12.1. If any retailer, distributor, or manufacturer that is required to register a product with the Department does not register a product at all or does not renew the product registration annually, the Commissioner shall take enforcement actions against the retailer, distributor, or manufacturer as set forth in this section.

12.2. Upon the first offense:

12.2.~~a~~1. The retailer, distributor, or manufacturer will be notified in writing that they must register the product with the Department, and that the sale, distribution, or manufacturing of unregistered hemp or hemp products is prohibited;

12.2.~~b~~2. The retailer, distributor, or manufacturer will be given 15 business days from the date of the notice to register the hemp or hemp product with the Department; and

12.2.~~c~~3. All hemp and hemp products shall be embargoed and destroyed, and an embargo order will be issued and remain in effect until the hemp or hemp product is brought into compliance.

12.3. Upon a second offense occurring within one calendar year following the first notice of violation:

12.3.~~a.~~1 The retailer, distributor, or manufacturer will be notified of their failure to register the hemp or hemp product, and the retailer, distributor, or manufacturer will be assessed a fine of $1,000 per unregistered hemp or hemp product;

12.3.~~b~~2. All unlawful hemp or hemp products will be embargoed and destroyed; and

12.3.~~c~~3. The Department shall enter an embargo order for the unregistered hemp or hemp product, or a summary suspension order for the retailer, distributor, or manufacturer's permit, or both an embargo or order and summary suspension order, which will be in effect for one calendar year.

12.4. Upon a third offense occurring within one calendar year following the first notice of violation:

12.4.~~a~~1. The retailer, distributor, or manufacturer will be notified in writing of their failure to register the hemp or hemp product with the Department and that their eligibility to register the hemp or hemp product will be suspended permanently;

12.4.~~b~~2. The Department shall embargo and destroy all hemp and hemp products; and

12.4.~~c~~3. The retailer, distributor, or manufacturer will be assessed a fine of $1,000 per unregistered hemp or hemp product.

12.5. Any person or entity seeking to contest an embargo order or summary suspension issued under this section shall assert such contestation in writing within 14 days after the issuance of the embargo order or summary suspension order. Administrative proceedings held by or before the Commissioner or his or her designee concerning the contestation shall be conducted under the provisions of the Administrative Procedures Act set forth in W. Va. Code §29A-5-1 *et seq.*

12.6. Law enforcement or any agents other than the Commissioner shall work in consultation with the Department before, during, and after investigation of any retail, distribution, or manufacturing establishment.

12.7. The provisions of this section do not apply in the case of a hemp or hemp product that is not capable of being registered under the requirements of this rule or for which the Department has denied registration.

§61-30-13. Embargos and Embargo Orders; Fines Cumulative; Payment of Fines.

13.1. Embargo Orders.

13.1.~~a~~1. When the Commissioner has reasonable cause to believe any lot of hemp or hemp product is being exposed for sale, manufactured, distributed, offered for sale, or used in this state in violation of the provisions of this rule, the Commissioner may embargo the hemp or hemp product. A written embargo order may also be issued and enforced warning the custodian of the hemp or hemp product not to manufacture, distribute, use, remove, or dispose of such product in any manner until the embargo order is released by the Commissioner or by court order.

13.1.~~b~~2. The Commissioner may embargo a perishable product even if the result is the involuntary disposal of the product.

13.1.~~c~~3. The Department may hold an embargoed product for 60 days before destroying it.

13.1.~~d~~4. Any person or entity seeking to contest an embargo order issued under this rule shall assert such contestation in writing within 14 days after the issuance of the embargo order. Administrative proceedings held by or before the Commissioner or his or her designee concerning the contestation shall be conducted under the provisions of the Administrative Procedures Act set forth in W. Va. Code §29A-5-1 *et seq.*

13.2. The fines and other administrative penalties authorized by this rule are cumulative and not mutually exclusive. A person or entity that commits more than one violation of W. Va. Code §19-12E-1 *et seq.* or of the provisions of this rule may be separately assessed for each violation and may be subject to any combination of fines and administrative penalties authorized by W. Va. Code §19-12E-1 *et seq.* or by this rule.

13.3. Payment of fines.

13.3.~~a~~1. All fines assessed by the Commissioner under this rule must be paid in a manner approved by the Commissioner within 90 days, or before the date on which a retailer, distributor, or manufacturer must renew a permit or product registration, whichever is sooner.

13.3.~~b~~2. All fines owed by a retailer, distributor, or manufacturer must be paid before the Department will issue a permit or approve a product registration.

13.3.~~c~~3. If any individual or entity fails to pay a fine within the time period provided in subdivision 13.3.a., the Commissioner may take action to collect the fine.

13.3.~~d~~4. The failure to timely pay a fine assessed under this rule may constitute grounds for the denial, suspension, revocation, or nonrenewal of any license or permit issued under this rule.