

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE  
SECRETARY OF STATE

CHERYL MYERS  
DEPUTY SECRETARY OF STATE  
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK  
DIRECTOR

800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 603  
DEPARTMENT OF AGRICULTURE

**FILED**

08/30/2023 4:11 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Update to hemp program rules.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/13/2023 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

CONTACT: Alan Hanson  
503-949-2993  
alan.hanson@oda.oregon.gov

635 Capitol St NE  
Salem, OR 97301

Filed By:  
Sunny Summers  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 10/10/2023

TIME: 9:30 AM - 11:00 AM

OFFICER: Steven Harrington

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 150-344-6495

CONFERENCE ID: 958616071

SPECIAL INSTRUCTIONS:

Meeting ID: 236 458 040 441

Passcode: 9tQ8Yy

NEED FOR THE RULE(S)

The department proposes to adopt these rules to clarify existing hemp program rules, add additional options for hemp growers including trimming under specific circumstances as well as market options like microgreens, and create additional flexibility for those who miss the grower license application deadline. Additionally, the rules need to be cleaned up to reflect sunset dates of several statutes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

The industrial hemp statutes ORS 571.260 to 571.348, and other department statutes including ORS Chapter 561, ORS 569.445, 633.511 - 633.996 available at the Oregon State Legislature's website. Oregon Administrative Rule Chapter 603, Division 048, available at the Oregon Secretary of State's website.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

These rules are not anticipated to affect racial equity in the state.

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#### FISCAL AND ECONOMIC IMPACT:

The fiscal and economic impact of updating the hemp rules in Oregon can vary depending on the specific changes and the broader economic context. Some of these rules simplify the licensing process and/or allow for a broader range of processing activities, which could lead to more investment infrastructure and job creation. Stricter testing and quality control regulations can have short-term cost implications for growers and processors as they need to invest in preventative measures and increased testing. However, in the long run, such rules can enhance the reputation of Oregon hemp products, potentially leading to increased consumer trust and higher demand. Clarity and consistency in hemp regulations can encourage investment and innovation in the industry. Businesses may need to invest in compliance-related activities such as staff training, equipment upgrades, and procedural adjustments. This could lead to short-term costs for businesses.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

The Department expects that there will not be a significant effect on other state agencies or local government units, except for local planning units. These units will be responsible for assessing and approving land use compatibility statements (LUCS). These statements are required for growers who intend to trim buds into retail-ready hemp items.

(2)(a) In 2023 to date, there are 183 growers and 280 hemp handlers. The department does not collect information from licensees on the size of their businesses, but estimates that a majority of hemp businesses are considered small businesses.

(b) The Department expects these costs to be minimal. Those growers who miss the application deadline and still want to participate will have to pay the late fee.

(c) The Department estimates that the cost of professional service, equipment, supplies, labor and increased administration to comply with the rule will be minimal.

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#### DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Hemp growers, processors, and retailers were involved in the rules advisory committee meetings as well as entities that represent these small businesses.

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#### WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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#### RULES PROPOSED:

603-048-0010, 603-048-0100, 603-048-0125, 603-048-0127, 603-048-0200, 603-048-0205, 603-048-0225, 603-048-0300, 603-048-0400, 603-048-0500, 603-048-0520, 603-048-0550, 603-048-0600, 603-048-0630, 603-048-0636, 603-048-0640, 603-048-0650, 603-048-0700, 603-048-0800, 603-048-0900, 603-048-1000, 603-048-1001, 603-048-1500, 603-048-1600, 603-048-2300, 603-048-2305, 603-048-2310, 603-048-2320, 603-048-2330, 603-048-2342, 603-048-2350, 603-048-2450, 603-048-2480, 603-048-4000, 603-048-4010, 603-048-4020, 603-048-8010, 603-048-8020, 603-048-8030, 603-048-8040

RULE SUMMARY: Updates to definitions to include but not limited to new definitions of microgreens, harvest, and trim/trimming.

CHANGES TO RULE:

603-048-0010

Definitions ¶¶

The following definitions apply to OAR 603-048-0010 through 603-048-2500 unless the context requires otherwise.¶¶

(1) "Adult use cannabis item" has the meaning given that term in ORS 475C.009.¶¶

(2) "Agricultural hemp seed" ¶¶

(a) means Cannabis seed:¶¶

(aA) That is sold to or intended to be sold to licensed growers for planting; or¶¶

(bB) That remains in an unprocessed or partially processed condition that is capable of germination.¶¶

(b) does not mean Cannabis seed produced from a marijuana plant.¶¶

(3) "Agricultural hemp seed producer" means a person who produces agricultural hemp seed or processes industrial hemp into agricultural hemp seed.¶¶

(4) "Cannabis" means the plant species Cannabis sativa and in these rules refers to all forms of the plant regardless of THC content.¶¶

(5) "Cannabis Tracking System" or "CTS" means the OLCC's system for tracking the transfer of marijuana items.¶¶

(6) "CBD" means cannabidiol, Chemical Abstracts Service Number 13956-29-1.¶¶

(7) "Consumption" means ingestion, inhalation or topical application to the skin or hair.¶¶

(8) "Conviction" or "convicted" means any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged. A conviction is expunged when the conviction is removed from the individual's criminal history record and there are no legal disabilities or restrictions associated with the expunged conviction, other than the fact that the conviction may be used for sentencing purposes for subsequent convictions. In addition, where an individual is allowed to withdraw an original plea of guilty or nolo contendere and enter a plea of guilty and the case is subsequently dismissed, the individual is no longer considered to have a conviction.¶¶

(9) "Crop" means industrial hemp grown under a single license.¶¶

(10) "Cut microgreen" means microgreens that have been cut such that the root is fully removed from the remainder of the plant. The remainder of the plant is the cut microgreen.¶¶

(11) "Days" means calendar days unless otherwise specified in rule.¶¶

(142) "Department" means the Oregon Department of Agriculture.2¶¶

(123) "Food" means:¶¶

(a) Articles used for food or drink, including ice, for human consumption or food for dogs and cats;¶¶

(b) Chewing gum;¶¶

(c) Dietary supplements; and¶¶

(d) Articles used for components of any such article.¶¶

(134) "Grower" means a person, joint venture or cooperative that produces industrial hemp and includes a person growing for research purposes.¶¶

(145) "Grow site" means one contiguous lot, parcel, or tract of land used to produce or intended to produce industrial hemp.¶¶

(156) "Handler" means a person, joint venture or cooperative that:¶¶

(a) receives industrial hemp for processing into industrial hemp commodities, products, or agricultural hemp seed; or,¶¶

(b) receives processes industrial hemp commodities or products for processing into hemp items; or¶¶

(c) trims industrial hemp; or¶¶

(d) packages hemp items.¶¶

(167) "Handling site" means one contiguous lot, parcel, or tract of land used to process or intended to process industrial hemp.¶¶

(178) "Harvest" includes cutting of the cannabis plant such that the plant is no longer growing or removing part or all of the plant from the growing medium for the purpose of processing, storing, transfer or sale. Harvest does not include sampling for purposes of testing under OAR 603-048-0600, removal of all or part of the cannabis plant due to mold, pest, disease, or minimal pruning or removal of cannabis plants in the course of normal agricultural practices such as removing male plants.¶¶

(19) "Harvest Lot":¶¶

- (a) Means a quantity of Cannabis of the same variety or strain harvested in a distinct timeframe that is:¶
- (A) Grown in one contiguous production area within a grow site; or¶
- (B) Grown in a portion or portions of one contiguous production area within a grow site.¶
- (b) Does not include a quantity of cannabis grown in noncontiguous production areas.¶
- (1820) "Harvest Lot Identifier" means a unique numerical identifier that begins with the name of the grow site, then the year of harvest, and then a unique number to identify the harvest lot. If a harvest lot is subsequently split into one or more lots for purposes of testing in OAR 603-048-2300 to 603-048-2480 or for purposes of retesting in accordance with OAR 603-048-0630(3), a unique letter shall be added to the end of the original harvest lot identifier to identify the split lots.¶
- (219) "Hemp" means industrial hemp and these terms are used interchangeably.-¶
- (202) "Hemp Item" has the meaning provided in OAR 603-048-2310.¶
- (213) "Immature hemp plant" means a cannabis plant that is not flowering.¶
- (224) "Immature plant lot" means a quantity of immature hemp plants tested, transferred or sold as one unit.-¶
- (235) "Immature plant lot identifier" means a unique numerical identifier that begins with the name of the grow site, then the year of production, and then a unique number to identify the immature plant lot. If an immature plant lot is subsequently split into one or more lots for purposes of testing, a unique letter shall be added to the end of the original immature plant lot identifier to identify the split lots.¶
- (246) "Industrial hemp":¶
- (a) Means the plant species Cannabis sativa, and any part of that plant whether growing or not including the seeds thereof, that contain an average total tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.¶
- (b) Includes, but is not limited to:¶
- (A) Industrial hemp that has been minimally preserved, for purposes of transfer or storage including chopping, separating, or drying; ¶
- (B) Microgreens; and¶
- (C) Agricultural hemp seed.¶
- (b) Does not mean:¶
- (A) Industrial hemp commodities or products; or¶
- (B) Marijuana, as that is defined in ORS 475C.009 including but not limited to Cannabis seed produced by a marijuana plant.¶
- (257) Industrial Hemp Commodity or Product:¶
- (a) Means an item processed containing any industrial hemp or containing any chemical compounds derived from industrial hemp, including CBD derived from industrial hemp.¶
- (b) Includes:¶
- (A) Hemp concentrates or extracts as defined in OAR 603-048-2310;¶
- (B) Hemp edible as defined in OAR 603-048-2310;¶
- (C) Hemp tincture as defined in OAR 603-048-2310;¶
- (D) Hemp topical as defined in OAR 603-048-2310;¶
- (E) Hemp transdermal patch as defined in OAR 603-048-2310;¶
- (F) Industrial hemp processed through retting or other processing such that it is suitable fiber for textiles, rope, paper, hempcrete, or other building or fiber materials;¶
- (G) Industrial hemp seed processed such that it is incapable of germination and processed such that is suitable for human consumption;¶
- (H) Industrial hemp seed pressed or otherwise processed into oil;¶
- (I) Cut microgreens¶
- (c) Does not include:¶
- (A) Industrial hemp that has not been processed in any form;¶
- (B) Industrial hemp that has been minimally ~~process~~separated; for purposes of transfer or storage including chopping, separating, or drying;¶
- (C) ~~Industrial hemp that has been minimally processed and meets all testing requirements for hemp items under OAR 603-048-2300 to 603-048-2500 w~~Agricultural hemp seed or any Cannabis seed produced by a marijuana plant.¶
- (28) Industrial hemp for human consumption has the meaning in OAR 603-048-2310.¶
- (29) "Kief" means ~~the re-used or intended to be used for processing into a hemp concentrate or extract as defined in OAR 603-048-2310;~~¶
- (D) Agricultural hemp seeds in ~~sinous~~ trichomes of hemp that accumulate or fall off when hemp flowers are sifted through a mesh screen or sieve.¶
- (2630) "Key participant" means any person listed on an application for a ~~grower~~ license and:¶
- (a) If an applicant or key participant is a limited partnership, each general partner in the limited partnership;¶

- (b) If an applicant or key participant is a general partnership, each general partner in the general partnership;¶
- (c) If an applicant or key participant is a manager-managed limited liability company, each manager of the limited liability company as those terms are defined in ORS 63.001;¶
- (d) If an applicant or key participant is a corporation, each person with executive managerial control in a corporation. A person with executive managerial control includes, but is not limited to, any officer of the corporation;¶
- (e) Any individual or legal entity with an ownership interest in the applicant or a key participant; ¶
- (f) If an applicant or key participant is a member-managed limited liability company, any individual or legal entity who holds or controls a direct or indirect interest of 20 percent or more in the applicant.¶
- (g) Any principal investigator of an applicant for a research grower license.¶
- ~~(2731)~~ "Laboratory" means a laboratory that is licensed by the OLCC under ORS 475C.548 and accredited by the Oregon Health Authority under ORS 475C.560.¶
- ~~(328)~~ "License" means a license issued by the Department under ORS 571.281 and these rules.¶
- ~~(2933)~~ "Licensed research grower" means a person licensed to produce hemp for research purposes only pursuant to OAR 603-048-0126.¶
- ~~(304)~~ "Licensee" means a grower, handler, agricultural hemp seed producer, licensed research grower or other person licensed under ORS 571.281 or these rules. ~~Licensee has the same meaning and is subject to the same requirements, prohibitions, and any other rules as a registrant and is used interchangeably wi~~¶
- ~~(35)~~ "Mature hemp plant" means a cannabis plant that is not an immature hemp plant.¶
- ~~(36)~~ "Microgreens" means seedling or small shoots of industrial hemp that are less than th-registrant except where the context of the rule provides otherwise.¶
- ~~(31)~~ "Mature hemp plant" means a cannabis plant that is not an immature hemp plante inches in height from where the plant emerges from the soil or other growing medium to the tip of the plant greenery.¶
- ~~(327)~~ "OLCC" means the Oregon Liquor and Cannabis Commission.¶
- ~~(338)~~ "Ownership interest":¶
- (a) Includes any person or legal entity that exercises control over, or is entitled to exercise control over, the business. Control over the business includes but is not limited to the authority to enter a contract or similar obligations on behalf of the business.-¶
- (b) Includes any individual or legal entity owning the real or personal property of the proposed growlicensed site unless the owner of the property has given control over the property to another party via a lease or rental agreement or similar agreement.¶
- (c) Does not include an employee acting under the direction of the owner or other non- executive employees such as farm, field, or shift managers that do not make financial planning decisions and that do not vote or exercise control of the business.-¶
- ~~(349)~~ "Planting" or the action "plants" means placing a seed, cutting, or plant in the ground or other media for the purpose of growing, or being in possession of any such seed, cutting, or plant.¶
- ~~(3540)~~ "Principal investigator" means an individual, employed by the applicant or licensee, who is primarily responsible for a hemp research project implemented or intended to be implemented under a research grower license.-¶
- ~~(3641)~~ "Process" means the processing, compounding, or conversion of industrial hemp into industrial hemp commodities or products or agricultural hemp seed. It also means further processing, compounding or conversion of industrial hemp commodities or products into hemp items. Process includes the basic preparation of commodities or products, the alteration of a commodity or product into another, and preservation and packaging techniques.¶
- ~~(37)~~ Processing does not include minimal preparation of hemp for purposes of transfer or storage including chopping, separating, or drying.¶
- ~~(42)~~ "Production area" means a contiguous area at a grow site where industrial hemp is produced or is intended to be produced and may include a field, greenhouse, or other building.¶
- ~~(438)~~ "Process lot identifier" means a unique numerical identifier that begins with the last seven numbers of the handler's license number or the name of the handler, then the year of processing, and then a unique number to identify the process lot.¶
- ~~(3944)~~ "Produce" means the planting, cultivation, growing, or harvesting of industrial hemp.¶
- ~~(405)~~ "Process lot" means:¶
- (a) Any amount of hemp concentrate or extract of the same type and processed at the same time using the same extraction methods, standard operating procedures and batches from the same or different harvest lots; or¶
- (b) Any amount of hemp cannabinoid products of the same type and processed at the same time using the same ingredients, standard operating procedures and batches from the same or different harvest lots or process lots of cannabinoid concentrate or extract.¶
- ~~(416)~~ "Retest" or "Retesting" means the laboratory process of retesting a retained file sample for THC content

after the sample failed initial testing for THC content under OAR 603-048-0600. A retest does not include or permit taking a new sample from the harvest lot.¶

(427) "Seed lot" means a quantity of cannabis seeds tested, transferred, or sold as one unit.¶

(438) "Seed lot identifier" means a unique numerical identifier that begins with the name of the grow site, then the year of production, and then a unique number to identify the seed lot identifier. If a seed lot is subsequently split into one or more lots for purposes of testing, a unique letter shall be added to the end of the original seed lot identifier to identify the split lots.¶

(449) "Registrant" means a grower or handler or agricultural hemp seed producer registered with the Department under these rules. ~~Registrant~~ Tetrahydrocannabinol or "THC" means tetrahydrocannabinol and has the same meaning and is subject to the same requirements, prohibitions, and any ~~as~~ delta-9 THC unless otherwise specified in their rules as a licensee and is used interchangeably with licensee except where the context of the rule provides otherwise.¶

(45) "Registration" means a registration issued by the Department pursuant to ORS 571.281 on or before December 31, 2021.¶

(50) "These rules" means OAR 603-048-0010 to 603-048-2500.¶

(51) "THCA" means (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid, Chemical Abstracts Service Number 23978-85-.¶

(4652) "Tetrahydrocannabinol" or "THC" means tetrahydrocannabinol and has the same meaning as ~~total~~ total THC means the sum of the concentration or mass of delta-9-THC unless otherwise specified in the rule.¶

(47) "These rules" means OAR 603-048-0010 to 603-048-2500.¶

(48) "Total THC" means the molar sum of THC and THCA multiplied by 0.877 plus the concentration or mass of delta-9-THC. ¶

(53) "Trim" or "trimming" means the preparation or manicure of hemp flower for retail sale.

Statutory/Other Authority: ORS 561.90, ORS 571.260-571.348, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260-571.348, ~~OL 2021, Ch. 542~~

AMEND: 603-048-0100

RULE SUMMARY: Updates general license requirements.

CHANGES TO RULE:

603-048-0100

Licensing, generally ¶

(1) Industrial hemp is an agricultural product subject to regulation by the Department.¶

(2) Only a licensee may sell, store, receive or transfer industrial hemp, except as provided in ORS 475C.305, ORS 571.266 and this rule.¶

(a) Laboratories are not required to be licensed with the Department to sample, test, or transfer or store industrial hemp for sampling and testing purposes; and¶

(b) Seed testing facilities with a registered seed technologist registered by the Society of Commercial Seed Technologist or certified seed analyst certified by the Association of Official Seed Analysts are not required to be licensed with the Department to sample, test, treat, or transfer or store industrial hemp seed or seedlings for sampling and testing purposes.¶

(3) Licenses.¶

(a) Apply only to the individual or legal entity identified on an application that is approved by the Department.¶

(b) Are a personal privilege and may not be transferred.¶

(c) May not be sold or transferred.¶

(4) For transfers and sales within Oregon, a licensee may only sell or transfer industrial hemp or agricultural hemp seed to:¶

(a) Another licensee; or¶

(b) An OLCC licensee in accordance with ORS 571.336, ORS 571.337, and rules adopted thereunder.¶

(5) A ~~licensee~~grower may not transfer or sell a growing mature hemp plant unless it has passed preharvest testing in accordance with OAR 603-048-0600.¶

(6) Restriction on industrial hemp product sales:¶

(a) For the purposes of this section, "consumer" means a person who purchases, acquires, owns, holds or uses industrial hemp products other than for the purpose of resale.¶

(b) A licensee may not sell an industrial hemp product that contains more than 0.3 percent total THC to a consumer unless licensed as a retailer by OLCC.¶

(7) Licensure and compliance with these rules does not protect a person from possible criminal prosecution under state or federal law or other sanctions by other governmental entities.

Statutory/Other Authority: ORS 561.190, ORS 571.260 - 571.348, ~~OL 2021, Ch 542~~

Statutes/Other Implemented: ORS 571.260 - 571.348, ~~OL 2021, Ch 542~~

AMEND: 603-048-0125

RULE SUMMARY: Updates grower licensure to allow for on-farm trimming without a handler license if the grower submits a LUCS approved by the appropriate local government entity.

CHANGES TO RULE:

603-048-0125

Grower Licensure

- (1) Only a grower licensed with the Department may produce industrial hemp except as exempted in OAR 603-048-0100.¶
- (2) Industrial hemp may only be produced at grow sites included on the grower license except as exempted in OAR 603-048-0100.¶
- (3) A licensed grower may use any propagation method, including planting seeds from, or starts, or the use of clones or cuttings, to produce industrial hemp.¶
- (4) The Department shall make available to licensed growers information that identifies licensed agricultural hemp seed producers from whom growers may purchase agricultural hemp seed.¶
- (5) Each unlicensed production area identified by the Department is a separate violation of section (2) of this rule.¶
- (6) A licensed grower may trim industrial hemp produced by the grower without a handler license only if the grower:¶
  - (a) Trims at the licensed grow site where the industrial hemp was produced; and¶
  - (b) Submits to the Department prior to beginning any trimming activities a valid land use compatibility statement (LUCS) stating that trimming is permitted signed by the local county or government with jurisdiction over the grow site.¶
- (7) A licensed grower may produce kief from industrial hemp produced by the grower without a handler license only if the grower:¶
  - (a) Produces the kief at the licensed grow site where the industrial hemp was produced;¶
  - (b) Submits to the Department prior to beginning any trimming activities a valid land use compatibility statement (LUCS) stating that kief production is permitted signed by the local county or government with jurisdiction over the grow site;¶
- (c) Complies with all requirements and restrictions OLCC imposes on producers licensed under ORS 475.065 for producing kief in OAR Chapter 845, Division 25; and¶
- (d) Complies with all applicable testing requirements in OAR 603-048-2300 for kief.¶
- (8) For a grow site that proposes or is licensed to trim or produce kief, if the Department receives written notification from the jurisdiction where a proposed grow site or licensed grow site is located that the LUCS is invalid or is no longer valid, the Department may require the applicant or licensee to obtain a new LUCS. If a new LUCS is not submitted, the Department may deny or revoke the license. If the LUCS submitted states that the proposed land use is prohibited in the applicable zone or otherwise fails to demonstrate that the proposed activity is permitted, the Department shall revoke or deny the license.¶
- (9)(a) A grower may only apply pesticides to industrial hemp or hemp items that are included on the Department's guide list or approved by the Environmental Protection Agency for use on industrial hemp.¶
- (b) A grower must comply with all applicable laws and rules regulating pesticides.¶

Note: The Department's guide list for pesticides is available at <https://oda.direct/CannabisPesticides>.

Statutory/Other Authority: ORS 561.190, ORS 569.445, ORS 571.260 - 571.348, ORS 633.511-633.996, ~~OL~~ 2021, Ch. 542

Statutes/Other Implemented: ORS 571.260 - 571.348, ~~OL~~ 2021, Ch. 542



AMEND: 603-048-0127

RULE SUMMARY: Cleans up effective date for research license and statutory references.

CHANGES TO RULE:

603-048-0127

Grower Research License

- (1) ~~Beginning on January 1, 2022, a~~ A person proposing to grow hemp for research purposes only may apply for a research grower license.¶¶
- (2) All of the provisions regarding growers in these rules apply to licensed research growers except as explicitly exempted or provided otherwise in this rule.¶¶
- (a) When submitting an application for a research grower license, the applicant must include the address of research facilities where cannabis from the licensed grow site may be stored, handled, tested, or otherwise researched.¶¶
- (b) When submitting an application for a research grower license, the applicant must submit the following:¶¶
- (A) A written research plan that identifies the purpose of the research for conducting the research. The plan must identify the amount of cannabis intended to be grown. It must also identify how the applicant will ensure the plants and plant material remains at the grow site and prevent the material from entering the commercial marketplace.¶¶
- (B) A written destruction plan that identifies when and how an applicant will timely dispose of plants grown under the license.¶¶
- (C) Any other information pertinent to the research specifically requested by the Department.¶¶
- (c) An applicant for a research grower license must submit the fee for a grower license in OAR 603-48-0700(1)(a) with its application but is not required to submit a fee for a grow site license. The applicant must identify every grow site in the application.¶¶
- (d) A licensed research grower is not required to conduct preharvest testing in accordance with OAR 603-048-0600 except as required for transfers.¶¶
- (e) A licensed research grow site or research facility may not be co-located with a non-research grow site, a medical marijuana grow site registered under ORS 475C.792 or marijuana producer licensed under ORS 475C.065.¶¶
- (3) A licensed research grower must:¶¶
- (a) Except as permitted in section 4 of this rule, ensure that all cannabis, and all parts thereof, grown under the license remains at the licensed grow site, research facility listed on the application, or laboratory and that the cannabis does not enter the commercial marketplace or used by a consumer.¶¶
- (b) Dispose in accordance with OAR 603-048-0640 all cannabis, and all parts thereof, grown under the license in the grower's possession within 30 days of completing research activities on the cannabis and prior to the termination of the license.¶¶
- (4) Sale and Transfers.¶¶
- (a) A licensed research grower may not sell or transfer any cannabis, or parts thereof, grown under the research grower license to any other person or otherwise allow the cannabis to enter the commercial marketplace, be used by a consumer, or leave the licensed grow site or research facility listed on the application, except as explicitly permitted in this rule.¶¶
- (b) A licensed research grower may send samples of cannabis, or parts thereof, grown under the research grower license to a laboratory for testing.¶¶
- (c) A licensed research grower may sell or transfer cannabis, or parts thereof, grown under the research grower license to a licensed grower if the cannabis has passed pre-harvest testing in accordance with OAR 603-048-0600 prior to transfer.¶¶
- (d) A licensed research grower may sell or transfer cannabis, or parts thereof, grown under the research grower license to another licensed research grower.¶¶
- (5) The Department must deny an application for a research grower license and revoke a research grower licensee if the proposed or licensed grow site or research facility is co-located with a non-research grow site, a medical marijuana grow site registered under ORS 475C.792 or a marijuana producer licensed under ORS 475C.065.¶¶
- (6) The following are Class 1 violations:¶¶
- (a) Failing to comply with any part of this rule.¶¶
- (b) Failing to comply with a written research plan.¶¶
- (c) Failing to comply with a written destruction plan.¶¶
- (d) Failing to comply with any condition placed on the license by the Department.¶¶
- (e) Failing to comply with a Department order.¶¶
- (7) The Department may impose conditions on the grower research license that the Department determines

necessary to be consistent with ORS 571.260 to ORS 571.348 (as amended by OL 2021, Ch. 542) or these rules or to ensure that cannabis does not enter the chain of commerce.

Statutory/Other Authority: ORS 561.190, ORS 571.260-571.348, ~~OL 2021 Ch. 542~~

Statutes/Other Implemented: ORS 571.260-571.348, ~~OL 2021 Ch. 542~~

AMEND: 603-048-0200

RULE SUMMARY: Creates a late license application date of July 31 along with a late fee for grower and grow site applications. Updates other grower application requirements.

CHANGES TO RULE:

603-048-0200

#### Grower Licensure Applications and Review ¶

(1) Licenses are valid for a one-year term beginning on January 1 of each calendar year. Licenses granted after January 1 are effective on the date issued. ¶

(a) An applicant must submit, and the Department must receive, a complete application and applicable fees by no later than May 31 of the calendar year. ¶

(b) An applicant may submit a grower application late if received by the Department by no later than July 31 and submitted with the late fee identified in OAR 603-048-0700. ¶

(c) An applicant is not subject to the May 31 deadline if the applicant has purchased land with an active grower license. No new production areas or grow sites other than those included in the original license may be added or moved after May 31 or July 31 with the late fee identified in OAR 603-048-0700. ¶

(2) The Department shall review and act on applications in the order they are received. An individual is not licensed with the Department until the Department has approved the license and notified the applicant of licensure. ¶

(3) To apply for a grower license, an applicant must submit to the Department: ¶

(a) A complete grower license application on a form provided by the Department; ¶

(b) A complete grow site license application on a form provided by the Department for each grow site; ¶

(c) All applicable fees as described in OAR 603-048-0700; and ¶

~~(d) For applications for the 2022 license year or later, c~~Consent to a criminal records check by fingerprint identification for the applicant or if the applicant is a ~~business~~ legal entity, submit a consent for every key participant in the applicant ~~business~~ entity in accordance with ORS 181A.195, ORS 181A.200 and OAR chapter 125, division 7 ~~and the Department's directives~~. To complete the criminal records check, the Department may require additional information, documents, or action including, but not limited to, fingerprint identification, proof of identity, or additional criminal, judicial, or other background information. ¶

~~(e) An informed consent form prescribed by the Department if the applicant is not the owner of the premises where the grow site will be located, an informed consent form prescribed by the Department.~~ The consent form: ¶

(A) Is valid for only the grower or growers named on the consent form. ¶

(B) Must be signed by the owner of the premises or the property owner's legal representative for the grow site and must not have been terminated ~~prior to its receipt by the Department.~~ ¶

(f) Documentation of lawful participation in a pilot program prior to December 20, 2018, if the applicant or any key participant is disqualified due to a felony conviction relating to a controlled substance within the last ten years from the date of application but asserts the convicted individual was growing hemp lawfully under a pilot program authorized by Section 7606 of the Agricultural Act of 2014 before December 20, 2018. ¶

~~(fg)~~ Any other documents or information requested by the Department. ¶

(4) A person seeking to produce or process agricultural hemp seed must separately apply for and obtain an agricultural hemp seed producer license as described in OAR 603-048-0300. ¶

(5) A grower license application must include the following information: ¶

(a) The name, legal type of applicant (individual, corporation, etc.).- ¶

(b) Contact information for the applicant. ¶

~~(c) For business entities, principal place of business for licensee, Oregon Secretary of State registry number, names of all key participants for applications for the 2022 license year or later, employer identification number, and contact information, including phone number and e-mail of all key participants; ¶~~

(d) A primary contact person who the Department can contact to arrange for onsite inspections or for questions regarding the application or license and contact information (phone number, email) for the primary contact person. ¶

(e) The address of each grow site; ¶

(f) Other information specified by the Department in the application, including but not limited to: ¶

(A) The intended use of the industrial hemp (flower, seed, and/or fiber); and ¶

(B) The intended number of acres or square feet to be cultivated. ¶

(g) Any other information or forms required by the Department. ¶

(h) For each proposed grow site location, a completed form with the following information: ¶

(A) The address of the grow site; ¶

(B) Information for each non-contiguous production area, as described in subsection (C) and (D) of this rule.¶

(C) If in the production area is a field:¶

- (i) The global positioning system (GPS) coordinates provided in decimal of degrees and taken at the approximate center of the growing field;¶
- (ii) The number of square feet or acres of each cultivated field; and¶
- (iii) A map of the grow site showing clear boundaries of the production area;¶

(D) If in the production areas is a greenhouse or other building:¶

- (i) The global positioning system (GPS) coordinates provided in decimal of degrees and taken at the approximate center of the greenhouse or other building;¶
- (ii) The approximate dimension or square feet of the greenhouse or other building; and¶
- (iii) A map of the grow site showing clear boundaries of each production area.¶

(6)(a) To add a grow site or production area to an existing license during the licensed calendar year, the licensed grower must submit to the Department:¶

- (a) A complete grow site form as described in section (5) of this rule.¶
- (b) All applicable fees as described in OAR 333-048-0700(2)(a).¶

(A) For additions submitted by May 31 of the license year, submit a complete grow site form or change form and change fee identified in OAR 333-048-0700 to the Department.¶

(B) For additions submitted after May 31 but no later than July 31, submit a complete grow site form or change form and a late fee identified in OAR 333-048-0700(2)(a).¶

(b) A grower may request that the Department remove a grow site or production area at any time without a fee. The Department may approve or deny the request. Grow sites and production areas may not be moved or relocated.¶

(7) Renewal Application.¶

- (a) A person with a current valid license may apply for a renewal license by submitting a complete renewal application on a form provided by the Department. The renewal application must include:¶

- (A) Updated contact information for the applicant and all key participants;¶
- (B) A consent to criminal records check by fingerprint identification as described in Section (3) for any licensee or key participant who has not passed a criminal records check with the Department in the previous two licensing years;¶
- (C) Complete grow site forms described in section (5) of this rule for any new proposed grow sites; and¶
- (D) Any other information required by the Department.¶

(b) The Department must receive the complete renewal application and all applicable fees described in OAR 603-048-0700 by no later than December 1 of the current license year.¶

(c) All application requirements for an initial license apply to a renewal application except as specifically identified in this rule.¶

(d) The Department shall deny an applicant for a renewal if the applicant fails to report the information required in OAR 603-048-0400(7).¶

(8) In addition to the requirements in sections (3) to (7), all applicants must acknowledge and agree that:¶

- (a) Any information provided to the Department may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant or licensee;¶
- (b) The Department, or its designee, may enter any field, facility or greenhouse used for the production or handling of industrial hemp or agricultural hemp seed and may take samples of industrial hemp or agricultural hemp seed as necessary for the administration of the Department's laws.¶
- (c) All fees lawfully due to the Department will be timely paid.¶
- (d) The information provided is true and correct and that applicant's signature is an attestation of that fact.¶

(9) The Department, in its discretion, may require an inspection of the grow site prior to licensure. The inspection may include sampling for THC testing as described in ORS 571.281 or OAR 603-048-8010 to 603-048-8040.¶

(10) Incomplete Applications.¶

- (a) If an applicant does not provide all of the information or documentation required by rule or pay the applicable fee, the Department shall reject the application as incomplete.¶
- (b) If an application is illegible or is substantially incomplete, the Department may summarily reject the application as incomplete. If an applicant fails to provide all of the information or documentation required, the Department may notify the applicant of the missing information or documentation and allow the applicant 15 days to submit the missing information or documentation. If the applicant fails to timely submit all the missing information or documentation, the Department shall reject the application as incomplete.¶
- (c) The Department may verify the information submitted, verify any accompanying documentation submitted with an application, or request additional information, documentation, or attestation from the applicant to ensure compliance with ORS 571.260 to ORS 571.348 (as amended by OL 2021, Ch. 542). If the applicant or key participant is disqualified due to a felony conviction but was growing hemp lawfully under another state's pilot

program authorized by Section 7606, the Department may require documentation of the lawful participation. If an applicant fails to timely submit information, documentation, criminal history check, or attestation requested by the Department, the Department shall reject the application as incomplete.¶

(d) An applicant whose application is rejected as incomplete may reapply until May 31 of the calendar year or July 31 with the late fee identified in OAR 603-048-0700. If the individual reapplies ~~up to by~~ by May 31 of the calendar year, the application fee may be applied to a new application. or July 31 with the late fee identified in OAR 603-048-0700, the application fee may be applied to a new application. An applicant who reapplies after May 31 shall be denied unless they apply by July 31 and submit the late fee identified in OAR 603-048-0700.¶

(11) Denial.¶

(a) The Department must deny an initial or renewal application if:¶

(A) The applicant fails to satisfy any of the requirements for initial licensure.¶

(B) The applicant or any key participant has been convicted of a felony relating to a controlled substance within the last ten years from the date of application unless the conviction also occurred before December 20, 2018, the convicted individual was growing hemp lawfully under a pilot program authorized by Section 7606 of the Agricultural Act of 2014 before ~~October 31, 2018~~ December 31, 2018, and documentation of the participation is submitted with the application.¶

(C) The applicant or any key participant plants an industrial hemp crop or commits a violation of ORS 571.260 to ORS 571.348 ~~(as amended by OL 2021, Ch. 542)~~ prior to applying for a grower license unless:¶

(i) the applicant disposes the industrial hemp crop in accordance with OAR 603-048-0640 within 14 days of the Department's notification to the applicant, unless the Department grants an extension in writing; and¶

(ii) the Department determines the violation is resolved.¶

(D) Required to deny under OAR 603-048-0126.¶

(E) The applicant or any key participant materially falsifies any information or documentation submitted in or with an application.¶

(F) The proposed grow site is at the same location as a licensed researcher grower grow site.¶

(b) The Department may deny an initial or renewal application if:¶

(A) The applicant or any key participant violated or has a history of noncompliance with:¶

(i) A provision of ORS 571.260 to ORS 571.348 ~~(as amended by OL 2021, Ch. 542)~~;¶

(ii) A rule adopted under a provision of ORS 571.260 to ORS 571.348 ~~(as amended by OL 2021, Ch. 542)~~;¶

(iii) An order issued by the Department pursuant to a provision of ORS 571.260 to ORS 571.348 ~~(as amended by OL 2021, Ch. 542)~~ or a rule adopted thereunder, including a detainment order;¶

(iv) Any statutory law or Department rule related to agricultural activities other than industrial hemp operations.¶

(B) The application, or material submitted with or to supplement the application, contains false, misleading, or incorrect information; ~~or~~¶

(C) The applicant is a business/legal entity that is required to be registered with the Oregon Secretary of State but does not have an active registration;¶

(D) The owner of the proposed grow site or the property owner's legal representative notifies the Department in writing that they have withdrawn consent for applicant to produce hemp at the proposed grow site location; ~~or~~¶

(E) The applicant, or any key participant, has a history of noncompliance with OLCC statutes or rules regarding the prohibition on the unregulated commerce of marijuana items including but not limited to any violation or disciplinary action under ORS 475C.185 or OAR 845-025-8590(2)(e).¶

(12) Ineligibility based on past noncompliance.¶

(a) A grower, and all key participants, is ineligible for a grower license for a period of five years if the grower commits three of any of the violations below over a five-year period:¶

(A) the grower produces cannabis that exceeds 1.0 percent THC on a dry weight basis;¶

(B) the grower fails to provide a legal description of land on which the grower produces hemp; ~~or~~¶

(C) the grower fails to obtain a license under these rules prior to producing hemp.¶

(b) Only for the purposes of determining ineligibility under subsection (a) of this rule:¶

(A) A grower shall accrue a maximum of one violation per year.¶

(B) The period of ineligibility begins on the date that the last violation is found in a final order by the Department.¶

(c) A grower, and all key participants, is ineligible for a grower license for a period of two year from the date a final order is entered revoking the grower's license, except for final orders issued pursuant to subsection (a) of this rule where the ineligibility period of five years.¶

(d) A grower or key participant whose application is denied under OAR 603-048-0126(1)(a) or ~~for failing to comply with ORS 571.260 to 571.348~~ section (11)(b), (B), or (E) or if these is rules, is ineligible for a period of two year from the date a final order is entered denying the grower's license, except for final orders issued pursuant to subsection (a) of this rule where the ineligibility period is five years.¶

(e) A grower or key participant ineligible under this rule may not apply or reapply for a grower license during the

period of ineligibility.¶¶

(f) The Department must deny any grower application submitted by a person ineligible under this rule and shall revoke the license of a person who is ineligible under this rule.¶¶

(g) Nothing in this rule prevents the Department from assessing multiple violations or from taking other action to revoke or deny a license or impose civil penalties.¶¶

~~(13) Persons hold a current valid 2021 grower registration may apply for a renewal license for the calendar year 2022 by submitting a renewal application no later than December 1, 2021. All renewal application requirements in this rule apply and the application shall be processed as described in this rule.¶¶~~

~~(14) The Department may place an application on hold if the applicant, licensee, or any key participant is currently under investigation for violation of ORS 571.260 to 571.348 (as amended by OL 2021, Ch. 542) or these rul, these rules, other cannabis laws or statutes, or pending a disciplinary action with the Department.¶¶~~

~~(154) The Department may not issue a license to an applicant that is a businesslegal entity if it is not currently required to be registered with the Oregon Secretary of State's business does not have an active registryation.~~

Statutory/Other Authority: ORS 561.120, ORS 561.200, ORS 561.275, ORS 561.190, ORS 569.445, ORS 571.260-571.348, ORS 633.511-633.996, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260-571.348, ~~OL 2021, Ch. 542~~

AMEND: 603-048-0205

RULE SUMMARY: Updates criminal records check requirements.

CHANGES TO RULE:

603-048-0205

Criminal Records Check

(1) Criminal offender information is confidential. The Department shall not disclose records regarding criminal offender information received when processing grower license applications except for persons with a demonstrated and legitimate need to know the information.¶¶

(2) The only convictions the Department shall consider are felonies relating to a controlled substance within the last ten years from the date of application.¶¶

(3) ~~For applications for the 2022 license year or later, a~~An application is incomplete if the applicant or any key participant is required to submit a consent to criminal history check and refuses to consent to the criminal history check, refuses to be fingerprinted or respond to written correspondence, or discontinues the criminal records process for any reason. Incomplete fitness determinations may not be appealed.¶¶

(4) ~~The Department shall request Oregon Department of State Police to conduct a state and nation, in its discretion, may require a criminal history check of any applicant or key participant more frequently than otherwise criminal records check required by these rules.~~

Statutory/Other Authority: ORS 561.190, ORS 571.260-571.348, ~~OL 2021 Ch. 542~~

Statutes/Other Implemented: ORS 571.260-571.348, ~~OL 2021 Ch. 542~~

RULE SUMMARY: Updates handler application requirements.

CHANGES TO RULE:

603-048-0225

Handler Applications and Review

- (1) Licenses are valid for a one-year term beginning on January 1 of each calendar year. Licenses granted after January 1 are effective on the date issued.¶
- (2) Renewal Application. A person with a current valid license may apply for a renewal license by submitting a complete renewal application and renewal fee to the Department by no later than December 1 of the current license year. All application requirements for an initial license apply to an application for renewing a license.¶
- (3) The Department shall review and act on applications in the order they are received. An individual is not licensed with the Department until the Department has approved the license and notified the licensee of licensure.¶
- (4) To apply for a handler license, an applicant must submit to the Department:¶
  - (a) A complete application to the Department on forms provided by the Department; and¶
  - (b) All applicable fees as described in OAR 603-048-0700.¶
- (5) A person seeking to produce or process agricultural hemp seed must separately apply for and obtain an agricultural hemp seed producer licensure as described in OAR 603-048-0300.¶
- (6) An application for a handler licensure must:¶
  - (a) Include all of the following information:¶
    - (A) The name, legal type of applicant (individual, corporation, etc.), Oregon Secretary of State business registry number for if a ~~business entity~~ legal entity required to be registered, and contact information of the applicant;¶
    - (B) The name and address of applicant's handling site;¶
    - (C) A primary contact person who the Department can contact to arrange for onsite inspections or for questions regarding the application or license and contact information (phone number, email) for the primary contact person.¶
    - (D) Other information for purposes of studying the growth, cultivation, and marketing of industrial hemp as specified by the Department in the application.¶
  - (b) Include a completed copy of the Department land use compatibility statement (LUCS) for each hemp operation location signed by the local county or government.¶
  - (c) Include any other information or forms required by the Department.¶
- (7) In addition to the requirements in sections (4) to (6), all applicants for licensure must acknowledge and agree that:¶
  - (a) Any information provided to the Department may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant or licensee;¶
  - (b) The Department, or its designee, may enter any facility used for processing and may take samples of industrial hemp, agricultural hemp seed, or industrial hemp products or commodities as necessary for the administration of the Department's laws.¶
  - (c) All fees lawfully due to the Department will be timely paid.¶
  - (d) Licensure and compliance with these industrial hemp rules may not protect a person from possible criminal prosecution under federal law or other sanctions by federal entities, or from possible criminal prosecution under the laws of other states.¶
- (8) The Department, in its discretion, may require an inspection of the handling site prior to issuing a license.¶
- (9) Incomplete Applications.¶
  - (a) If an applicant does not provide all of the information or documentation required in rule or otherwise required by the Department of this rule or pay the applicable fee, the Department shall reject the application as incomplete.¶
  - (b) If an application is illegible or is substantially incomplete, the Department may summarily reject the application as incomplete. If an applicant fails to provide all of the information required, the Department may notify the applicant of the missing information and allow the applicant 15 days to submit the missing information.¶
  - (c) The Department may verify the information submitted, verify any accompanying documentation submitted with an application, or request additional information, documentation, or attestation from the applicant to ensure compliance with ORS 571.260 to ORS 571.348 ~~(as amended by OL 2021, Ch. 542)~~ and these rules. If an applicant fails to timely submit information, documentation, or attestation requested by the Department, the Department shall reject the application as incomplete.¶
  - (d) An applicant whose application is rejected as incomplete may reapply at any time. If the individual reapplies within the year, the application fee may be applied to a new application.¶



(10) Denial.¶

(a) The Department must deny an initial or renewal application if:¶

(A) The LUCS submitted states that the proposed land use is prohibited in the applicable zone or the LUCS fails to demonstrate that the proposed license activity is permitted; or¶

(B) The applicant fails to satisfy any of the requirements for initial licensure.¶

(b) The Department may deny an initial or renewal application if:¶

(A) The applicant violated or has a history of noncompliance with:¶

(i) A provision of ORS 571.260 to ORS 571.348;¶

(ii) A rule adopted under a provision of ORS 571.260 to ORS 571.348 ~~(as amended by OL 2021, Ch. 542)~~;¶

(iii) An order issued by the Department pursuant to a provision of ORS 571.260 to ORS 571.348 ~~(as amended by OL 2021, Ch. 542)~~ or a rule adopted thereunder, including a detainment order;¶

(iv) Any statutory law or Department rule related to agricultural activities other than industrial hemp operations.¶

(B) The application, or documents submitted with the application, contains false, misleading, or incorrect information; or¶

(C) The applicant is a business/legal entity that is required to be registered with the Oregon Secretary of State but does not have an active registration.¶

(D) The applicant, or any key participant, has a history of noncompliance with OLCC statutes or rules regarding the prohibition on the unregulated commerce of marijuana including but not limited to any violation or disciplinary action under ORS 475C.185 or OAR 845-025-8590(2)(e).¶

(11) Licensure by Reciprocity.; A marijuana processor licensed under ORS 475C.085 with a hemp endorsement as described in OAR 845-025-3210 from the OLCC may apply for a handler license by submitting to the Department:¶

(a) A complete reciprocity handler licensure application on forms provided by the Department;¶

(b) A copy of the marijuana processor's current license and hemp endorsement;¶

(c) All applicable fees as described in OAR 603-048-0700; and¶

(d) Any other forms or documents required by the Department.¶

~~(12) Persons hold a current valid 2021 handler registration may apply for a renewal license for the calendar year 2022 by submitting a renewal application no later than December 1, 2021. All renewal application requirements in this rule apply and the application shall be processed as described in this rule.¶~~

~~(13) Ineligibility based on past noncompliance.¶~~

~~(a) A handler is ineligible for a handler license for a period of two year from the date a final order is entered revoking the handler's license.¶~~

~~(b) A handler whose application is denied for failure to comply with ORS 571.260 to 571.348 (as amended by OL 2021, Ch. 542) under section (10)(b)(A), (B), or (D) of these rules is ineligible for a period of two year from the date a final order is entered denying the handler's license.¶~~

~~(c) A handler ineligible under this rule may not apply or reapply for a handler license during the period of ineligibility.¶~~

~~(d) The Department must deny any handler application submitted by a person ineligible under this rule and shall revoke the license of a person who is ineligible under this rule.¶~~

~~(14) The Department may place an application on hold if the applicant or licensee is currently under investigation for violation of ORS 571.260 to 571.348 (as amended by OL 2021, Ch. 542) or these rules or pending a disciplinary action with the Department.¶~~

~~(15) If the Department receives written notification from the jurisdiction where a proposed handling site or licensed handling site is located that the LUCS is invalid or is no longer valid, the Department may require the applicant or licensee to obtain a new LUCS. If a new LUCS is not submitted, the Department may deny or revoke the license. If the LUCS submitted states that the proposed land use is prohibited in the applicable zone or otherwise fails to demonstrate that the proposed licensed activity is permitted, the Department shall revoke or deny the license.¶~~

~~(16) The Department may not issue a license to an applicant that is a business/legal entity if it that is not currently required to be registered with the Oregon Secretary of State's business does not have an active registration.~~

Statutory/Other Authority: ORS 561.190, ORS 571.260-571.348, OL 2021, Ch. 542

Statutes/Other Implemented: ORS 571.260-571.348, OL 2021, Ch. 542

AMEND: 603-048-0300

RULE SUMMARY: Updates agricultural hemp seed producer application requirements.

CHANGES TO RULE:

603-048-0300

#### Agricultural Hemp Seed Producer License Application and Review

- (1) Only a grower licensed with the Department may produce agricultural hemp seed. Only a handler licensed with the Department may process agricultural hemp seed. An applicant may apply for a grower or handler license at the same time the applicant applies for a license as an agricultural hemp seed producer.¶¶
- (2) A licensed grower or handler seeking to produce or process agricultural hemp seed must obtain an agricultural hemp seed producer license unless:¶¶
  - (a) A licensed grower retains agricultural hemp seed only for the purpose of personally propagating industrial hemp for the grower's own use in future years;¶¶
  - (b) A licensed grower renders all Cannabis seeds produced such that they are incapable of germination; or¶¶
  - (c) A licensed handler processes agricultural hemp seed in such a manner that the seeds are incapable of germination.¶¶
- (3) An application to produce agricultural hemp seed must include all of the following information:¶¶
  - (a) The name, legal type of applicant (individual, corporation, etc.), Oregon Secretary of State business registry number if a ~~business entity~~legal entity required to be registered, and contact information of the applicant;¶¶
  - (b) The name and address of the applicant's agricultural hemp seed operation(s);¶¶
  - (c) If industrial hemp is grown in a field:¶¶
    - (A) The global positioning system (GPS) coordinates provided in decimal of degrees and taken at the approximate center of the growing field;¶¶
    - (B) The number of square feet or acres of each cultivated field; and¶¶
    - (C) A map of the grow site showing clear boundaries of the production area;¶¶
  - (d) If industrial hemp is grown in a greenhouse or other building:¶¶
    - (A) The global positioning system (GPS) coordinates provided in decimal of degrees and taken at the approximate center of the greenhouse or other building;¶¶
    - (B) The approximate dimension or square feet of the greenhouse or other building; and¶¶
    - (C) A map of the grow site showing clear boundaries of the production area.¶¶
  - (e) Other information for purposes of studying the growth, cultivation, and marketing of industrial hemp as specified by the Department in the application.¶¶
  - (f) Any other information or forms required by the Department.¶¶
- (4) An application to process agricultural hemp seed must include all of the following information:¶¶
  - (a) The name legal type of applicant (individual, corporation, etc.) and contact information of the applicant;¶¶
  - (b) The name and address of applicant's facility used for processing industrial hemp agricultural seed.¶¶
  - (c) Other information for purposes of studying the growth, cultivation, and marketing of industrial hemp as specified by the Department in the application.¶¶
  - (d) Any other information, documents or forms required by the Department.¶¶
- (5) A licensed grower may retain agricultural hemp seed without an agricultural hemp seed producer license for the purpose of personally propagating industrial hemp in future years, except that a licensed grower may not:¶¶
  - (a) Retain seed from a harvest lot for future planting that failed pre-harvest THC testing as described in OAR 603-048-0600 and 603-048-0630.¶¶
  - (b) Sell or transfer agricultural hemp seed for the purpose of planting without first obtaining an agricultural hemp seed producer license.¶¶
- (6) An applicant for licensure must acknowledge and agree that:¶¶
  - (a) Any information provided to the Department may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant or licensee;¶¶
  - (b) The Department may enter any field, facility, greenhouse, or other building used for the production or processing of industrial hemp and may take samples of industrial hemp, industrial hemp commodities or products, or agricultural hemp seed as necessary for the administration of the Department's laws.¶¶
  - (c) All fees lawfully due to the Department will be timely paid.¶¶
  - (d) The information provided is true and correct and that applicant's signature is an attestation of that fact.¶¶
  - (e) Licensure and compliance with industrial hemp rules does not protect a person from possible criminal prosecution under federal law or other sanctions by federal entities.¶¶
- (7) Renewal Application.¶¶
  - (a) A person with a current valid license may apply for a renewal license by submitting a complete renewal application on a form provided by the Department. The renewal application must include:¶¶

(A) Updated contact information for the applicant and all key participants, as applicable if applicant is applying for a grower license;¶

(B) Any other information required by the Department.¶

(b) The Department must receive the complete renewal application described in OAR 603-048-0700 by no later than December 1 of the current license year.¶

(c) All application requirements for an initial license apply to a renewal application except as specifically identified in this rule.¶

(8) The Department, in its discretion, may require an inspection of the grow site prior to licensure. The inspection may include sampling for THC testing as described in ORS 571.281 or OAR 603-048-8010.¶

(9) Incomplete Applications.¶

(a) If an applicant does not provide all of the information required by rule or otherwise required by the Department or pay the applicable fee, the Department shall reject the application as incomplete.¶

(b) If an application is illegible or is substantially incomplete, the Department may summarily reject the application as incomplete. If an applicant fails to provide all of the information required, the Department may notify the applicant of the missing information and allow the applicant 15 days to submit the missing information.¶

(c) The Department may verify the information submitted, verify any accompanying documentation submitted with an application, or request additional information, documentation, or attestation from the applicant to ensure compliance with ORS 571.260 to ORS 571.348 (as amended by OL 2021, Ch. 542) and these rules. If an applicant fails to submit information, documentation, or attestation requested by the Department, the Department shall reject the application as incomplete.¶

(d) An applicant whose application is rejected as incomplete may reapply at any time. If the individual reapplies within the year, the application fee may be applied to a new application.¶

(10) Denial.¶

(a) The Department must deny an initial or renewal application if the applicant is not licensed as a grower or handler.¶

(b) The Department may deny an initial or renewal application if:¶

(A) The applicant or key participant violated or has a history of noncompliance with:¶

(i) A provision of ORS 571.260 to ORS 571.348 (as amended by OL 2021, Ch. 542);¶

(ii) A rule adopted under a provision of ORS 571.260 to ORS 571.348 (as amended by OL 2021, Ch. 542);¶

(iii) An order issued by the Department pursuant to a provision of ORS 571.260 to ORS 571.348 (as amended by OL 2021, Ch. 542) or a rule adopted thereunder, including a detainment order; or¶

(iv) Any statutory law or Department rule related to agricultural activities other than industrial hemp operations.¶

(B) The application, or documents submitted with the application, contains false, misleading, or incorrect information; or¶

(C) The applicant is a business/legal entity that is required to be registered with the Oregon Secretary of State but does not have an active registration; or¶

(D) The applicant, or any key participant, has a history of noncompliance with OLCC statutes or rules regarding the prohibition on the unregulated commerce of marijuana including but not limited to any violation or disciplinary action under ORS 475C.185 or OAR 845-025-8590(2)(e).¶

(11) Licenses are valid for a one-year term beginning January 1 of each calendar year. Licenses granted after January 1 are effective on the date issued.¶

(12) Ineligibility based on past noncompliance.¶

(a) An industrial hemp seed producer, and all key participants, is ineligible for an industrial hemp seed producer license for a period of one year from the date a final order is entered revoking the license.¶

(b) An industrial hemp seed producer or key participant whose application is denied ~~for failure to comply with ORS 571.260 to 571.348 (as amended by OL 2021, Ch. 542 under section (10)(b)(A), (B), or (D) or~~ these rules is ineligible for a period of two year from the date a final order is entered denying the license.¶

(c) An industrial hemp seed producer or key participant ineligible under this rule may not apply or reapply for an industrial hemp seed producer license during the period of ineligibility.¶

(d) The Department must deny any industrial hemp seed producer application submitted by a person ineligible under this rule and shall revoke the license of a person who is ineligible under this rule.¶

(13) ~~Persons hold a current valid 2021 industrial hemp seed producer registration may apply for a renewal license for the calendar year 2022 by submitting a renewal application no later than December 1, 2021. All renewal application requirements in this rule apply and the application shall be processed as described in this rule.~~¶

(14) The Department may not issue a license to an applicant that is a business entity if it is not currently legal entity required to be registered with the Oregon Secretary of State's business ~~st~~ does not have an active registry ~~ation~~.  
Statutory/Other Authority: ORS 561.120, ORS 561.200, ORS 561.275, ORS 561.190, ORS 571.260-571.348, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260-571.348, ~~OL 2021, Ch. 542~~



RULE SUMMARY: Updates reporting requirements including but not limited to what growers are required to do to close communication with ODA at the end of the season.

CHANGES TO RULE:

603-048-0400

Reporting Requirements

- (1) A licensee must immediately report, within 48 hours, the theft or loss of industrial hemp or hemp items to the Department. A licensee must provide a copy of the police report of such a theft to the Department or the police report number of such a theft upon the Department's request.¶
- (2) An applicant or licensee must report to the Department in writing within 10 days of the following:¶
  - (a) A disciplinary proceeding or enforcement action by another government entity that may affect the applicant or licensee's business;¶
  - (b) ~~Temporary closures of more than 30 days or a p~~Permanent closure of a grow site, research facility or a handling site. The applicant or licensee is responsible for all activities at a grow site, research facility, or handling site until the date the Department is notified of a permanent site closure in accordance with OAR 603-048-0800(1).¶
  - (c) ~~Beginning January 1, 2022,~~ Any felony conviction of the grower applicant or grower licensee or if a ~~business~~ legal entity, any key participant, relating to a controlled substance.¶
  - (d) On a form provided by the Department and changes to the name, address, e-mail or telephone number of the licensee, primary contact person, or any key participant within 10 days of the change;¶
  - (e) On a form provided by the Department, ~~changes in loca~~the removal of a production area and the addition of a production area at a grow site prior the addition of producing at a production area at a grow site not licensed with the Department. The grower must comply with OAR 603-048-0200(6)(a) prior to producing at a production area not licensed with the Department.¶
  - (f) Any and all licensed production areas that the licensee decides not to plant with industrial hemp or does not plant with industrial hemp during the licensing year.¶
- (3) Changes in Business Structure or Ownership. A licensee that proposes to change its business structure or ownership structure must submit a complete Change in Business or Ownership on a form provided by the Department to the Department, prior to making such a change.¶
  - (a) The Department shall approve the change if the change would not result in an initial or renewal application denial or revocation under these rules.¶
  - (b) If the licensee proceeds with the change without an approved Change in Business or Ownership form, the licensee must surrender the license in writing or the Department shall revoke the license.¶
  - (c) The Department may refuse to accept a Change in Business or Ownership form for a change in business structure or financial interest if the licensee is expiring in less than 90 days, the licensee is under investigation by the Department, or has been issued a Notice by the Department following an alleged violation and the alleged violation has not been resolved.¶
  - (d) If a licensee has a change in ownership that is 51% or greater, a new application and application fees must be submitted. The Department shall process the application in accordance with these rules, notwithstanding 603-048-0200(1) except that no new production areas or grow sites other than those included in the original license may be added or moved after May 31 unless otherwise permitted by OAR 603-048-0200(6)(a).¶
  - (e) A licensed grower must submit with the Change in Business or Ownership consent for a criminal background check for any new licensee or key participant in the licensed business in accordance with OAR 603-048-0200(4)(d).¶
- (4) Licensees must pay the change fee described in OAR 603-048-0700 for each change form submitted under section (2)(b), ~~(3)(b), (d), (e)~~ or (43)(a)-) of this rule.¶
- (5) Growers must ensure that all laboratory THC test results for all harvest lots are timely reported to the Department and that any failed test report is immediately reported to the Department as required by these rules.¶
- (6) By December 1 of the current license year:¶
  - (a) Growers shall report to the Department on forms provided by the Department:¶
    - (A) Amount of industrial hemp planted (in acres or square feet);¶
    - (B) Amount of industrial hemp harvested;¶
    - (C) Any other information as specified on the forms by the Department.¶
  - (b) Handlers shall report to the Department on forms provided by the Department:¶
    - (A) Type of industrial hemp commodities and products produced;¶
    - (B) The amount of industrial hemp commodities and products produced per type; and¶
    - (C) Any other information as specified on the forms by the Department.¶

~~(7) Beginning on January 1, 2022, g~~Growers shall report hemp crop acreage to the United States Department of Agriculture Farm Service Agency in accordance with 7 CFR 990.7 the following information:<sup>¶¶</sup>

(a) Street address and geospatial location for each production area;<sup>¶¶</sup>

(b) Acreage dedicated to the production of hemp or greenhouse or indoor square footage dedicated to hemp; and<sup>¶¶</sup>

(c) Department grower license number.<sup>¶¶</sup>

(8) Growers must submit at least one of the following reports to the Department for each production area registered with the Department by no later than December 1 of the license year. Submission by December 1 does not excuse failure to comply with any other applicable deadline.<sup>¶¶</sup>

(a) Report of decision not to plant the production area during the license year as described in section (2)(f) of this rule.<sup>¶¶</sup>

(b) Test report as described in OAR 603-048-0600.<sup>¶¶</sup>

(c) Waste and disposal form as described in OAR 603-048-0640.<sup>¶¶</sup>

(d) Loss report as described in section (1) of this rule.<sup>¶¶</sup>

(e) Permanent closure report as described in section (2)(a) of this rule.<sup>¶¶</sup>

(f) Notification to the Department that crop is still growing in the production area.<sup>¶¶</sup>

(9) For purposes of this rule, "permanent closure" means that the grow site, research facility or a handling site will not be used for licensed activities for the remainder of the licensed year. Licensed activities include any form of producing, including possession of any live plants or germination of seeds, any form of processing, and any storage of industrial hemp or hemp products and commodities.

Statutory/Other Authority: ORS 561.190, ORS 571.260 - 571.348,~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260 - 571.348,~~OL 2021, Ch. 542~~

AMEND: 603-048-0500

RULE SUMMARY: Updates record keeping requirements.

CHANGES TO RULE:

603-048-0500

#### Record Keeping Requirements ¶¶

- (1) Licensees must maintain records required under these rules for no less than three (3) years after the total disposition of each harvest, seed, immature plant, or process lot, as identified by unique identifier assigned pursuant to this rule.¶¶
- (2) For purposes of identifying industrial hemp and industrial hemp products and commodities for record keeping:¶¶
- (a) Growers must assign each harvest lot of industrial hemp produced by the grower a harvest lot identifier as that term is defined in 603-048-0010.¶¶
- (b) Growers must assign each seed lot produced by the grower a seed lot identifier as that term is identified in OAR 603-048-0010.¶¶
- (c) Growers must assign immature plant lot transferred or sold by the grower an immature plant lot identifier as that term is identified in OAR 603-048-0010.¶¶
- (d) Handlers must assign a process lot identifier as that term is defined in 603-048-0010 to any ~~industrial hemp commodities or product~~ hemp items made by the handler.¶¶
- (e) Licensees must assign a unique identifier to ~~each lot of~~ each lot of industrial hemp ~~received from outside Oregon.~~¶¶
- (f) ~~Handlers must assign a unique identifier to all industrial hemp commodities or product, industrial hemp for human consumption, and hemp items received from outside Oregon.~~¶¶
- (3) Grower Recordkeeping. ¶¶
- ~~(a) A grower must create and maintain records for all industrial hemp planted or produced that includes the following information:¶¶~~
- (Aa) The harvest lot, seed lot, and immature plant lot identifier as applicable;¶¶
- (Bb) ~~Grow~~ Site and production area identifiers;¶¶
- (Cc) Date of harvest if applicable;¶¶
- (Dd) Any and all sampling and testing documentation from preharvest testing;¶¶
- (Ee) Documentation of any production area not planted during the licensing year and documentation of reporting to the Department in accordance with OAR 603-048-0400(2)(f).¶¶
- (Ff) For cannabis waste and all other cannabis disposal:¶¶
- ~~(iA) Documentation of disposal, including photos or videos, as required in OAR 603-048-0640; and~~¶¶
- ~~(iiB) Documentation of required reports to the Department as required in OAR 603-048-0640.~~¶¶
- ~~(b) A grower must create and maintain records for any receipt or transfer of industrial hemp that includes the following information:¶¶~~
- ~~(A) For each harvest lot, seed lot, or immature plant lot of industrial hemp received from a person within Oregon or transferred to a person in Oregon, as permitted under ORS 571.260 to 571.348, as amended by OL 2021, Ch. 542, and these rules:¶¶~~
- ~~(B) The name and address~~4)(a) Industrial Hemp Recordkeeping. A licensee must create and maintain records for each harvest lot, seed lot, or immature plant lot, or portion thereof, of industrial hemp that includes the following information:¶¶
- (A) The name and address of the person(s) transferring the lot to the licensee or receiving the lot from the licensee.¶¶
- (B) The hemp or marijuana license number of the person(s) transferring the harvest lot to the grower or receiving the harvest lot from the grower, including the harvest lot. If the lot is received from or transferred to outside of Oregon, include the hemp or marijuana outside-state license number of the person(s) transferring or receiving.¶¶
- (C) The harvest lot, seed lot, or immature plant lot identifier for each lot received or transferred.;¶¶
- (D) The date of receipt or transfer;¶¶
- (E) The amount of industrial hemp (plants, material, seeds) received or transferred in pounds;¶¶
- (F) All test reports for each lot received or transferred;¶¶
- (G) If transferred to an OLCC licensee(s), the UID number(s), as that term is defined in OAR 845-025-1015, assigned to the harvest lot(s).¶¶
- ~~(cb) For each harvest lot, seed lot, or immature plant lot, received from outside of Oregon, or transferred outside of Oregon, to the extent such receipt or transfer is permitted under ORS 571.260 to 571.348 (as amended by OL 2021, Ch. 542),, and these rules:¶¶~~

~~(A) The name and address of the person transferring the industrial hemp to the grower or receiving industrial hemp from the grower. The requirements of section (4)(a) of this rule does not apply to sale or transfers of immature plants to a consumer.~~¶

(5) Recordkeeping for Industrial Hemp for Human Consumption and Hemp Items.¶

~~(a) A licensee must create and maintain records for the receipt or transfer of each process lot, or portion thereof, of industrial hemp for human consumption and hemp items that including the outside-state license number of the person;~~¶

~~(B) The unique identifier for following information:~~¶

~~(A) The name and address of the person(s) transferring the industrial hemp received;~~¶

~~(C) The date of receipt;~~¶

~~(D) The amount of industrial hemp (plants, material, seeds) received in pounds;~~¶

~~(E) All test reports for industrial hemp received;~~¶

~~(4) Handler Recordkeeping for Industrial Hemp. A handler must create and maintain records for the receipt or transfer of industrial hemp that includes the following information:~~¶

~~(a) For each harvest, seed, or immature plant for human consumption or hemp items to the licensee or receiving the industrial hemp for human consumption or hemp items from the licensee.~~¶

~~(B) The hemp or marijuana license number of the person(s) transferring or receiving the process lot. If the process lot is received from a person within Oregon or transferred to a person in Oregon, as permitted under ORS 571.260 to 571.348 (as amended by OL 2021, Ch. 542), and these rules:~~¶

~~(A) The name and address outside of Oregon, include the hemp or marijuana outside-state license number of the person transferring the lot to the handler or receiving the lot from the handler, including the license number of the person;~~¶

~~(B) The lot identifier for each lot or receiving;~~¶

~~(C) The process lot identifier or unique identifier for the industrial hemp for human consumption and hemp items received or transferred;~~¶

~~(D) The date of receipt or transfer;~~¶

~~(E) The amount of industrial hemp (plants, material, seed in units or pounds) received or transferred in pounds;~~¶

~~(F) All test reports for each lot the industrial hemp for human consumption and hemp items received or transferred;~~¶

~~(G) If transferred to an OLCC licensee, the UID number(s), as that term is defined in OAR 845-025-1015, assigned to the lot(s).~~¶

~~(b) For each harvest, seed, or immature plant lot received from outside of Oregon or transferred outside of Oregon, to the extent such receipt or transfer is permitted under ORS 571.260 to 571.348, as amended by OL 2021, Ch. 542, and these rules:~~¶

~~(A) The name and address of the person transferring the industrial hemp to the handler or receiving industrial hemp from the handler;~~¶

~~(B) The unique identifier for the industrial hemp received;~~¶

~~(C) The date of receipt;~~¶

~~(D) The amount of industrial hemp (plants, material, seeds) received in pounds; industrial hemp for human consumption and hemp items transferred.~~¶

(b) The requirements of section (5)(a) of this rule does not apply to sale or transfers from a licensee to a consumer.¶

~~(E) All test reports for industrial hemp received;~~¶

~~(5) Handler Recordkeeping for Industrial Hemp Commodities and Products. A handler licensee must create and maintain records for the receipt or transfer each process lot, or portion thereof, of industrial hemp commodities and products, to the extent such receipt is permitted under ORS 571.260 to 571.348, as amended by OL 2021, Ch. 542, for human consumption and these rules that includes the following information:~~¶

~~(a) The name and address of the person transferring the commodities or products to the handler or receiving the commodities or products from the handler, including the license number if the person is licensed;~~¶

~~(b) The process lot identifier or unique identifier for the commodities or products received or transferred;~~¶

~~(c) The date of receipt or transfer;~~¶

~~(d) The amount in units or pounds of the commodity or product received or transferred;~~¶

~~(e) All test reports for the commodities or products received or transferred;~~¶

~~(f) If transferred to an OLCC licensee, the UID number(s), as that term is defined in OAR 845-025-1015, assigned to commodities or products transferred.~~¶

(6) Handler Recordkeeping for Disposition of Items Received and Transferred mp items that are disposed. The records must include the process lot identifier, the date of disposal, reason for disposal, and the amount disposed.¶

(6) Handler Recordkeeping. A handler must create and maintain disposition information for all industrial hemp or



~~hemp commodity or product~~ each harvest lot and process lot of industrial hemp, industrial hemp for human consumption and hemp items, or portion thereof received or transferred that includes the following information:¶¶

~~(a) Identification of the harvest, seed, or immature plant lot by unique identifier;¶¶~~

~~(b) Identification of the process lot by process lot identifier or identification of the hemp commodity or product by unique identifier;¶¶~~

~~(c) Whether the harvest lot, immature plant lot, seed lot, process lot, industrial hemp or hemp commodity or product. Whether the industrial hemp, industrial hemp for human consumption, or hemp items was transferred without processing;¶¶~~

~~(d) If processed:¶¶~~

~~(A) The process lot identifier;¶¶~~

~~(B) The method of processing;¶¶~~

~~(C) The type of industrial hemp commodity or product; hemp item created from the industrial hemp or hemp commodity or product; and¶¶~~

~~(D) The amount in units or pounds of the industrial hemp commodity or product created from the industrial hemp or hemp commodity or product;¶¶~~

~~(7) A grower, industrial hemp for human consumption, or hemp item; and¶¶~~

~~(D) The amount in units or pounds of the hemp item created.¶¶~~

~~(7) A licensee must provide, upon the Department's request, records relating to the operation of the licensed business or any key participant in the licensed business, including but not limited to records required to be maintained by the business; legal entity under ORS 60.771, 63.771, 65.771 67.150, 70.050 or other applicable laws.¶¶~~

~~(8) It is a separate violation for each harvest or process lot, or portion thereof, that a licensee fails to create or maintain records as required by this rule. In addition, each failure to comply with an obligation described under this rule is a separate violation for each harvest or process lot, or portion thereof.~~

~~Statutory/Other Authority: ORS 561.190, ORS 571.260-571.348, OL 2021, Ch. 542~~

~~Statutes/Other Implemented: ORS 571.260-571.348, OL 2021, Ch. 542~~

AMEND: 603-048-0520

RULE SUMMARY: Updates requirements for co-location of hemp and marijuana production.

CHANGES TO RULE:

603-048-0520

Co-Location of Hemp Production with Marijuana Production

(1) For the purposes of this rule, the following definitions apply:¶¶

(a) "Medical marijuana grower registration" means a grower registration issued under ORS 475C.792.¶¶

(b) "Medical marijuana plot" means an area designated at a hemp grow site for producing cannabis plants under a medical marijuana grower registration.¶¶

(c) "Personal grow plot" means an area designated at a hemp grow site for producing cannabis plants pursuant to pursuant to ORS 475C.305.¶¶

(2) Medical Marijuana. If a grower produces cannabis pursuant to a medical marijuana grower registration at the grow site, the grower must:¶¶

(a) Complete and implement a control plan, on a form provided by the Department, that describes how plants grown pursuant to the industrial hemp license shall be separated from plants grown pursuant to a medical marijuana grower registration. The control plan must identify how harvested plant material will be maintained and stored separately. Medical marijuana plots may not be in the same location or overlap with a production area.¶¶

(b) Maintain a copy of the control plan at the grow site at all times and immediately provide upon request.¶¶

(c) Ensure that only plants grown pursuant the industrial hemp license are grown in production areas and only plants grown pursuant to a medical marijuana grower registration are grown in medical marijuana plots;¶¶

(d) Post a grow site plan that identifies the location of the hemp production areas and medical marijuana plots;¶¶

(e) Visually demarcate the boundaries of hemp production areas and medical marijuana plots through signs, fencing, or cordoning.¶¶

(3) OLCC-Licensed Marijuana. If a grower produces cannabis pursuant to a license issued under ORS 475C.065, the grower shall submit a copy of the OLCC-approved control plan as described in OAR 845-025-1115(2)(fg) to the Department.¶¶

(4) Personal Grows. Cannabis plants grown pursuant to ORS 475C.305 may not be located in a hemp production area. A grower that produces cannabis plants pursuant to ORS 475B.301 must:¶¶

(a) Ensure that only plants grown pursuant the industrial hemp license are grown only in production areas and only plants grown pursuant to ORS 475C.305 are grown in personal use plots;¶¶

(b) Post a grow site plan that identifies the location of the hemp production areas and any personal use plots.¶¶

(c) Visually demarcate the boundaries of hemp production areas and any personal use plots through signs, fencing, or cordoning.¶¶

(5) Any and all cannabis grown in a hemp production area identified in a grower application or later identified to the Department as a hemp production area is subject to sampling and testing under ~~ORS 571.281(7) and OAR 603-048-8010~~ by the Department or its designee.¶¶

(6) A grower that stores cannabis grown pursuant to a medical marijuana grower registration or under ORS 475C.305 must ensure that the harvested cannabis is segregated from its harvested industrial hemp. The grower must:¶¶

(a) Comply with the storage requirements in OAR 603-048-0540;¶¶

(b) Label all cannabis harvested from plants grown pursuant to a medical marijuana grower registration or under ORS 475C.305 with the following:¶¶

(A) Identify the cannabis as grown pursuant to a medical marijuana grower registration or as cannabis from a "personal grow";¶¶

(B) The date the cannabis was harvested.

Statutory/Other Authority: ORS 561.190, ORS 571.260-571.348, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260-571.348, ~~OL 2021, Ch. 542~~

AMEND: 603-048-0550

RULE SUMMARY: Clarifies which type of license must be available when transporting.

CHANGES TO RULE:

603-048-0550

Transport Documentation Requirements

(1) When transporting industrial hemp or agricultural hemp seed, licensees must ensure a copy of the following documents accompanies the industrial hemp or agricultural hemp seed:<sup>¶</sup>

(a) A copy of the hemp grower license;<sup>¶</sup>

(b) A copy of the invoice or bill of lading that includes the originating location and destination and contact information of buyer and seller if applicable; and<sup>¶</sup>

(c) A copy of the pre-harvest test results issued by a laboratory under OAR 603-048-0600 and sampling documentation required under OAR 603-048-0600 that corresponds to the harvest lot(s) in transit as identified by harvest lot identifier.<sup>¶</sup>

(2) "Industrial hemp commodities" for the purpose of this rule means industrial hemp items that are not, or are not yet, packaged for retail sale.<sup>¶</sup>

(3) When transporting industrial hemp commodities, ~~handler~~licensees must ensure a copy of the ~~hemp license~~following documents accompanies the industrial hemp commodities:<sup>¶</sup>

(a) A copy of the hemp license of the transferor and recipient, if applicable;<sup>¶</sup>

(b) A copy of the invoice or bill of lading that includes the originating location and destination and contact information of buyer and seller if applicable.

Statutory/Other Authority: ORS 561.190, ORS 571.260 - 571.348,~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260 - 571.348,~~OL 2021, Ch. 542~~

AMEND: 603-048-0600

RULE SUMMARY: Updates requirements pre-harvest sampling and testing.

CHANGES TO RULE:

603-048-0600

Pre-Harvest Sampling and Testing for Tetrahydrocannabinol

(1) A grower may not:¶¶

(a) Harvest a harvest lot until it has been sampled in accordance with these rules.¶¶

(b) Transfer or sell a harvest lot until it has passed testing in accordance with these rules.¶¶

(c) Conduct repeat preharvest sampling and testing on a harvest lot that has failed testing under these~~is~~ rules except as expressly permitted in OAR 603-048-0630.¶¶

(2) Required Sampling and Testing:¶¶

(a) A grower must ensure that the grower's entire crop is timely sampled and tested according to these rules.¶¶

(b) Harvest lots must be sampled and tested separately and may not be combined. At the discretion of the grower, industrial hemp grown in a contiguous field or growing area may be subdivided into separate harvest lots for sampling and testing consistent with these rules. Sampling must be conducted and testing must be reported using the harvest lot identifier described in OAR 603-048-0500(2).¶¶

(c) A grower must arrange for and ensure the sampling of a harvest lot no more than 30 days prior to harvest for the purpose of ensuring that the harvest lot does not exceed permissible THC concentration levels on a dry weight basis. Harvest must be complete within the applicable time period for sampling or the grower must arrange for additional sampling of the unharvested cannabis in accordance with these rules.¶¶

(d) If a purpose of the harvest lot is to produce flower, the grower must arrange for sampling such that flowers are present at the time of sampling. In this case, only plants with flowers shall be sampled.¶¶

(e) The grower or authorized representative must provide the sampler with unrestricted and unobstructed access to all hemp and other cannabis plants whether growing or harvested and all lands, buildings, and other structures used for cultivation, handling, and storage of all hemp and Cannabis and all other locations listed in the grower's license.¶¶

(f) During a scheduled sampling, the grower, person in charge of the grow site, or an authorized representative of the grower shall be present at the grow site.¶¶

(3) All sampling and testing must be performed by the Department or a laboratory.¶¶

(4) If a grower uses a laboratory to perform testing and sampling the grower must ensure that the laboratory:¶¶

(a) Retains all documentation of sampling and testing for at least three years and can provide such documentation to the Department upon request.¶¶

(b) Complies with sample or matrix spike recovery requirements and Relative Percent Difference requirements as described in Exhibit B.¶¶

(c) Conducts sampling and testing in accordance with these rules.¶¶

(d) Can demonstrate that its limit of quantification (LOQ) for THC is at or below 0.3 percent THC.¶¶

(e) Requires all laboratory staff conducting sampling to complete annual sampling training with the Department prior to conducting sampling.¶¶

(f) Tests for and reports the total THC content of the harvest lot calculated in accordance with OAR 333-064-0100(4).¶¶

(5) To request sampling and testing, prior to sampling a grower must submit to the laboratory, or the Department, a completed sampling request form provided by the Department that includes:¶¶

(a) A written sampling request for THC analysis for each harvest lot, as identified by the harvest lot identifier, for which the grower is requesting sampling and testing and the total number of harvest lots to be sampled and tested;¶¶

(b) A description of the location of the production area of each harvest lot, as identified by the harvest lot identifier, including the GPS coordinates or address of the harvest lot; and¶¶

(c) A written description and visual depiction of each harvest lot to be sampled and tested such that the production area for each harvest lot is apparent from a visual inspection of the premises and easily discernible from other harvest lots.¶¶

(6) Sampling of a harvest lot must:¶¶

(a) Occur after the laboratory or Department personnel fully complete the sampling form provided by the Department onsite at the production area.¶¶

(b) Produce a sample that is representative of the harvest lot.¶¶

(c) Be conducted:¶¶

(A) In accordance with the Department's Sampling Protocol prescribed in Exhibit A and incorporated by reference.¶¶

- (B) Such that a sufficient sample size is taken and retained for analysis of all requested tests, any requested retest, and any quality control performed by the testing laboratory for these tests.¶
- (7) A grower must ensure that:¶
- (a) The laboratory conducts testing according to the Department's Testing Protocol prescribed in Exhibit B and incorporated by reference.¶
  - (b) The laboratory reports all test results electronically to the Department at HempTestReports@oda.oregon.gov using the forms provided by or approved by the Department or via an online portal operated by the Department, and include for each sample tested:¶
    - (A) Grower's name and license number;¶
    - (B) Harvest lot identifier;¶
    - (C) Sample date;¶
    - (D) Testing date;¶
    - (E) Total THC percentage to the second decimal point only calculated in accordance with OAR 333-064-0100(4);¶
    - (F) The laboratory's measurement of uncertainty for THC testing of industrial hemp. Measurement of uncertainty means the parameter, associated with the result of the measurement, that characterizes the dispersion of the values that could reasonable be attributed to the particular quantity subject to measurement;¶
    - (G) Clear identification of the harvest lot by harvest lot identifier that corresponds to the sample and the location of the corresponding harvest lot's production area;¶
    - (H) Copy of grower's sampling request form required in section (5) of this rule; and¶
    - (I) Copy of the completed sampling form required in section (6) of this rule.¶
- (c) ~~Beginning January 1, 2022, t~~The laboratory reports all results from testing conducted under this rule to the United States Department of Agriculture. The test results report must contain the following information:¶
- (A) Grower's license number;¶
  - (B) Grower's name;¶
  - (C) Business address of the grower;¶
  - (D) Harvest lot identifier¶
  - (E) Name of the laboratory¶
  - (F) Date of the test and report¶
  - (G) Whether it is a retest;¶
  - (H) Test result.¶
- (d) If a sample fails testing a grower must ensure that:¶
- (A) The laboratory sends the failed test report electronically to the Department at HempTestReports@oda.oregon.gov using the forms provided or approved by the Department or via an online portal operated by the Department within 24 hours of the failed test report.¶
  - (B) The laboratory sends failed test reports to the grower who requested the testing using the forms provided or approved by the Department within 24 hours of the failed test report.¶
  - (C) The grower complies with OAR 603-048-0630.¶
- (8) A sample fails testing when the application of the measurement of uncertainty to the amount of total THC of the sample calculated in accordance with OAR 333-064-0100(4) reported by a laboratory produces a distribution or range that does not include 0.3 percent or less on a dry weight basis. If the sample from a harvest lot fails required THC testing under these rules the harvest lot corresponding to the sample fails required THC testing.¶
- (9) ~~Until January 1, 2022, if the test report indicates that the sample contains total THC of less than 0.35 percent on a dry weight basis, as specified in sections (8) of this rule, and the harvest lot was sampled and tested in compliance with these rules, the harvest lot passes testing required by these rules. Beginning on January 1, 2022,~~ a sample passes testing when the application of the measurement of uncertainty to the amount of total THC of the sample calculated in accordance with OAR 333-064-0100(4) reported by a laboratory produces a distribution or range that includes 0.3 percent or less on a dry weight basis and the harvest lot was sampled and tested in compliance with these rules. If the sample of the harvest lot passes THC testing under these rules, the harvest lot corresponding to the sample passes required THC testing.¶
- (10) Upon receipt of a failed test report:¶
- (a) The grower must immediately clearly label or place signage on the harvest lot that it failed testing.¶
  - (b) The grower must immediately detain the harvest lot at the grow site and may not sell, harvest, transfer, or process the harvest lot.¶
  - (c) The grower may not move the harvest lot from the grow site or allow the harvest lot to be removed from the grow site without written permission from the Department.¶
  - (d) If the harvest lot has not been harvested, the grower may continue normal agricultural processes to maintain the viability of the harvest lot, but may not harvest without written permission from the Department.¶
  - (e) If the harvest lot has been harvested, the grower must immediately segregate the failed harvest lots from any other harvest lots. If the failed harvest lot has been comingled, all cannabis comingled with a failed harvest lot

must be detained and is subject to all of the requirements, including required disposal, of the failed harvest lot.¶  
(11) For any harvest lot that fails testing, unless the harvest lot passes testing upon resampling or retesting in accordance with OAR 603-048-0630, the grower must dispose of the harvest lot, including all parts of the cannabis plants including the stalk and seed, in accordance with OAR 603-048-0640:¶

(a) Within fourteen (14) days of the failed test report if no resampling or retesting in accordance with ~~OAR 603-048-0630~~these rules is sought unless extended by the Department in writing; or¶

(b) Within fourteen (14) days of any failed test report from any resampling, or retesting completed in accordance with ~~OAR 603-048-0630~~these rules unless extended by the Department in writing.-¶

(12) Invalid Sampling or Testing:¶

(a) It is the grower's obligation to demonstrate and maintain documentation that each harvest lot was sampled and tested in accordance with these rules and passes THC testing required by these rules.¶

(b) Sampling or testing that does not meet all of the requirements and standards of these rules is invalid. The harvest lot corresponding to an invalid sampling or invalid testing fails to satisfy the required THC testing under these rules.¶

(c) The Department may detain, seize, embargo, and dispose of the harvest lot that fails THC testing under this rule or that was invalidly sampled or tested as provided under OAR 603-048-0900.¶

(13) The Department may, at its discretion, agree to conduct sampling and testing for a licensed grower. Prior to conducting the sampling and testing the grower must pay fees as described in OAR 603-048-0700 for each harvest lot requested to be sampled and tested.¶

(14) In addition to the testing required by this section the Department may inspect any industrial hemp and ~~take a representative~~ sample for testing for THC content. The Department may detain, seize, embargo, and dispose of any industrial hemp that fails THC testing as described in sections ~~(82)~~ of this rule.¶

(15) ~~Beginning on January 1, 2023, a~~All laboratories conducting sampling or testing must be registered with the United States Drug Enforcement Agency in accordance with 21 USC 823(f) unless the United States Department of Agriculture issues written guidance or amends the federal rules to extend or waive this requirement.

Statutory/Other Authority: ORS 561.120, ORS 561.200, ORS 561.275, ORS 561.190, ORS 571.260-571.348, ~~OL 2021, CH. 542~~

Statutes/Other Implemented: ORS 571.260-571.348, ~~OL 2021, CH. 542~~

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

# **Exhibit A: Sampling Protocol Hemp Pre-Harvest Testing**

To be valid pre-harvest THC sampling and testing required under OAR Chapter 603, Division 48, all sampling must be conducted as described in this Protocol.<sup>1</sup>

## **A. General Sampling Requirements**

1. Sampling may only be performed by the Department or a laboratory licensed by the Oregon Liquor and Cannabis Commission (OLCC) under ORS 475B.560 and accredited by the Oregon Health Authority (OHA) pursuant to ORS 475B.565 [hereinafter, "Laboratory"].<sup>2</sup>
2. All sampling must be performed by personnel employed by a Laboratory [hereinafter sampler"] and in accordance with OAR 603-048-0600 and this Protocol. Samplers must complete annual sampling training with the Department before sampling.
3. The Laboratory must follow chain of custody procedures consistent OAR 333-064-0100(2) and be documented to record the collection, transport, and receipt of samples by the Department or Laboratory. Laboratory must maintain records for each harvest lot as identified by harvest lot identifier.
4. Sampling must produce a representative sample of the harvest lot.
5. The Laboratory must avoid contamination of the non-sampled material with sample containers that are free of analytes of interest and appropriate for the analyses requested.
6. The Laboratory shall only sample plants with flowers when a purpose of the harvest lot is to produce flower. If no flowering plants are present, the Laboratory shall reschedule the sampling for a later date when flowering plants are present.
7. The Laboratory must obtain a sufficient sample size to provide sufficient material to conduct all requested tests, any requested retest, and any quality control performed by the testing laboratory.

## **B. Initiating a Sampling Request**

1. The Laboratory must receive a complete Hemp Sampling and Testing Request Form prior to sampling. The Laboratory must receive a new and separate "Harvest Lot Sampling Request Description" for each "Harvest Lot" to be sampled.
2. The Laboratory must complete the Hemp On-Site Sampling Form. The Laboratory must complete a new and separate "Harvest Lot On-Site Sampling Description" for each Harvest Lot to be sampled.
3. A "Harvest Lot" means:
  - a. Means a quantity of cannabis of the same variety or strain harvested within a distinct timeframe that is:

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<sup>1</sup> The definitions in OAR 603-048-0010 unless the context indicates otherwise.

<sup>2</sup> Note that the sampling of industrial hemp for pre-harvest THC concentration itself is not accredited by OHA. Exhibit A: Sampling Protocol.

- A. Grown in one contiguous production area within a grow site; or
  - B. Grown in a portion or portions of one contiguous production area within a grow site.
- b. Does not include cannabis grown in noncontiguous fields or noncontiguous growing areas.
- 4. Prior to beginning the sampling procedure, the sampler shall:
  - a. Survey the site to identify the conditions to determine the appropriate sampling procedure as described in this Protocol.
  - b. Visually establish the homogeneity of the harvest lot to establish the plants growing are of a like variety.
  - c. Verify the description of the location of the production area of each harvest lot in the Hemp Sampling and Testing Request Form matches the location of the harvest lot to be sampled (including the GPS coordinates or the address of the harvest lot, and the written description and visual depiction of the harvest lot).

### C. Survey and sample collection

- 1. The sample pattern must ensure that all parts of the harvest lot are adequately and proportionately represented in the plants inspected and sampled.
- 2. The sampler must use a sawtooth pattern when sampling the harvest lot. Two (2) sawtooth patterns are provided below. The approved sampler must choose one of the patterns most suitable for the field to be sampled. (Figure 1 and 2). The sampler must walk at right angles to the row of plants. The sampler must sample according to the pattern to the extent possible but may deviate from the pattern as necessary to account for particular physical growing conditions and to ensure that all parts of the harvest lot are adequately and proportionately sampled to produce a representative sample.
  - a. A sample shall be obtained from flowering tops when flowering tops are present, and shall be approximately five to eight inches in length from the main stem (that includes the leaves and flowers), the terminal bud (that occurs at the end of a stem) or central cola (cut stem that could develop into a bud).<sup>3</sup> Samplers should avoid sampling dead, diseased, or mechanically injured plants.
  - b. A sample shall consist of no more than one sample per plant, randomly chosen from the harvest lot. Place each sample in a paper bag.
  - c. Since they are a measure of the entire harvest lot, all samples from the harvest lot may be collected into a single bag.
  - d. Samplers should avoid collecting too many samples from the borders of the harvest lot.
- 3. Sample Size:
  - a. **The sample size must be at least 4 ounces, which is the minimum amount necessary for laboratory tests and file samples.**
  - b. Each composite sample should consist of a maximum 30 plant heads of about five to eight inches.
  - c. For greenhouses, small fields, or when sampling from a known number of

<sup>3</sup> See note on harvest lots intended for flower production in the General Sampling Requirements.

Exhibit A: Sampling Protocol.

Oregon Department of Agriculture Hemp Program Phone: (503) 986-4652 Email: [hemp@oda.oregon.gov](mailto:hemp@oda.oregon.gov) Web site: <https://oda.direct/hemp> Rev. 8-26-2021 Page 2 of 6.

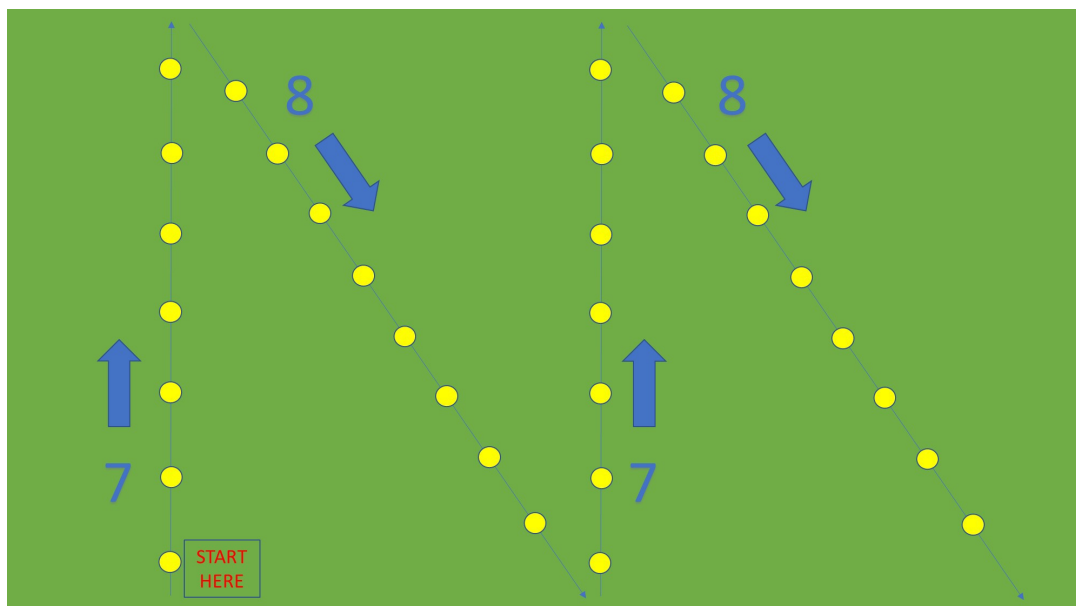


plants, the Hypergeometric Table 1 below should be used.

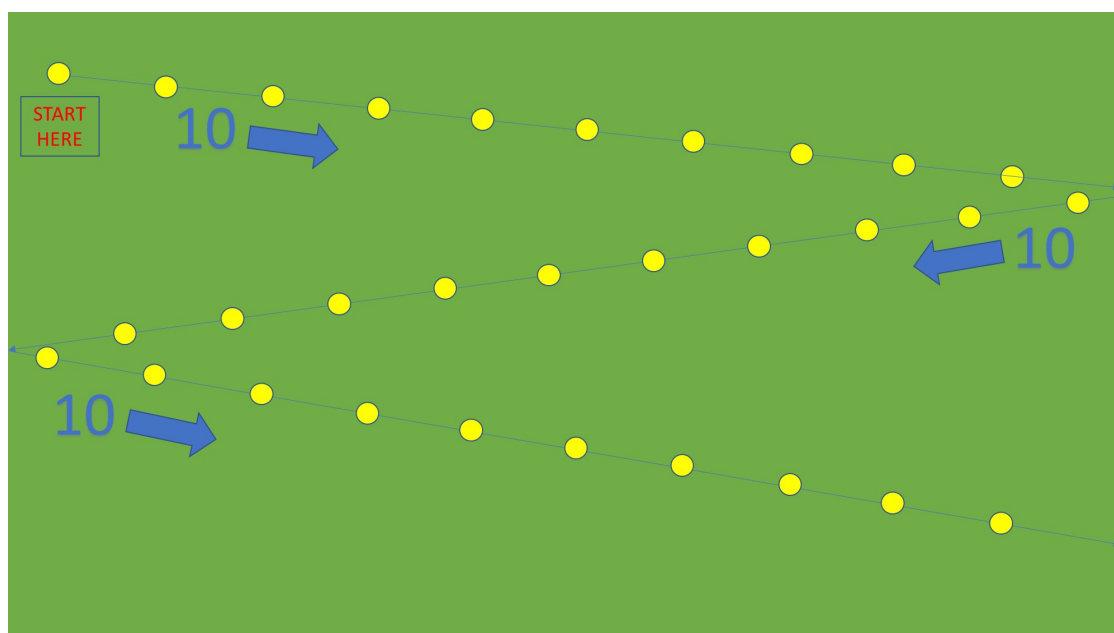
**Table 1.** Hypergeometric Table for Random Sampling

For greenhouses, small fields or when sampling from a known number of plants, plants may be sampled follows:

Total number of plants:	Randomly select this number of plants to sample:
1-13	Sample all plants
14-15	13
16-17	14
18-19	15
20-22	16
23-25	17
26-28	18
29-32	19
33-38	20
39-44	21
45-53	22
54-65	23
66-82	24
83-108	25
109-157	26
158-271	27
272-885	28
886-200,000	29



**Figure 1.** This is a typical sawtooth survey pattern starting in the lower “left” corner of the field. The yellow dots indicate the approximate locations to collect samples.



**Figure 2.** This is another typical sawtooth survey pattern starting in the top “left” corner of the field. The yellow dots indicate the approximate locations to collect samples.

## D. Reporting and Recordkeeping Requirements

1. The Laboratory shall record data for all samples collected on the appropriate forms for sample collection. All records must clearly identify the harvest lots by harvest lot identifier.
2. The Laboratory shall submit a copy of the following forms for each Harvest Lot

Exhibit A: Sampling Protocol.

Oregon Department of Agriculture Hemp Program Phone: (503) 986-4652 Email: [hemp@oda.oregon.gov](mailto:hemp@oda.oregon.gov) Web site: <https://oda.direct/hemp> Rev. 8-26-2021 Page 4 of 6.

- with the samples when submitting for testing.
- a. Hemp Sampling and Testing Request Form
  - b. Hemp On-Site Sampling Form
3. The Laboratory shall maintain standard operating procedures (SOP) that accurately reflect current sampling procedures.
- a. The SOP shall be readily accessible to all pertinent personnel and provided to ODA upon request.
  - b. The SOP shall clearly indicate the effective date of the document, the revision number, and the signature of the approving authority.
  - c. The sampling SOP shall use these protocols as minimum requirements and must include additional detail specific to laboratory procedures. Any changes, including use of a selected option, shall be documented and included on the sampling form. In cases where the published method has been modified or where the referenced method is ambiguous or provides insufficient detail, these changes or clarifications shall be clearly described.
  - d. All documents shall be controlled and retained in accordance with the TNI Environmental Laboratory standard as defined in 333-007-0310.
4. When procuring the sample, the Laboratory must create a Chain of Custody form that includes, but is not limited to, the information set out below. All sampling report forms must be signed by the sampler.
- a. Sampler's name
  - b. Lab License Number
  - c. Grower license number
  - d. Field ID/Name and Harvest Lot Identifier
  - e. Sampling Date/Time
  - f. Custody transfer signatures
  - g. Custody Transfer Dates/Times
5. The Laboratory shall provide to ODA upon request any and all records associated with the sampling, including SOPs, chain of custody forms, quality checks, etc.

## **E. Preparation of the Composite Sample**

1. The Laboratory shall close the paper bag for collection and seal in a manner to show evidence of tampering. On the sample bag, record Field Name and the harvest lot identifier, date of sampling, sampler's signature, registered business or grower name.
2. The Laboratory must have detailed procedures on maintaining custody and sample integrity during transport. These procedures should take into consideration controlling temperature and other environmental factors.
3. Composite samples must always be identified by labeling or marking the sample container to associate them with the harvest lot from which they originated.
4. The Laboratory must submit the composite sample to the testing laboratory in its entirety.
5. The Laboratory shall submit a copy of all of the following forms with the

samples when submitting for testing:

- a. Hemp Sampling and Testing Request Form - Completed by grower;
- b. Hemp On-Site Sampling Form- Completed by Laboratory

## **F. Equipment and supplies**

1. Forms (including extra sample request forms)
2. Paper bags for samples
3. Permanent pens for marking on paper sample bags
4. Pruning shears for collecting foliar samples
5. Single-use Coveralls
6. Gloves, disposable
7. Boots or booties (waterproof recommended)
8. Rain gear (recommended)
9. Boxes for storing sample equipment and samples
10. Bleach, 10% solution or other acceptable surface disinfectant for cleaning tools or boots between fields
11. Clipboard
12. Clicker to count the number of samples collected (optional)

## **G. Sanitation**

1. Park vehicle on pavement or on designated roads within the field.
2. Clean collection tools with an appropriate disinfectant after finishing all sample collections within the field.
3. Dispose of coveralls and gloves in an appropriate receptacle before leaving the field or in a designated receptacle in the vehicle. Ensure that single-use coveralls are appropriately cleaned prior to next use and are not contaminated by used coveralls.
4. Field sampling equipment must be certified clean prior to use by the Laboratory.

## **H. Resampling**

1. A Laboratory may resample a Harvest Lot upon receipt of a completed Sampling and Testing Request Form from a grower that indicates the request is for "Remediation Resampling."
2. A Laboratory shall conduct any such resampling in accordance with all applicable rules and this protocol.

## **References**

USDA APHIS National Seed Health Service. 2001. Reference manual B: Seed health testing and phytosanitary field inspection methods manual. Version dated 2/27/2001, USDA APHIS NSHS, Beltsville, MD, 56 pp.

[http://www.aphis.usda.gov/import\\_export/plants/plant\\_exports/national\\_seed\\_health\\_system.shtm](http://www.aphis.usda.gov/import_export/plants/plant_exports/national_seed_health_system.shtm)

OAR Chapter 603, Division 48

## **Exhibit B: Testing Protocol Hemp Pre- Harvest Testing**

To be sufficient to meet the requirement for pre-harvest THC sampling and testing under OAR Chapter 603, Division 48, testing must be conducted as described in this Protocol.<sup>1</sup>

### **A. Testing Requirements**

1. Testing may only be performed by a laboratory licensed by the Oregon Liquor and Cannabis Commission (OLCC) under ORS 475B.560 and accredited by the Oregon Health Authority (OHA) pursuant to ORS 475B.565 to sample and test for tetrahydrocannabinol (THC) content (hereinafter, Laboratory)<sup>2</sup> or the Oregon Department of Agriculture (ODA).
2. All testing must be performed by personnel employed by a Laboratory and in accordance with OAR 603-048-0600 and this Protocol.
3. The Laboratory must follow chain of custody procedures consistent with OAR 333-064-0100(2) and be documented to record the collection, transport, and receipt of samples by the Laboratory.
4. Testing must be conducted in compliance with OAR 333-064-0100(3) – (7) except that the Laboratory need not test or report CBD values.
5. The Laboratory must perform testing under their Quality Management system as defined by their ORELAP accreditation.
6. The Laboratory must perform testing in a manner that avoids contamination of the non-sampled material with sample containers that are free of analytes of interest and appropriate for the analyses requested.
7. The Laboratory shall calculate total THC (meaning the molar sum of THC and THCA) percentage on a dry weight basis calculated in accordance with OAR 333-064-0100(4).
8. The Laboratory must estimate and report the measurement of uncertainty (MU) with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

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<sup>1</sup> The definitions in OAR 603-048-0010 unless the context indicates otherwise.

<sup>2</sup> Note that the sampling of industrial hemp for pre-harvest THC concentration itself is not accredited by OHA.

## **B. Initiating a Testing Request**

1. The Laboratory must receive a complete Industrial Hemp Sampling and Testing Request Form prior to testing. The Laboratory must receive a new and separate "Harvest Lot Sampling Request Description" for each Harvest Lot to be tested.
2. The Laboratory must receive a complete Industrial Hemp On-Site Sampling Form prior to testing. The Laboratory must receive a new and separate "Harvest Lot On-Site Sampling Description" for each Harvest Lot to be tested.
3. A "Harvest Lot" means:
  - a. Means cannabis of the same variety or strain harvested in a distinct timeframe that is:
    - i. Grown in one contiguous production area within a grow site; or
    - ii. Grown in a portion or portions of one contiguous production area within a grow site.
  - b. Does not include cannabis grown in noncontiguous fields or noncontiguous growing areas.

## **C. Sample Preparation Requirements**

1. The Laboratory shall dry all of the leaf and flower of the sample (not obvious stem and seeds).
2. After drying, the Laboratory shall pulverize and sieve the sample using mesh size 1 mm as described in United Nations Office on Drugs and Crime: Recommended Methods for the Identification and Analysis of Cannabis and Cannabis Products. ISBN 978-92-1-148242-3. The Laboratory shall blend and homogenize the sieved material.
3. The Laboratory shall determine the dry weight of the sieved material.
4. The Laboratory shall divide the sieved, blended and homogenized sample into two portions: the test portion and the retained file sample. The Laboratory shall store the retained file sample in a freezer until needed. The retained file sample must be of sufficient material to conduct any requested retest and any quality control performed by the testing Laboratory.

## **D. Retesting Requirements**

1. The Laboratory shall retest a Harvest Lot upon receipt of a completed Request for Retest from a grower. "Retest" or "Retesting" means the laboratory process of retesting a retained file sample for THC content after the sample failed initial testing for THC content. A retest does not include or permit taking a new sample from the harvest lot.
2. The Laboratory shall forward the retained file sample to another Laboratory or to the ODA upon receipt of a completed Request for Retest from the grower requesting that the sample be forwarded. The Laboratory shall:
  - a. Use packaging appropriate for secure transport.
  - b. Protect the sample from moisture and temperature extremes.
  - c. Include all documentation with the sample.
  - d. Forward the sample by the most expedient, secure, and legal means

to ensure that the sample continues to be representative of the harvest lot sampled and the chain of custody is accounted for to protect its integrity.

#### **E. Testing After Resampling**

1. The Laboratory may test a Harvest Lot after a valid resampling in accordance with OAR 603-048-0630.
2. The Laboratory shall conduct testing after a resampling like any other testing in accordance with this protocol.
3. The Laboratory shall report the test results as described in Part F of the Protocol, but shall indicate that the result is pursuant to resampling.

#### **F. Reporting and Recordkeeping Requirements**

1. All documentation of sampling and testing must be retained by the Laboratory for at least three years and be provided to the Department upon request. All records must clearly identify the harvest lots by harvest lot identifier.
2. The Laboratory shall make Standard Operating Procedure (SOPs) readily accessible to all pertinent personnel and provided to the Department upon request.
3. All documents shall be controlled and retained in accordance with the TNI Environmental Laboratory standard as defined in OAR 333-007-0310.
4. When testing or forwarding the sample, the Laboratory must create and use a Chain of Custody form that minimally includes the information set out below.
  - a. Laboratory name
  - b. Grower license number
  - c. Analyst's name
  - d. Lab License Number
  - e. Field ID/Name and Harvest Lot Identifier
  - f. Testing Date/Time
  - g. Custody transfer signatures
  - h. Custody Transfer Dates/Times
5. The Laboratory must estimate and report the measurement of uncertainty (MU) with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty. Measurement of uncertainty means the parameter, associated with the result of the measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.
6. The Laboratory shall provide to the Department upon request analytical data and any records associated with test results reported, including SOPs, chain of custody forms, quality checks, MU determination, etc.
7. The Laboratory shall report percentage of total THC in the sample on a dry weight basis to exactly two significant figures.
8. The Laboratory shall report whether the sample passes testing. Until



January 1, 2022, if the test report indicates that the sample contains total THC of less than 0.35 percent on a dry weight basis, as specified in sections (8) of this rule, and the harvest lot was sampled and tested in compliance with these rules, the harvest lot passes testing required by these rules. Beginning on January 1, 2022, a sample passes testing when the application of the measurement of uncertainty to the amount of total THC of the sample calculated in accordance with OAR 333-064-0100(4) reported by a laboratory produces a distribution or range that includes 0.3 percent or less on a dry weight basis and the harvest lot was sampled and tested in compliance with these rules.

9. The Laboratory shall report all test results electronically to the Department at [HempTestReports@oda.state.or.us](mailto:HempTestReports@oda.state.or.us) using the forms provided or approved by the Department, and include for each sample tested:
  - a. Grower's name and license number;
  - b. Sample date;
  - c. Sample size by weight;
  - d. Testing date;
  - e. Total THC percentage to exactly two significant figures calculated in accordance with OAR 333-064-0100(4) and whether the sample passed testing;
  - f. The Laboratory's uncertainty level for THC testing of cannabis;
  - g. The harvest lot identifier that corresponds to the sample and the location of the corresponding harvest lot;
  - h. Copy of grower's sampling request form corresponding to the harvest lot;
  - i. Copy of the completed sampling form corresponding to the harvest lot; and
  - j. Signature of the laboratory analyst.
10. The Laboratory shall send any failed test report electronically to the Department at [HempTestReports@oda.state.or.us](mailto:HempTestReports@oda.state.or.us) using the forms provided or approved by the Department **within 24 hours of the failed test.**
11. The Laboratory shall send completed copies of the Sampling and Request Form and the On-Site Sampling Form corresponding to the Harvest Lot with each test report.
12. The laboratory shall report all test results, except for interim mid-season testing conducted for monitoring THC content during the growth cycle and not for pre-harvest testing, to the United States Department of Agriculture. The test results report must contain the following information:
  - a. Grower's license number;
  - b. Grower's name;
  - c. Business address of the grower;
  - d. Harvest lot identifier
  - e. Name of the laboratory and beginning January 1, 2023, the DEA registration number of the laboratory;
  - f. Date of the test and report;



- g. Whether it is a retest;
- h. Test result including whether the lot passed testing.

## **Exhibit B: Testing Protocol Hemp Pre-Harvest Testing**

To be sufficient to meet the requirement for pre-harvest THC sampling and testing under OAR Chapter 603, Division 48, testing must be conducted as described in this Protocol.

### **A. Testing Requirements**

1. Testing may only be performed by a laboratory licensed by the Oregon Liquor Control Commission (OLCC) under ORS 475B.560 and accredited by the Oregon Health Authority (OHA) pursuant to ORS 475B.565 to sample and test for tetrahydrocannabinol (THC) content (hereinafter, Laboratory)<sup>1</sup> or the Oregon Department of Agriculture (ODA).
2. All testing must be performed by personnel employed by a Laboratory and in accordance with OAR 603-048-0600 and this Protocol.
3. The Laboratory must follow chain of custody procedures consistent with TNI EL Standard VIM2 5.7 and 5.8 and be documented to record the collection, transport, and receipt of samples by the Laboratory.
4. Testing must be conducted in compliance with OAR 333-064-0100(3) – (7) except that the Laboratory need not test or report CBD values.
5. Until the Laboratory develops its own criteria, sample or matrix spike recovery must fall between 70-130 percent. The Laboratory must develop its own criteria after obtaining 30 data points and the sample or matrix spike recovery must fall between 70-130 percent or within more restrictive acceptance limits. Until the Laboratory develops its own criteria, the Relative Percent Difference (RPD) between duplicates must be less than or equal to 20 percent. The Laboratory must develop its own criteria after obtaining 30 data points and the sample/sample duplicate RPD must be less than or equal to 20 percent or fall within more restrictive acceptance limits. The Laboratory shall include at least one sample or matrix spike and one set of duplicates to assess accuracy and precision for each extraction batch.
6. The Laboratory must perform testing under their Quality Management system as defined by their ORELAP accreditation.
7. The Laboratory must perform testing in a manner that avoids contamination of the non-sampled material with sample containers that are free of analytes of interest and appropriate for the analyses requested.
8. The Laboratory's test method and preparation steps shall avoid decarboxylation of (-)-delta 9-trans-Tetrahydrocannabinolic acid (THCA).
9. The Laboratory must determine the percentage of THC in the sample on a dry weight basis.

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<sup>1</sup> Note that the sampling of industrial hemp for pre-harvest THC concentration itself is not accredited by OHA.

## **B. Initiating a Testing Request**

1. The Laboratory must receive a complete Industrial Hemp Sampling and Testing Request Form prior to testing. The Laboratory must receive a new and separate “Harvest Lot Sampling Request Description” for each Harvest Lot to be tested.
2. The Laboratory must receive a complete Industrial Hemp On-Site Sampling Form prior to testing. The Laboratory must receive a new and separate “Harvest Lot On-Site Sampling Description” for each Harvest Lot to be tested.
3. A “Harvest Lot” means:
  - a. Means a quantity of industrial hemp harvested in a distinct timeframe that is:
    - i. Grown in one contiguous production area within a grow site; or
    - ii. Grown in a portion or portions of one contiguous production area within a grow site.
  - b. Does not include a quantity of industrial hemp comprised of industrial hemp grown in noncontiguous fields or noncontiguous growing areas.<sup>2</sup>

## **C. Sample Preparation Requirements**

1. The Laboratory shall dry all of the leaf and flower of the sample (not obvious stem and seeds) until brittle in a manner that does not exceed 70°C and maintains the THC level of sample (at temperatures greater than 70°C, decarboxylation of THCA to THC occurs).
2. After drying, the Laboratory shall pulverize and sieve the sample using mesh size 1 mm as described in United Nations Office on Drugs and Crime: Recommended Methods for the Identification and Analysis of Cannabis and Cannabis Products. ISBN 978-92-1-148242-3. The Laboratory shall blend and homogenize the sieved material.
3. The Laboratory shall determine the dry weight of the sieved material.
4. The Laboratory shall divide the sieved, blended and homogenized sample into two portions: the test portion and the retained file sample. The Laboratory shall store the retained file sample in a freezer until needed. The retained file sample must be of sufficient material to conduct any requested retest and any quality control performed by the testing Laboratory.

## **D. Retesting Requirements**

1. The Laboratory shall retest a Harvest Lot upon receipt of a completed Request for Retest from a grower. “Retest” or “Retesting” means the laboratory process of retesting a retained file sample for THC content after the sample failed initial testing for THC content. A retest does not include or permit taking a new sample from the harvest lot. OAR 603-048-0010(16).
2. The Laboratory shall forward the retained file sample to another Laboratory or to the ODA upon receipt of a completed Request for Retest from the grower requesting that the sample be forwarded. The Laboratory shall:
  - a. Use packaging appropriate for secure transport.
  - b. Protect the sample from moisture and temperature extremes.
  - c. Include all documentation with the sample.

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<sup>2</sup> OAR 603-048-0010(9).

- d. Forward the sample by the most expedient, secure, and legal means to ensure that the sample continues to be representative of the harvest lot sampled and the chain of custody is accounted for to protect its integrity.

#### **E. Testing After Resampling**

1. The Laboratory may test a Harvest Lot after a valid resampling in accordance with OAR 603-048-0630.
2. The Laboratory shall conduct testing after a resampling like any other testing in accordance with this protocol.
3. The Laboratory shall report the test results as described in Part F of the Protocol, but shall indicate that the result is pursuant to resampling.

#### **F. Reporting and Recordkeeping Requirements**

1. All documentation of sampling and testing must be retained by the Laboratory for at least three years and be provided to the Department upon request. All records must clearly identify the harvest lots by harvest lot identifier.
2. The Laboratory shall make Standard Operating Procedure (SOPs) readily accessible to all pertinent personnel and provided to ODA upon request.
3. All documents shall be controlled and retained in accordance with the TNI Environmental Laboratory standard as defined in OAR 333-007-0310.
4. When testing or forwarding the sample, the Laboratory must create and use a Chain of Custody form with the information set out below.
  - a. Laboratory name
  - b. Analyst's name
  - c. Lab License Number
  - d. Field ID/Name and Harvest Lot Identifier
  - e. Testing Date/Time
  - f. Custody transfer signatures
  - g. Custody Transfer Dates/Times
5. The Laboratory shall determine the estimated measurement uncertainty (EMU) of the test for THC concentration of industrial hemp and make available to the ODA upon request.
6. The Laboratory shall provide to ODA upon request analytical data and any records associated with test results reported, including SOPs, chain of custody forms, quality checks, EMU determination, etc.
7. The Laboratory shall report percentage of THC in the sample on a dry weight basis to exactly two significant figures.
8. The Laboratory shall report all test results electronically to the Department at [HempTestReports@oda.state.or.us](mailto:HempTestReports@oda.state.or.us) using the forms provided by the Department, and include for each sample tested:
  - a. Grower's name and registration number;
  - b. Sample date;
  - c. Sample size by weight;
  - d. Testing date;

- e. Tetrahydrocannabinol percentage to exactly two significant figures;
  - f. The harvest lot identifier that corresponds to the sample and the location of the corresponding harvest lot;
  - g. Copy of grower's sampling request form corresponding to the harvest lot;
  - h. Copy of the completed sampling form corresponding to the harvest lot;  
and
  - i. Signature of the laboratory analyst.
9. The Laboratory shall send any failed test report electronically to the Department at [HempTestReports@oda.state.or.us](mailto:HempTestReports@oda.state.or.us) using the forms provided by the Department **within 24 hours of the failed test.**
10. The Laboratory shall send completed copies of the Sampling and Request Form and the On-Site Sampling Form corresponding to the Harvest Lot with each test report.

AMEND: 603-048-0630

RULE SUMMARY: Updates requirements for retesting.

CHANGES TO RULE:

603-048-0630

Failed Pre-Harvest Testing; Retesting

(1) If a sample tested under OAR 603-048-0600 fails an initial test, a grower may pursue retesting at the grower's own cost pursuant to sections (2) and (3) of this rule.¶

(2) Retesting of Failed Samples. If a sample tested under OAR 603-048-0600 fails an initial test, the laboratory that did the testing, or the Department if the Department did the testing, may retest the sample pursuant to the Testing Protocol, Exhibit B. If the sample passes, the sample must be retested by another laboratory or the Department and again pass testing to confirm the result in order for the harvest lot to pass testing.¶

(a) If a grower wishes to have a sample retested, the grower must request a retest within seven (7) days from the date the notice of the failed test was sent to the grower. The retest must be completed within 30 days from the date the retest was requested.¶

(b) To request retesting, the grower must provide the laboratory, or the Department, with the following on a form provided by the Department:¶

(A) A written request for retesting for each sample the grower requests be retested; and¶

(B) Notification that the sample is being retested because of the failed test and the failed test results.¶

(c) If a grower has requested a retest in accordance with subsection (2)(a) and (b) of this rule and the sample passes upon retest, the grower has seven (7) days from the date the notice of the passed test is sent to request that another laboratory, or the Department, retest the remaining file sample and confirm that the sample meets requirements established in OAR 603-048-0600. The initial laboratory must coordinate with the second laboratory or the Department to provide the remaining file sample for retesting. The retesting must be completed within 30 days from the date the retesting was requested.¶

(d) If a grower has requested an initial or secondary retest and the test report indicates that the sample failed testing as described in OAR 603-048-0600(8) the sample fails testing and no further testing is permitted under this subsection.¶

(e) Reporting:¶

(A) A grower must report electronically to the Department within 24 hours, at HempTestReports@oda.oregon.gov using the forms provided or approved by the Department, or via an online portal operated by the Department, any initial or secondary request for retest of a sample.¶

(B) A grower must ensure that a laboratory reports electronically to the Department within 24 hours, at HempTestReports@oda.oregon.gov using the forms provided or approved by the Department, or via an online portal operated by the Department, the testing results of the initial or secondary retest.¶

(3) Resampling Production Area. If a sample tested under OAR 603-048-0600 fails an initial test, a grower may seek resampling and retesting of the production area if:¶

(a) The original plants in the production area associated with the failed test remain standing and growing in the production area.¶

(b) The grower requests the resampling within seven (7) days from the date the notice of the failed test was sent to the grower.¶

(c) The grower subdivides the production area into separate harvest lots for resampling and retesting.¶

(d) The grower properly identifies the subdivided harvest lots in accordance with OAR 603-048-0500.¶

(e) The grower provides the laboratory or the Department with the following on a form provided by the Department:¶

(A) A written request for resampling for each harvest lot the grower requests be resampled that includes all of the information required in OAR 603-048-0600 for initial sampling; and¶

(B) Notification that the harvest lot is being resampled because of the failed test and the failed test results.¶

(f) The resampling occurs within ten (10) days of the request for resampling and the test results are reported within 30 days of the request for resampling.¶

(4) If the harvest lot fails testing after resampling conducted under section (3) of this rule, the grower may pursue retesting pursuant to section (2) of this rule, but may not pursue ~~retestsampling~~ under section (3) of this rule.¶

(5) Reporting:¶

(a) A grower must report electronically to the Department within 24 hours, at HempTestReports@oda.oregon.gov using the form provided or approved by the Department, or via an online portal operated by the Department any requests for resampling under this subsection.¶

(b) A grower must ensure that the laboratory reports electronically to the Department within 24 hours, at HempTestReports@oda.oregon.gov using the forms provided or approved by the Department, or via an online

portal operated by the Department, the testing results of any resampling under this subsection.¶¶

(6) The Department may detain, seize, embargo the harvest lot corresponding to a sample, as provided under ORS 561.605 to 561.620 and subject to the provisions of ORS Chapter 183, if the sample failed a test under OAR 603-048-0600.¶¶

(7) The Department may detain, seize, embargo, and dispose of the harvest lot corresponding to a sample, as provided under ORS 561.605 to 561.620 and subject to the provisions of ORS Chapter 183, if the sample:¶¶

(a) Was not sampled and tested in compliance with all of the requirements and standards of these rules;¶¶

(b) Fails a test under OAR 603-048-0600 and the grower does not timely request a retest or resampling or informs the Department that retest or resampling will not be requested;¶¶

(c) Fails any retesting under section (2) of this rule and the grower:¶¶

(A) Does not timely request resampling;¶¶

(B) Informs the Department that resampling will not be requested; or¶¶

(C) Is no longer eligible for resampling;¶¶

(d) Fails any testing conducted under section (3) of this rule and the grower does not timely request a retest or informs the Department that retest will not be requested;¶¶

(e) Passes initial retesting but the grower fails to timely request secondary retesting to confirm the passed test result as described in section (2)(c) of this rule.¶¶

(f) Fails a test under OAR 603-048-0600 and the retained file sample lacks sufficient volume of harvest lot material to allow for the first and second retesting described in section (2)(c) of this rule and the grower:¶¶

(A) Does not timely request resampling;¶¶

(B) Informs the Department that resampling will not be requested; or¶¶

(C) Is no longer eligible for resampling.¶¶

(g) Fails a test under OAR 603-048-0600 and the harvest lot does not pass re-testing in accordance with these rules to 603-048-0630.¶¶

(8) If a sample passes the first and second retest described in section (2)(c) of this rule, the sample and corresponding harvest lot satisfies THC testing required by these rules and is released from the restrictions in OAR 603-048-0600(10).¶¶

(9) If a sample passes testing after resampling conducted under section (3) of this rule, the sample and corresponding harvest lot satisfies THC testing required by these rules and is released from the restrictions in OAR 603-048-0600(10). Any harvest lots that are not retested or that fail testing after resampling, the grower must dispose of in accordance with OAR 603-048-0640.¶¶

(10) If the amount of the harvest lot material collected for purposes of sampling is not sufficient to allow for the first and second retesting described in section (2)(c) of this rule, the sample and corresponding harvest lot fails to satisfy these rules.¶¶

(11) ~~Beginning January 1, 2022, t~~The grower must ensure that any additional testing is reported by the laboratory to the United States Department of Agriculture. The test results report must contain the following information:¶¶

(a) Grower's license number;¶¶

(b) Grower's name;¶¶

(c) Business address of the grower;¶¶

(d) Harvest lot identifier¶¶

(e) Name of the laboratory¶¶

(f) Date of the test and report¶¶

(g) Whether it is a retest;¶¶

(h) Test result.

Statutory/Other Authority: ORS 561.190, ORS 561.605-561.620, ORS 571.260-571.348, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260-571.348, ~~OL 2021, Ch. 542~~

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

# **Exhibit A: Sampling Protocol Hemp Pre-Harvest Testing**

To be valid pre-harvest THC sampling and testing required under OAR Chapter 603, Division 48, all sampling must be conducted as described in this Protocol.<sup>1</sup>

## **A. General Sampling Requirements**

1. Sampling may only be performed by the Department or a laboratory licensed by the Oregon Liquor and Cannabis Commission (OLCC) under ORS 475B.560 and accredited by the Oregon Health Authority (OHA) pursuant to ORS 475B.565 [hereinafter, "Laboratory"].<sup>2</sup>
2. All sampling must be performed by personnel employed by a Laboratory [hereinafter sampler"] and in accordance with OAR 603-048-0600 and this Protocol. Samplers must complete annual sampling training with the Department before sampling.
3. The Laboratory must follow chain of custody procedures consistent OAR 333-064-0100(2) and be documented to record the collection, transport, and receipt of samples by the Department or Laboratory. Laboratory must maintain records for each harvest lot as identified by harvest lot identifier.
4. Sampling must produce a representative sample of the harvest lot.
5. The Laboratory must avoid contamination of the non-sampled material with sample containers that are free of analytes of interest and appropriate for the analyses requested.
6. The Laboratory shall only sample plants with flowers when a purpose of the harvest lot is to produce flower. If no flowering plants are present, the Laboratory shall reschedule the sampling for a later date when flowering plants are present.
7. The Laboratory must obtain a sufficient sample size to provide sufficient material to conduct all requested tests, any requested retest, and any quality control performed by the testing laboratory.

## **B. Initiating a Sampling Request**

1. The Laboratory must receive a complete Hemp Sampling and Testing Request Form prior to sampling. The Laboratory must receive a new and separate "Harvest Lot Sampling Request Description" for each "Harvest Lot" to be sampled.
2. The Laboratory must complete the Hemp On-Site Sampling Form. The Laboratory must complete a new and separate "Harvest Lot On-Site Sampling Description" for each Harvest Lot to be sampled.
3. A "Harvest Lot" means:
  - a. Means a quantity of cannabis of the same variety or strain harvested within a distinct timeframe that is:

<sup>1</sup> The definitions in OAR 603-048-0010 unless the context indicates otherwise.

<sup>2</sup> Note that the sampling of industrial hemp for pre-harvest THC concentration itself is not accredited by OHA. Exhibit A: Sampling Protocol.



- A. Grown in one contiguous production area within a grow site; or
  - B. Grown in a portion or portions of one contiguous production area within a grow site.
- b. Does not include cannabis grown in noncontiguous fields or noncontiguous growing areas.
- 4. Prior to beginning the sampling procedure, the sampler shall:
  - a. Survey the site to identify the conditions to determine the appropriate sampling procedure as described in this Protocol.
  - b. Visually establish the homogeneity of the harvest lot to establish the plants growing are of a like variety.
  - c. Verify the description of the location of the production area of each harvest lot in the Hemp Sampling and Testing Request Form matches the location of the harvest lot to be sampled (including the GPS coordinates or the address of the harvest lot, and the written description and visual depiction of the harvest lot).

### C. Survey and sample collection

- 1. The sample pattern must ensure that all parts of the harvest lot are adequately and proportionately represented in the plants inspected and sampled.
- 2. The sampler must use a sawtooth pattern when sampling the harvest lot. Two (2) sawtooth patterns are provided below. The approved sampler must choose one of the patterns most suitable for the field to be sampled. (Figure 1 and 2). The sampler must walk at right angles to the row of plants. The sampler must sample according to the pattern to the extent possible but may deviate from the pattern as necessary to account for particular physical growing conditions and to ensure that all parts of the harvest lot are adequately and proportionately sampled to produce a representative sample.
  - a. A sample shall be obtained from flowering tops when flowering tops are present, and shall be approximately five to eight inches in length from the main stem (that includes the leaves and flowers), the terminal bud (that occurs at the end of a stem) or central cola (cut stem that could develop into a bud).<sup>3</sup> Samplers should avoid sampling dead, diseased, or mechanically injured plants.
  - b. A sample shall consist of no more than one sample per plant, randomly chosen from the harvest lot. Place each sample in a paper bag.
  - c. Since they are a measure of the entire harvest lot, all samples from the harvest lot may be collected into a single bag.
  - d. Samplers should avoid collecting too many samples from the borders of the harvest lot.
- 3. Sample Size:
  - a. **The sample size must be at least 4 ounces, which is the minimum amount necessary for laboratory tests and file samples.**
  - b. Each composite sample should consist of a maximum 30 plant heads of about five to eight inches.
  - c. For greenhouses, small fields, or when sampling from a known number of

<sup>3</sup> See note on harvest lots intended for flower production in the General Sampling Requirements.

Exhibit A: Sampling Protocol.

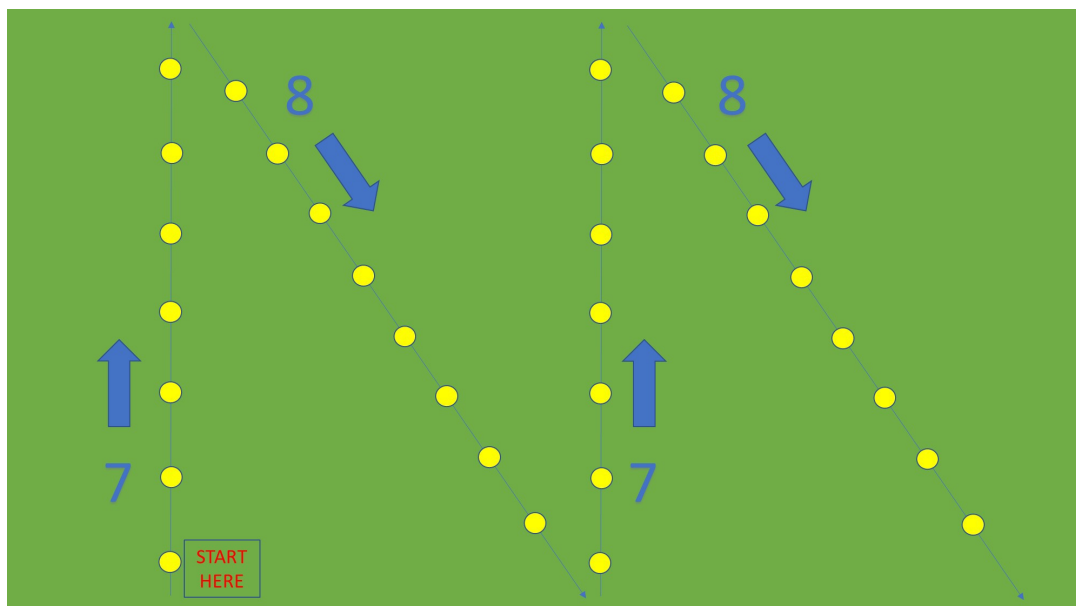
Oregon Department of Agriculture Hemp Program Phone: (503) 986-4652 Email: [hemp@oda.oregon.gov](mailto:hemp@oda.oregon.gov) Web site: <https://oda.direct/hemp> Rev. 8-26-2021 Page 2 of 6.

plants, the Hypergeometric Table 1 below should be used.

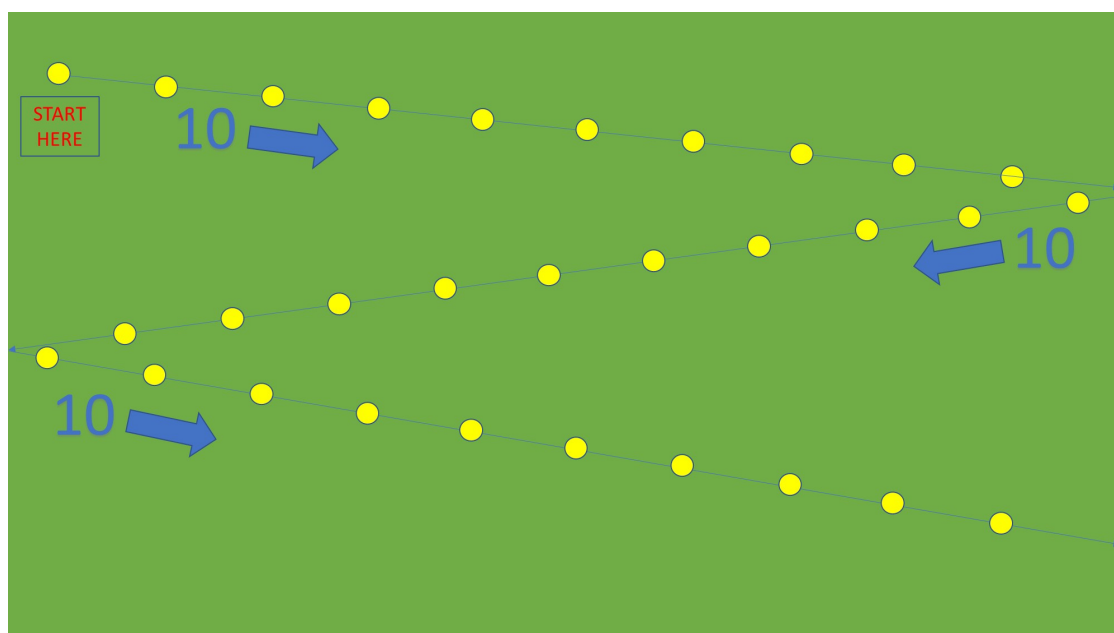
**Table 1.** Hypergeometric Table for Random Sampling

For greenhouses, small fields or when sampling from a known number of plants, plants may be sampled follows:

Total number of plants:	Randomly select this number of plants to sample:
1-13	Sample all plants
14-15	13
16-17	14
18-19	15
20-22	16
23-25	17
26-28	18
29-32	19
33-38	20
39-44	21
45-53	22
54-65	23
66-82	24
83-108	25
109-157	26
158-271	27
272-885	28
886-200,000	29



**Figure 1.** This is a typical sawtooth survey pattern starting in the lower “left” corner of the field. The yellow dots indicate the approximate locations to collect samples.



**Figure 2.** This is another typical sawtooth survey pattern starting in the top “left” corner of the field. The yellow dots indicate the approximate locations to collect samples.

## D. Reporting and Recordkeeping Requirements

1. The Laboratory shall record data for all samples collected on the appropriate forms for sample collection. All records must clearly identify the harvest lots by harvest lot identifier.
2. The Laboratory shall submit a copy of the following forms for each Harvest Lot

Exhibit A: Sampling Protocol.

Oregon Department of Agriculture Hemp Program Phone: (503) 986-4652 Email: [hemp@oda.oregon.gov](mailto:hemp@oda.oregon.gov) Web site: <https://oda.direct/hemp> Rev. 8-26-2021 Page 4 of 6.

- with the samples when submitting for testing.
- a. Hemp Sampling and Testing Request Form
  - b. Hemp On-Site Sampling Form
3. The Laboratory shall maintain standard operating procedures (SOP) that accurately reflect current sampling procedures.
- a. The SOP shall be readily accessible to all pertinent personnel and provided to ODA upon request.
  - b. The SOP shall clearly indicate the effective date of the document, the revision number, and the signature of the approving authority.
  - c. The sampling SOP shall use these protocols as minimum requirements and must include additional detail specific to laboratory procedures. Any changes, including use of a selected option, shall be documented and included on the sampling form. In cases where the published method has been modified or where the referenced method is ambiguous or provides insufficient detail, these changes or clarifications shall be clearly described.
  - d. All documents shall be controlled and retained in accordance with the TNI Environmental Laboratory standard as defined in 333-007-0310.
4. When procuring the sample, the Laboratory must create a Chain of Custody form that includes, but is not limited to, the information set out below. All sampling report forms must be signed by the sampler.
- a. Sampler's name
  - b. Lab License Number
  - c. Grower license number
  - d. Field ID/Name and Harvest Lot Identifier
  - e. Sampling Date/Time
  - f. Custody transfer signatures
  - g. Custody Transfer Dates/Times
5. The Laboratory shall provide to ODA upon request any and all records associated with the sampling, including SOPs, chain of custody forms, quality checks, etc.

## **E. Preparation of the Composite Sample**

1. The Laboratory shall close the paper bag for collection and seal in a manner to show evidence of tampering. On the sample bag, record Field Name and the harvest lot identifier, date of sampling, sampler's signature, registered business or grower name.
2. The Laboratory must have detailed procedures on maintaining custody and sample integrity during transport. These procedures should take into consideration controlling temperature and other environmental factors.
3. Composite samples must always be identified by labeling or marking the sample container to associate them with the harvest lot from which they originated.
4. The Laboratory must submit the composite sample to the testing laboratory in its entirety.
5. The Laboratory shall submit a copy of all of the following forms with the

samples when submitting for testing:

- a. Hemp Sampling and Testing Request Form - Completed by grower;
- b. Hemp On-Site Sampling Form- Completed by Laboratory

## **F. Equipment and supplies**

1. Forms (including extra sample request forms)
2. Paper bags for samples
3. Permanent pens for marking on paper sample bags
4. Pruning shears for collecting foliar samples
5. Single-use Coveralls
6. Gloves, disposable
7. Boots or booties (waterproof recommended)
8. Rain gear (recommended)
9. Boxes for storing sample equipment and samples
10. Bleach, 10% solution or other acceptable surface disinfectant for cleaning tools or boots between fields
11. Clipboard
12. Clicker to count the number of samples collected (optional)

## **G. Sanitation**

1. Park vehicle on pavement or on designated roads within the field.
2. Clean collection tools with an appropriate disinfectant after finishing all sample collections within the field.
3. Dispose of coveralls and gloves in an appropriate receptacle before leaving the field or in a designated receptacle in the vehicle. Ensure that single-use coveralls are appropriately cleaned prior to next use and are not contaminated by used coveralls.
4. Field sampling equipment must be certified clean prior to use by the Laboratory.

## **H. Resampling**

1. A Laboratory may resample a Harvest Lot upon receipt of a completed Sampling and Testing Request Form from a grower that indicates the request is for "Remediation Resampling."
2. A Laboratory shall conduct any such resampling in accordance with all applicable rules and this protocol.

## **References**

USDA APHIS National Seed Health Service. 2001. Reference manual B: Seed health testing and phytosanitary field inspection methods manual. Version dated 2/27/2001, USDA APHIS NSHS, Beltsville, MD, 56 pp.

[http://www.aphis.usda.gov/import\\_export/plants/plant\\_exports/national\\_seed\\_health\\_system.shtm](http://www.aphis.usda.gov/import_export/plants/plant_exports/national_seed_health_system.shtm)

OAR Chapter 603, Division 48

## **Exhibit B: Testing Protocol Hemp Pre- Harvest Testing**

To be sufficient to meet the requirement for pre-harvest THC sampling and testing under OAR Chapter 603, Division 48, testing must be conducted as described in this Protocol.<sup>1</sup>

### **A. Testing Requirements**

1. Testing may only be performed by a laboratory licensed by the Oregon Liquor and Cannabis Commission (OLCC) under ORS 475B.560 and accredited by the Oregon Health Authority (OHA) pursuant to ORS 475B.565 to sample and test for tetrahydrocannabinol (THC) content (hereinafter, Laboratory)<sup>2</sup> or the Oregon Department of Agriculture (ODA).
2. All testing must be performed by personnel employed by a Laboratory and in accordance with OAR 603-048-0600 and this Protocol.
3. The Laboratory must follow chain of custody procedures consistent with OAR 333-064-0100(2) and be documented to record the collection, transport, and receipt of samples by the Laboratory.
4. Testing must be conducted in compliance with OAR 333-064-0100(3) – (7) except that the Laboratory need not test or report CBD values.
5. The Laboratory must perform testing under their Quality Management system as defined by their ORELAP accreditation.
6. The Laboratory must perform testing in a manner that avoids contamination of the non-sampled material with sample containers that are free of analytes of interest and appropriate for the analyses requested.
7. The Laboratory shall calculate total THC (meaning the molar sum of THC and THCA) percentage on a dry weight basis calculated in accordance with OAR 333-064-0100(4).
8. The Laboratory must estimate and report the measurement of uncertainty (MU) with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

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<sup>1</sup> The definitions in OAR 603-048-0010 unless the context indicates otherwise.

<sup>2</sup> Note that the sampling of industrial hemp for pre-harvest THC concentration itself is not accredited by OHA.

## **B. Initiating a Testing Request**

1. The Laboratory must receive a complete Industrial Hemp Sampling and Testing Request Form prior to testing. The Laboratory must receive a new and separate "Harvest Lot Sampling Request Description" for each Harvest Lot to be tested.
2. The Laboratory must receive a complete Industrial Hemp On-Site Sampling Form prior to testing. The Laboratory must receive a new and separate "Harvest Lot On-Site Sampling Description" for each Harvest Lot to be tested.
3. A "Harvest Lot" means:
  - a. Means cannabis of the same variety or strain harvested in a distinct timeframe that is:
    - i. Grown in one contiguous production area within a grow site; or
    - ii. Grown in a portion or portions of one contiguous production area within a grow site.
  - b. Does not include cannabis grown in noncontiguous fields or noncontiguous growing areas.

## **C. Sample Preparation Requirements**

1. The Laboratory shall dry all of the leaf and flower of the sample (not obvious stem and seeds).
2. After drying, the Laboratory shall pulverize and sieve the sample using mesh size 1 mm as described in United Nations Office on Drugs and Crime: Recommended Methods for the Identification and Analysis of Cannabis and Cannabis Products. ISBN 978-92-1-148242-3. The Laboratory shall blend and homogenize the sieved material.
3. The Laboratory shall determine the dry weight of the sieved material.
4. The Laboratory shall divide the sieved, blended and homogenized sample into two portions: the test portion and the retained file sample. The Laboratory shall store the retained file sample in a freezer until needed. The retained file sample must be of sufficient material to conduct any requested retest and any quality control performed by the testing Laboratory.

## **D. Retesting Requirements**

1. The Laboratory shall retest a Harvest Lot upon receipt of a completed Request for Retest from a grower. "Retest" or "Retesting" means the laboratory process of retesting a retained file sample for THC content after the sample failed initial testing for THC content. A retest does not include or permit taking a new sample from the harvest lot.
2. The Laboratory shall forward the retained file sample to another Laboratory or to the ODA upon receipt of a completed Request for Retest from the grower requesting that the sample be forwarded. The Laboratory shall:
  - a. Use packaging appropriate for secure transport.
  - b. Protect the sample from moisture and temperature extremes.
  - c. Include all documentation with the sample.
  - d. Forward the sample by the most expedient, secure, and legal means



to ensure that the sample continues to be representative of the harvest lot sampled and the chain of custody is accounted for to protect its integrity.

#### **E. Testing After Resampling**

1. The Laboratory may test a Harvest Lot after a valid resampling in accordance with OAR 603-048-0630.
2. The Laboratory shall conduct testing after a resampling like any other testing in accordance with this protocol.
3. The Laboratory shall report the test results as described in Part F of the Protocol, but shall indicate that the result is pursuant to resampling.

#### **F. Reporting and Recordkeeping Requirements**

1. All documentation of sampling and testing must be retained by the Laboratory for at least three years and be provided to the Department upon request. All records must clearly identify the harvest lots by harvest lot identifier.
2. The Laboratory shall make Standard Operating Procedure (SOPs) readily accessible to all pertinent personnel and provided to the Department upon request.
3. All documents shall be controlled and retained in accordance with the TNI Environmental Laboratory standard as defined in OAR 333-007-0310.
4. When testing or forwarding the sample, the Laboratory must create and use a Chain of Custody form that minimally includes the information set out below.
  - a. Laboratory name
  - b. Grower license number
  - c. Analyst's name
  - d. Lab License Number
  - e. Field ID/Name and Harvest Lot Identifier
  - f. Testing Date/Time
  - g. Custody transfer signatures
  - h. Custody Transfer Dates/Times
5. The Laboratory must estimate and report the measurement of uncertainty (MU) with test results. Laboratories shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty. Measurement of uncertainty means the parameter, associated with the result of the measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.
6. The Laboratory shall provide to the Department upon request analytical data and any records associated with test results reported, including SOPs, chain of custody forms, quality checks, MU determination, etc.
7. The Laboratory shall report percentage of total THC in the sample on a dry weight basis to exactly two significant figures.
8. The Laboratory shall report whether the sample passes testing. Until



January 1, 2022, if the test report indicates that the sample contains total THC of less than 0.35 percent on a dry weight basis, as specified in sections (8) of this rule, and the harvest lot was sampled and tested in compliance with these rules, the harvest lot passes testing required by these rules. Beginning on January 1, 2022, a sample passes testing when the application of the measurement of uncertainty to the amount of total THC of the sample calculated in accordance with OAR 333-064-0100(4) reported by a laboratory produces a distribution or range that includes 0.3 percent or less on a dry weight basis and the harvest lot was sampled and tested in compliance with these rules.

9. The Laboratory shall report all test results electronically to the Department at [HempTestReports@oda.state.or.us](mailto:HempTestReports@oda.state.or.us) using the forms provided or approved by the Department, and include for each sample tested:
  - a. Grower's name and license number;
  - b. Sample date;
  - c. Sample size by weight;
  - d. Testing date;
  - e. Total THC percentage to exactly two significant figures calculated in accordance with OAR 333-064-0100(4) and whether the sample passed testing;
  - f. The Laboratory's uncertainty level for THC testing of cannabis;
  - g. The harvest lot identifier that corresponds to the sample and the location of the corresponding harvest lot;
  - h. Copy of grower's sampling request form corresponding to the harvest lot;
  - i. Copy of the completed sampling form corresponding to the harvest lot; and
  - j. Signature of the laboratory analyst.
10. The Laboratory shall send any failed test report electronically to the Department at [HempTestReports@oda.state.or.us](mailto:HempTestReports@oda.state.or.us) using the forms provided or approved by the Department **within 24 hours of the failed test.**
11. The Laboratory shall send completed copies of the Sampling and Request Form and the On-Site Sampling Form corresponding to the Harvest Lot with each test report.
12. The laboratory shall report all test results, except for interim mid-season testing conducted for monitoring THC content during the growth cycle and not for pre-harvest testing, to the United States Department of Agriculture. The test results report must contain the following information:
  - a. Grower's license number;
  - b. Grower's name;
  - c. Business address of the grower;
  - d. Harvest lot identifier
  - e. Name of the laboratory and beginning January 1, 2023, the DEA registration number of the laboratory;
  - f. Date of the test and report;

- g. Whether it is a retest;
- h. Test result including whether the lot passed testing.

## **Exhibit B: Testing Protocol Hemp Pre-Harvest Testing**

To be sufficient to meet the requirement for pre-harvest THC sampling and testing under OAR Chapter 603, Division 48, testing must be conducted as described in this Protocol.

### **A. Testing Requirements**

1. Testing may only be performed by a laboratory licensed by the Oregon Liquor Control Commission (OLCC) under ORS 475B.560 and accredited by the Oregon Health Authority (OHA) pursuant to ORS 475B.565 to sample and test for tetrahydrocannabinol (THC) content (hereinafter, Laboratory)<sup>1</sup> or the Oregon Department of Agriculture (ODA).
2. All testing must be performed by personnel employed by a Laboratory and in accordance with OAR 603-048-0600 and this Protocol.
3. The Laboratory must follow chain of custody procedures consistent with TNI EL Standard VIM2 5.7 and 5.8 and be documented to record the collection, transport, and receipt of samples by the Laboratory.
4. Testing must be conducted in compliance with OAR 333-064-0100(3) – (7) except that the Laboratory need not test or report CBD values.
5. Until the Laboratory develops its own criteria, sample or matrix spike recovery must fall between 70-130 percent. The Laboratory must develop its own criteria after obtaining 30 data points and the sample or matrix spike recovery must fall between 70-130 percent or within more restrictive acceptance limits. Until the Laboratory develops its own criteria, the Relative Percent Difference (RPD) between duplicates must be less than or equal to 20 percent. The Laboratory must develop its own criteria after obtaining 30 data points and the sample/sample duplicate RPD must be less than or equal to 20 percent or fall within more restrictive acceptance limits. The Laboratory shall include at least one sample or matrix spike and one set of duplicates to assess accuracy and precision for each extraction batch.
6. The Laboratory must perform testing under their Quality Management system as defined by their ORELAP accreditation.
7. The Laboratory must perform testing in a manner that avoids contamination of the non-sampled material with sample containers that are free of analytes of interest and appropriate for the analyses requested.
8. The Laboratory's test method and preparation steps shall avoid decarboxylation of (-)-delta 9-trans-Tetrahydrocannabinolic acid (THCA).
9. The Laboratory must determine the percentage of THC in the sample on a dry weight basis.

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<sup>1</sup> Note that the sampling of industrial hemp for pre-harvest THC concentration itself is not accredited by OHA.

## **B. Initiating a Testing Request**

1. The Laboratory must receive a complete Industrial Hemp Sampling and Testing Request Form prior to testing. The Laboratory must receive a new and separate “Harvest Lot Sampling Request Description” for each Harvest Lot to be tested.
2. The Laboratory must receive a complete Industrial Hemp On-Site Sampling Form prior to testing. The Laboratory must receive a new and separate “Harvest Lot On-Site Sampling Description” for each Harvest Lot to be tested.
3. A “Harvest Lot” means:
  - a. Means a quantity of industrial hemp harvested in a distinct timeframe that is:
    - i. Grown in one contiguous production area within a grow site; or
    - ii. Grown in a portion or portions of one contiguous production area within a grow site.
  - b. Does not include a quantity of industrial hemp comprised of industrial hemp grown in noncontiguous fields or noncontiguous growing areas.<sup>2</sup>

## **C. Sample Preparation Requirements**

1. The Laboratory shall dry all of the leaf and flower of the sample (not obvious stem and seeds) until brittle in a manner that does not exceed 70°C and maintains the THC level of sample (at temperatures greater than 70°C, decarboxylation of THCA to THC occurs).
2. After drying, the Laboratory shall pulverize and sieve the sample using mesh size 1 mm as described in United Nations Office on Drugs and Crime: Recommended Methods for the Identification and Analysis of Cannabis and Cannabis Products. ISBN 978-92-1-148242-3. The Laboratory shall blend and homogenize the sieved material.
3. The Laboratory shall determine the dry weight of the sieved material.
4. The Laboratory shall divide the sieved, blended and homogenized sample into two portions: the test portion and the retained file sample. The Laboratory shall store the retained file sample in a freezer until needed. The retained file sample must be of sufficient material to conduct any requested retest and any quality control performed by the testing Laboratory.

## **D. Retesting Requirements**

1. The Laboratory shall retest a Harvest Lot upon receipt of a completed Request for Retest from a grower. “Retest” or “Retesting” means the laboratory process of retesting a retained file sample for THC content after the sample failed initial testing for THC content. A retest does not include or permit taking a new sample from the harvest lot. OAR 603-048-0010(16).
2. The Laboratory shall forward the retained file sample to another Laboratory or to the ODA upon receipt of a completed Request for Retest from the grower requesting that the sample be forwarded. The Laboratory shall:
  - a. Use packaging appropriate for secure transport.
  - b. Protect the sample from moisture and temperature extremes.
  - c. Include all documentation with the sample.

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<sup>2</sup> OAR 603-048-0010(9).

- d. Forward the sample by the most expedient, secure, and legal means to ensure that the sample continues to be representative of the harvest lot sampled and the chain of custody is accounted for to protect its integrity.

#### **E. Testing After Resampling**

1. The Laboratory may test a Harvest Lot after a valid resampling in accordance with OAR 603-048-0630.
2. The Laboratory shall conduct testing after a resampling like any other testing in accordance with this protocol.
3. The Laboratory shall report the test results as described in Part F of the Protocol, but shall indicate that the result is pursuant to resampling.

#### **F. Reporting and Recordkeeping Requirements**

1. All documentation of sampling and testing must be retained by the Laboratory for at least three years and be provided to the Department upon request. All records must clearly identify the harvest lots by harvest lot identifier.
2. The Laboratory shall make Standard Operating Procedure (SOPs) readily accessible to all pertinent personnel and provided to ODA upon request.
3. All documents shall be controlled and retained in accordance with the TNI Environmental Laboratory standard as defined in OAR 333-007-0310.
4. When testing or forwarding the sample, the Laboratory must create and use a Chain of Custody form with the information set out below.
  - a. Laboratory name
  - b. Analyst's name
  - c. Lab License Number
  - d. Field ID/Name and Harvest Lot Identifier
  - e. Testing Date/Time
  - f. Custody transfer signatures
  - g. Custody Transfer Dates/Times
5. The Laboratory shall determine the estimated measurement uncertainty (EMU) of the test for THC concentration of industrial hemp and make available to the ODA upon request.
6. The Laboratory shall provide to ODA upon request analytical data and any records associated with test results reported, including SOPs, chain of custody forms, quality checks, EMU determination, etc.
7. The Laboratory shall report percentage of THC in the sample on a dry weight basis to exactly two significant figures.
8. The Laboratory shall report all test results electronically to the Department at [HempTestReports@oda.state.or.us](mailto:HempTestReports@oda.state.or.us) using the forms provided by the Department, and include for each sample tested:
  - a. Grower's name and registration number;
  - b. Sample date;
  - c. Sample size by weight;
  - d. Testing date;

- e. Tetrahydrocannabinol percentage to exactly two significant figures;
  - f. The harvest lot identifier that corresponds to the sample and the location of the corresponding harvest lot;
  - g. Copy of grower's sampling request form corresponding to the harvest lot;
  - h. Copy of the completed sampling form corresponding to the harvest lot;  
and
  - i. Signature of the laboratory analyst.
9. The Laboratory shall send any failed test report electronically to the Department at [HempTestReports@oda.state.or.us](mailto:HempTestReports@oda.state.or.us) using the forms provided by the Department **within 24 hours of the failed test.**
10. The Laboratory shall send completed copies of the Sampling and Request Form and the On-Site Sampling Form corresponding to the Harvest Lot with each test report.

ADOPT: 603-048-0636

RULE SUMMARY: Creates a hemp microgreens category.

CHANGES TO RULE:

603-048-0636

Hemp Microgreens

(1) Notwithstanding OAR 603-048-0600, a grower is not required to pre-harvest sample and test cut microgreens prior to transfer or sale.¶

(2) Notwithstanding OAR 603-048-2300 to 603-048-2480, growers and handlers are not required to test cut microgreens under ORS 571.330. Cut microgreens are a part of industrial hemp that are exempt from ORS 571.330.¶

(3) The Department may sample and test any microgreens crop that is growing and any cut microgreens to test for THC content.¶

(4) The Department may require that a licensee in possession cut microgreens conduct testing under OAR 603-048-0600 or OAR 603-048-2300 to 603-048-2480 at the expense of the licensee. ¶

(5) Cut microgreens are subject to all other requirements for industrial hemp as identified in these rules.¶

(6) The Department may detain and dispose of any microgreens or cut microgreens if they contain an average total tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry weight basis.¶

(7) A grower may only produce microgreens via germination from agricultural hemp seed. ¶

(8) A licensee may not dry microgreens prior to sale to a consumer.

Statutory/Other Authority: ORS 571.263, 571.269, 571.272, 571.330, 571.339

Statutes/Other Implemented: ORS 571.263, 571.330

RULE SUMMARY: Updates requirements for cannabis waste and disposal.

CHANGES TO RULE:

603-048-0640

Cannabis Waste and Cannabis Disposal

(1) For the purposes of this rule, "cannabis waste" includes cannabis grown at the grower's ~~register~~licensed grow site or under a grower's license that the licensee determines has lost its market value due to mold, pest, disease, or that the licensee otherwise does not intend to store, process, transfer, or sell. "Cannabis waste" does not include minimal amounts of cannabis pruned or removed from cannabis plants in the course of normal agricultural practices such as removing male plants.¶

(2) A licensee must comply with the following when disposing of cannabis that fails testing or resampling under OAR 603-048-0600 to 603-048-06235 or if the licensee is otherwise ordered by the Department to dispose of cannabis plants.¶

(a) The licensee must request approval from the Department at least seven (7) calendar days prior to the date of proposed disposal, ~~except that when requesting approval to dispose of presumptive marijuana, the licensee must submit the request for approval at least two (2) calendar days prior to the date of proposed disposal~~, on a form provided by the Department that includes the following information:¶

(A) Proposed date of disposal;¶

(B) Amount of plants to be disposed;¶

(C) Proposed method of disposal; and¶

(D) Grow site, production area, and harvest lots from which plants are proposed to be disposed.¶

(b) The licensee must permit Department staff, or the Department's designee, to observe the destruction if required by the Department.¶

(c) The licensee must have written Department approval prior to beginning disposal.¶

(d) The licensee must document the disposal as follows:¶

(A) Photograph the disposal such that the destruction of each separate production area or harvest lot is identifiable. Documentation must include photos of the separate production areas or harvest lots before and after the disposal method is applied. The photos must depict all parts of the subject production area or harvest lots. Alternatively, the licensee may video the destruction if the video satisfies the requirements described for the photographs.¶

(B) The licensee must maintain the photos and video required in subsection (A) for at least three years from the date of disposal and provide immediately to the Department upon request.¶

(e) Within seven (7) calendar days of completing disposal, the licensee must submit a disposal report on a form provided by the Department that includes but is not limited to the following information:¶

(A) Date of disposal;¶

(B) Amount of plants disposed;¶

(C) Method of disposal; and¶

(D) Grow site, production area, and harvest lots from which plants were disposed.¶

(3) A licensee who determines that any portion of the cannabis grown at the grow site is cannabis waste must:¶

(a) Request approval from the Department within 14 days of the determination and at least seven (7) days prior to the date of proposed disposal using a form provided by the Department that includes the following information:¶

(A) Proposed date of disposal¶

(B) Amount of cannabis waste to be disposed¶

(C) Proposed method of disposal¶

(D) Grow site, production area, and harvest lots from which the cannabis waste derives from.¶

(E) Description of the reason why the cannabis is waste (disease, mold, etc.)¶

(b) Comply with all of the requirements in section (2)(b)-(e) of this rule¶

(4) To dispose of cannabis waste or cannabis that fails pre-harvest testing as described in OAR 603-048-0600 to 603-048-06235 such that destruction is required or when otherwise ordered by the Department to dispose of cannabis, the licensee must render the cannabis waste or cannabis into a non-retrievable or non-ingestible form. Licensee may use any of the following methods for disposal as consistent with other local, state, and federal laws or regulations:¶

(a) Plowing under¶

(b) Mulching/composting¶

(c) Disking¶

(d) Brush mower/chopper¶

(e) ~~Deep burial~~¶



(f) Burning

(5) It is a Class 1 violation to fail to comply with any provision of this rule.

Statutory/Other Authority: ORS 561.190, ORS 569.445, ORS 571.260 - 571.348, ORS 633.511-633.996, ~~OL 2021, Ch.542~~

Statutes/Other Implemented: ORS 571.260 - 571.315, ~~OL 2021, Ch.542~~

AMEND: 603-048-0650

RULE SUMMARY: Updates hemp inspection and record review requirements.

CHANGES TO RULE:

603-048-0650

Industrial Hemp Inspection and Record Reviews ¶¶

(1) The Department, as it deems necessary in the enforcement and carrying out its laws may, during normal business hours, inspect premises, machinery, equipment, and facilities of licensees and inspect any crop during any growth phase or harvested crop, and sample for analysis.¶¶

(2) Upon not less than three (3) days' notice, the Department may subject licensee records to inspection or audit during normal business hours. The Department may make an inspection or audit for the purpose of ensuring compliance with:¶¶

(a) A provision of ORS 571.260 to 571.348 ~~(as amended by OL 2021, Ch. 542);~~¶¶

(b) A rule adopted under a provision of ORS 571.260 to 571.348 ~~(as amended by OL 2021, Ch. 542);~~ or¶¶

(c) An order issued by the Department pursuant to a provision of ORS 571.260 to 571.348 ~~(as amended by OL 2021, Ch. 542)~~ or rule adopted under a provision of ORS 571.260 to 571.348 ~~(as amended by OL 2021, Ch. 542)~~, including a detainment order.¶¶

(3) A licensee must permit Department staff, or its designee, to inspect and access all parts of the licensed grow site, handling site, equipment, facilities, and any area where cannabis is grown, stored, sold or processed pursuant to the license and cooperate with such an inspection. Failure to permit or cooperate with an inspection includes, but is not limited to:¶¶

(a) Failing to appear at the licensed grow site within a reasonable period of time after being notified of an on-site inspection.-¶¶

(b) After reasonable notice of an onsite inspection, failing to appoint a licensee representative knowledgeable about operations at the ~~grow~~ site to be available to the Department staff, or its designee, during an inspection.¶¶

(c) Failing to timely respond to Department staff, or its designee, communications to set up a time for inspection.-¶¶

(d) Refusing to grant access to all areas of the licensed ~~grow~~ site.-¶¶

(e) Failing to maintain safe conditions at a ~~grow~~ site, such that the Department or its designee cannot reasonably and safely inspect the ~~grow~~ site. Failing to maintain safe conditions may include allowing unrestrained animals on the grow site or maintaining hazards or other dangerous conditions on the ~~grow~~ site.-¶¶

(f) Failure to provide to the Department, upon request, information concerning compliance with these rules.¶¶

(g) Failure to provide confirmation, upon request by the Department or its designee, of the presence or absence of hazards or dangerous conditions at a ~~grow~~ site.¶¶

(h) Ending an inspection or engaging in aggressive or confrontational behavior that requires Department staff or its designee to end an inspection prior to the Department or its designee finishing all inspection tasks and duties.¶¶

(i) Failing to permit the Department or its designee to conduct sampling for the purposes of testing under ~~ORS 571.281 or OAR 603-48-8010~~ these rules.

Statutory/Other Authority: ORS 561.120, ORS 561.200, ORS 561.275, ORS 561.190, ORS 571.260 - 571.348, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260 - 571.348, ~~OL 2021, Ch. 542~~

AMEND: 603-048-0700

RULE SUMMARY: Creates a late fee.

CHANGES TO RULE:

603-048-0700

Fees ¶¶

(1) Licensing Fees. At the time of application an applicant must pay the following fees:¶¶

(a) A fee of \$350.00 for a grower application.¶¶

(b) A fee of \$875.00 for each grow site application.¶¶

(c) A fee of \$2,275.00 for each handler application;¶¶

(d) A fee of \$875.00 for each hemp handler by reciprocity application;¶¶

(e) A fee of \$875.00 for an agricultural hemp seed producer application.¶¶

(f) A fee of \$75.00 for each criminal history check.¶¶

(g) A late fee of \$250.00. ¶¶

(2) Change Fees. For each change described in OAR 603-048-0400(2)(b), ~~(3)(b) or (4), (d), (e) and (3)(a)~~ the licensee must pay a \$125.00 change fee.¶¶

(3) Sampling and Testing Fee. The fee for pre-harvest THC sampling and testing by the Department as described in OAR 603-048-0600 includes:¶¶

(a) Sampling Fee:¶¶

(A) A charge for a minimum of four hours of service at a rate of \$92.00 per hour;¶¶

(B) Travel time at the rate of \$92.00 per hour;¶¶

(C) Mileage, lodging and per diem reimbursed at rates established by the Department of Administrative Services;¶¶

(D) Overtime Charges: For all services performed during the following times (which will be considered overtime), the regular inspection fees or hourly charges shall be charged plus \$30.00 per hour for all time involved figured to the nearest one-half hour:¶¶

(i) After eight hours (per scheduled shift) or 6:00 p.m., whichever comes first, on Monday through Friday of each week;¶¶

(ii) At any time on Saturdays or Sundays; and¶¶

(iii) At any time on any day which is declared by law to be a holiday for state employees.¶¶

(E) Overtime Service Charge: The minimum overtime service charge for Saturdays, Sundays and other legal holidays shall be four hours; and¶¶

(b) Laboratory Testing Fee: \$375.00 per harvest lot.

Statutory/Other Authority: ORS 561.190, 571.260 - 571.348, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: 571.260 - 571.348, ~~OL 2021, Ch. 542~~

AMEND: 603-048-0800

RULE SUMMARY: Updates enforcement and civil penalty requirements.

CHANGES TO RULE:

603-048-0800

Enforcement and Civil Penalty for Industrial Hemp Law Violation

(1) A licensee is responsible for:¶

(a) All activities that occur at the grow site, research facility or handling site and for ensuring that all activities at the site comply with ORS 571.260 to 571.348 ~~(as amended by OL 2021, Ch. 542)~~ and these rules. If a licensee no longer is operating at a grow site, research facility or handling site, the licensee must notify the Department as described in OAR 603-048-0400(2)(b).¶

(b) Any act or omission of a licensee representative in violation of these rules or any provision of ORS 571.260 to 571.348 ~~(as amended by OL 2021, Ch. 542)~~.¶

(2) In addition to any other liability or penalty provided by law, the Department may impose a civil penalty not to exceed \$2,500 on any person who violates any provision of ORS 571.260 to 571.348, ~~as amended by OL 2021, Ch. 542~~, a rule adopted pursuant thereto, or order issued by the Department under ORS 571.260 to 571.348 ~~as amended by OL 2021, Ch. 542~~ or a rule adopted pursuant thereto, including a detainment order.¶

(3) The Department shall issue a written notice to the person being assessed the penalty consistent with ORS Ch. 183. Any contested case to contest the civil penalty will be conducted pursuant to ORS Ch. 183. Each violation may be considered a separate and distinct offense.¶

(4) Subject to the provisions of ORS Ch. 183, the Department may revoke ~~the~~ a license of a grower, ~~ha~~issu~~ed~~ ndler or agricultural hemp seed producer or may refuse to license or renew the license if a grower, handler or agricultural hemp seed producer ~~these rules if the licensee violates:~~¶

(a) A provision of ORS 571.260 to 571.348 ~~as amended by OL 2021, Ch. 542;~~¶

(b) A rule adopted under a provision of ORS 571.260 to 571.348 ~~as amended by OL 2021, Ch. 542;~~¶

(c) An order issued by the Department for violation of a provision of ORS 571.260 to 571.348 ~~as amended by OL 2021, Ch. 542~~ or any rule adopted thereunder including a detainment order;¶

(d) Any statutory law or Department rule related to agricultural activities other than industrial hemp operations.¶

(5) Subject to the provisions of ORS Ch. 183, the Department may revoke a license for any reason that the Department may deny an initial or renewal application.¶

(6) Subject to the provisions of ORS Ch. 183, ~~beginning on January 1, 2022~~, the Department must revoke a license if:¶

(a) A grower licensee or a key participant is convicted of a felony relating to a controlled substance within the last ten years unless the convicted individual was growing hemp lawfully under a pilot program authorized by Section 7606 of the Agricultural Act of 2014 before ~~October 31~~ December 20, 2018 if the conviction also occurred before December 20, 2019;¶

(b) A licensed research grow site or research facility is co-located with a non-research grow site, a medical marijuana grow site registered under ORS 475C.792 or marijuana producer licensed under ORS 475C.065.¶

(7) Corrective Action Plans.-¶

(a) If the Department identifies violations by a licensee, the Department in writing may require a licensee to enter a corrective action plan as an alternative or in addition to disciplinary action.-¶

(b) The licensee must submit a corrective action plan to the Department within 10 days of receiving the Department's written directive to submit a corrective action plan.-¶

(c) The licensee must correct all identified violations by the deadline established by the Department. Licensee may request a longer time period to correct violations in the corrective action plan.-¶

(d) The Department shall review and determine if the proposed corrective action plan is acceptable. The corrective action plan must include all elements required by the Department in writing.¶

(A) If the corrective action plan is not acceptable, the Department shall notify the licensee in writing which provisions in the Department finds unacceptable.-¶

(B) Licensee shall submit a revised corrective action plan to the Department within 10 days of receiving the Department's notification. The Department shall review the revised plan in accordance with this rule. If the plan is still unacceptable, the Department may take the actions described in subsection (e) of this rule.¶

(e) If the licensee fails to submit a corrective action plan, fails to comply with any deadline in subsection (7) of this rule or other deadline established by the Department for the corrective action plan process, or fails to timely correct all identified violations, the Department may take action to revoke or deny licensee's license or impose civil penalties.

Statutory/Other Authority: ORS 561.190, ORS 569.445, ORS 571.260 - 571.348, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260 - 571.348, ~~OL 2021, Ch. 542~~



AMEND: 603-048-0900

RULE SUMMARY: Updates detainment requirements.

CHANGES TO RULE:

603-048-0900

Detainment, Seizure, Embargo, and Disposal ¶

If a harvest lot or hemp item is subject to detainment, seizure, embargo, or disposal pursuant to ~~ORS 571.260 to 571.348 (as amended by OL 2021, Ch. 542) or the rules adopted thereunder~~, the Department may detain, seize, embargo, or dispose of the harvest lot or hemp item as provided in ORS 561.605 to 561.620 and consistent with these rules.¶

(1) The Department shall cause to be affixed to the harvest lot or hemp item being detained, seized or embargoed a notice that the lot or item is being detained, seized or embargoed by the Department and warning all persons that it may not be moved from its current location without written permission from the Department.¶

(2) The Department shall notify in writing the owner or person in possession of the lot or item that the lot or item is being detained, seized or embargoed by the Department.¶

(a) If the person in possession of the lot or item is not the owner, the Department shall make a reasonable effort to notify the owner.¶

(b) Such notification shall state the reason for the Department's action and notify the owner or person in possession of the right to a hearing as provided under ORS Ch. 183.¶

(c) A written request for hearing on the propriety of the detention, seizure or embargo must be filed either by the owner or person in possession with the Department within 10 days of receiving actual notice of the action.¶

(d) Any hearing shall not be held sooner than 10 days after the request for hearing has been received by the Department, however if the lot or item subject to the Department's action is perishable, or if, in the opinion of the Department, other good and sufficient reason appears, the Department may, at the request of the owner or person in possession of such lot or item, be held at an earlier date.¶

(e) Any hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings and shall be conducted pursuant to ORS Ch. 183.¶

(f) If the owner or person in possession does not request a hearing on the propriety of the seizure, detention or embargo within the time limited for making such request, the Department may summarily destroy or otherwise dispose the lot or item, or, if the owner or person in possession does not within 30 days after the hearing either comply with the orders of the department as to reconditioning, relabeling or segregating or perfect an appeal to the circuit court, the department may summarily destroy or otherwise dispose of the subject matter of the action.¶

(3) If a sample passes the first and second retesting described in OAR 603-048-0630, the sample and corresponding harvest lot satisfies THC testing required by these rules. After receiving and verifying the confirming test reports, the Department may release the detained harvest lot.¶

(4) A person subject to a detainment, seizure, embargo, or disposal order is responsible for ensuring that the harvest lot or hemp items subject to the action are not removed from the location identified in the notice of the action or subject to any processing or manufacturing processes without written permission from the Department.¶

(a) A person subject to a detainment, seizure, embargo or disposal order shall take all reasonable steps to prevent theft or removal of the lot or items from the location identified in the notice of the action.¶

(b) A person subject to a detainment, seizure, embargo, or disposal order is strictly liable for any violation of the order, including removal of the lot or item from the location identified in the notice without permission from the person subject to the action.¶

(c) A person subject to a detainment, seizure, embargo, or disposal order may submit a written request to harvest, move, or take other action to preserve the harvest lot or hemp item pending an administrative proceeding challenging the propriety of the order. The person may only take such action upon written permission from the Department and subject to any requirements or restrictions imposed by the Department.¶

(5) Sampling of a detained harvest lot by a laboratory in compliance with these rules does not constitute a violation of a detainment, seizure, or embargo order.¶

~~(6) The Department may order destruction of the harvest lot corresponding to a failed sample, s~~Subject to the grower or person in possession's right to a hearing as described in this rule, ~~if the corresponding sample~~  
sample Department may order destruction of a harvest lot that:¶

(a) Was not sampled and tested in compliance with all of the requirements and standards of these rules;¶

(b) Fails Has not passed required preharvest THC testing as required in OAR 603-048-0600 and is not eligible for retesting or resampling as described in these rules or the grower indicates that it will not undertake retesting or

resampling. Not passing required preharvest THC testing includes, but is not limited to, where a sample:  
(A) Failed a test under OAR 603-048-0600 and the grower does not timely request a retest or resampling or informs the Department that retest or resampling will not be requested; or is not eligible for retesting or resampling.

(B) Fails any retesting under section (2) of ~~OAR 603-048-0630~~ this rule and the grower:

(A) ~~Does not~~ does not timely request resampling;

(B) ~~Does not~~ or informs the Department that resampling will not be requested; or

(C) ~~Is no longer is~~ is ineligible for resampling;

(D) Fails any testing ~~conducted under section (3) of OAR 603-048-0630~~ after resampling and the grower does not timely request a retest ~~or ing~~, or informs the Department that retesting will not be requested; or is ineligible for retesting.

(E) Passes initial retesting but the grower fails to timely request secondary retesting to confirm the passed test result as ~~described in section (1)(c) of OAR 603-048-0630.~~

(F) ~~Required by rule. (c) Contains a test under OAR 603-048-0600 and the retained file sample lacks sufficient volume of harvest lot material to allow for the first and second retesting described in OAR 603-048-0630 and the grower:~~

(A) ~~Does not~~ timely request resampling; n average total tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry weight basis.

(B) ~~Does not~~ informs the Department that resampling will not be requested; or

(C) ~~Is no longer is~~ is ineligible for resampling;

(G) ~~Fails a test under OAR 603-048-0600 and the harvest lot is not successfully remediated may order destruction of the hemp item process lot that is adulterated, subject to the grower or person in possession's right to a hearing accordance with these~~ described in this rule.

Statutory/Other Authority: ORS 561.190, ORS 561.605 - 561.630, ORS 571.260 - 571.348, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260 - 571.348, ~~OL 2021, Ch. 542~~

AMEND: 603-048-1000

RULE SUMMARY: Updates violations and penalties.

CHANGES TO RULE:

603-048-1000

#### Violations and Penalties ¶¶

- (1) The Department may impose a civil penalty not to exceed \$2,500 on a person for violating:¶¶
- (a) A provision of ORS 571.260 to ORS 571.348 ~~(as amended by OL 2021, Ch. 542);~~¶¶
  - (b) A rule adopted under a provision of ORS 571.260 to ORS 571.348 ~~(as amended by OL 2021, Ch. 542);~~ or¶¶
  - (c) An order issued by the Department pursuant to a provision of ORS 571.260 to ORS 571.348 ~~(as amended by OL 2021, Ch. 542),~~ or a rule adopted thereunder, including a detainment order.¶¶
- (2) The Department may impose a civil penalty based on the classification of the violation. The civil penalty amount for each classification is as follows:¶¶
- (a) Class 1 violation, \$2,500;¶¶
  - (b) Class 2 violation, \$1000;¶¶
  - (c) Class 3 violation, \$500.¶¶
- (3) The civil penalty amount for each classification are guidelines. If the Department finds one or more mitigating or aggravating circumstances, it may assess a lesser or greater amount.¶¶
- (4) Common violations are classified as follows:¶¶
- (a) Class 1 violations include:¶¶
- (A) Failing to obtain a license with the Department when required under ORS 571.260-571.348 ~~(as amended by OL 2021, Ch. 542)~~ or rules adopted thereunder;¶¶
  - (B) Each unlicensed production area identified by the Department is a separate violation of this rule.¶¶
  - (C) Providing any false or misleading information or documentation to the Department or providing false or misleading information or documentation to a laboratory when requesting required testing under these rules;¶¶
  - (D) Falsifying information or records required to be maintained by the Department or submitted to the Department;¶¶
  - (E) Failing to test a hemp item in accordance with OAR 603-048-2300 through 603-048-2480;¶¶
  - (F) Failing to test a harvest lot in accordance with these rules;¶¶
  - (G) Altering or falsifying a laboratory test report or result;¶¶
  - (H) Selling or attempting to sell a hemp item that fails to meet testing requirements required by OAR 603-048-2000 through 603-048-2480;¶¶
  - (I) Selling, transferring, receiving, attempting to transfer, sell, or receive, processing or attempting to process a harvest lot that:¶¶
- (i) Has not been sampled and tested in accordance with these rules;¶¶
  - (ii) Failed testing under OAR 603-048-0600 and did not otherwise pass testing under OAR 603-048-0630 to 603-048-0630;¶¶
  - (iii) Was invalidly tested as described in OAR 603-048-0600.¶¶
- (J) Growing or handling hempcannabis with Total THC calculated in accordance with OAR 333-064-0100(4) that exceeds 3 percent on a dry weight basis.¶¶
  - (K) Failing to ensure cannabis, industrial hemp, or industrial hemp commodity or product, or any portion thereof, that is subject to a detainment, embargo, seizure, or destruction order complies with the order as described in OAR 603-048-0900(4).¶¶
  - (L) Failing to timely dispose of cannabis as described in OAR 603-048-0640 ~~or cannabis that is determined to be presumptively marijuana and is required to be destroyed under OAR 603-48-8010 to 603-048-8040.~~¶¶
  - (M) Failing to permit Department staff, or its designee, to inspect and access all parts of the licensed or proposed grow site, handling site equipment, facilities, and any area where cannabis is grown, handled, or stored pursuant to a license or failing to cooperate with any such inspection in accordance with OAR 603-048-0650(3).¶¶
  - (N) Failing to timely report cannabis waste or disposal in accordance with OAR 603-048-0640.¶¶
  - (O) Failing to comply with a Department order.¶¶
  - (P) Repeat violations of Class 2 or Class 3 violations.¶¶
  - (Q) Any other violation of ORS 571.260 to ORS 571.348 ~~(OL 2021, Ch. 542) or OAR 603-048-0100 to 603-048-2500~~ or these rules that may cause an immediate threat to the public health or safety.¶¶
  - (R) Failing to provide an accurate legal description of land where hemp is produced.¶¶
- (b) Class 2 violations include, but are not limited to:¶¶
- (A) Failing to ensure test reports for the THC content of each harvest lot is timely reported to the Department as required by 603-048-0400.¶¶



(B) Failing upon request to timely provide the Department with laboratory test results that verify compliance with these rules.¶¶

(C) Failing to identify each non-contiguous production area where cannabis is produced including failing to submit a change form and applicable fee with the Department identifying any additional production areas not identified in the licensee's application.¶¶

(D) Any other uncategorized violation.¶¶

(E) Repeat violations of Class 3 violations.¶¶

(c) Class 3 violations include but are not limited to:¶¶

(A) Failure to keep or provide information or records as required by the Department;¶¶

(B) Growing or handling hemp with total THC calculated in accordance with OAR 333-064-0100(4) that fails testing as described in OAR 603-048-0600 but does not exceed 3 percent total THC;¶¶

(C) Failing to ensure failed test results of a hemp item are reported to the Department within 24 hours as required by OAR 603-048-2300.¶¶

(5) In addition to the penalty described in subsection (1) of this rule, the Department may impose a civil penalty not to exceed \$10,000 against a licensed grower if the Department determines that the licensee produced cannabis on a licensed grow site that contains an average tetrahydrocannabinol concentration of at least 10 percent on a dry weight basis.

Statutory/Other Authority: ORS 561.120, ORS 561.200, ORS 561.275, ORS 561.190, ORS 571.260 - 571.348, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.260 - 571.348, ~~OL 2021, Ch. 542~~

REPEAL: 603-048-1001

RULE SUMMARY: Repeals Presumptive Marijuana Violations.

CHANGES TO RULE:

~~603-048-1001~~

~~Presumptive Marijuana Violations~~

~~(1) It is a Class I violation of these rules to:~~

~~(a) Produce cannabis that is determined to be presumptively marijuana in accordance with OAR 845-026-4100 and the presumption is not rebutted in accordance with OAR 603-048-8010 to 603-048-8040.~~

~~(b) Fail to timely dispose of presumptive marijuana as required by OAR 603-048-8020 or 603-048-8030.~~

~~(c) Fail to permit or cooperate as described in OAR 603-048-0650 with an inspection to conduct presumptive marijuana sampling as described in OAR 603-048-8010 by Department or its designee.~~

~~(d) Fail to comply with a detainment, seizure, embargo, or disposal order issued as described in OAR 603-048-8040.~~

~~(e) Fail to timely comply with any other requirement in 603-048-8010 to 8040.~~

~~(2) The Department may revoke, deny, or refuse to renew a grower's license if the grower commits any of the violations listed in section (1) of this rule.~~

~~(3) The Department shall revoke a person's hemp grower license or deny the person's hemp grower application for a license if the person fails to comply with OAR 603-048-0400, including but not limited to if the cannabis subject to detainment, seizure, embargo, or disposal notice or order is removed from the location identified in the notice or order without prior permission from the Department.~~

~~Statutory/Other Authority: ORS 561.190, ORS 571.260-571.348, OL 2021, Ch. 542~~

~~Statutes/Other Implemented: ORS 571.260-571.348, OL 2021, Ch. 542~~

AMEND: 603-048-1500

RULE SUMMARY: Updates retail sales requirements.

CHANGES TO RULE:

603-048-1500

Retail Sale Requirements; Restrictions

- (1) For the purposes of this ~~section~~rule, "consumer" means a person who purchases, acquires, owns, holds or uses an industrial hemp commodity or products other than for the purpose of resale.¶
- (2) A person may not sell, transfer or deliver to a consumer an industrial hemp commodity or product that contains cannabinoids and is intended for human consumption unless:¶
- (a) If it is a hemp item, the hemp item has been tested in accordance with ORS 571.330 and OAR 603-048-2300 to 603-048-2500;¶
- (b) If the hemp commodity or product is intended for human consumption by ingestion, the hemp commodity or product was processed in a facility licensed by the State Department under ORS 616.695 to 616.755 or in a facility in another state or jurisdiction that meets requirements substantially similar to requirements established under ORS 616.695 to 616.755;¶
- (c) The person obtains and maintains documentation of the results of any testing required under these rules;¶
- (d) If the industrial hemp commodity or product is sold to a person under 21 years of age or any representations are made to the consumer about the concentration of delta-8-tetrahydrocannabinol, the results of the testing required under this subsection demonstrate the concentration of delta-8-tetrahydrocannabinol;¶
- (e) The industrial hemp commodity or product does not contain more than 0.3 percent tetrahydrocannabinol or the concentration of tetrahydrocannabinol allowed under federal law, whichever is greater; and¶
- (f) The industrial hemp commodity or product does not exceed the concentration of adult use cannabinoids established by OAR 845-026-0100, OAR 845-026-0300, and OAR 845-026-0400.¶
- (3) The testing required under this rule may be conducted only by:¶
- (a) A laboratory licensed by the commission under ORS 475C.548 and accredited by the authority under ORS 475C.560; or¶
- (b) If the industrial hemp commodity or product was processed outside of this state, a laboratory accredited to the same or more stringent standards as a laboratory described in paragraph (a) of this subsection.¶
- (4) A person may not sell or deliver an adult use cannabis item as defined by OAR 845-026-0100 and OAR 845-026-0300 to a person under 21 years of age.¶
- (5) Restriction on industrial hemp product sales: A person may not sell an industrial hemp product that contains more than 0.3 percent total THC to a consumer unless licensed as a retailer by OLCC.¶
- (6) Compliance with these rules does not protect a person from possible criminal prosecution under federal law or other sanctions by federal entities.¶
- (7) Each hemp item or lot of industrial hemp for human consumption sold, transferred, or delivered in violation of these rules is a separate violation.

Statutory/Other Authority: ORS 561.190, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.300-571.348, ~~OL 2021, Ch. 542~~

ADOPT: 603-048-1600

RULE SUMMARY: Creates a rule about prohibitions on adulteration.

CHANGES TO RULE:

#### 603-048-1600

##### Prohibitions on Adulteration

- (1) A licensee may not supply, transfer, or sell adulterated industrial hemp for human consumption or hemp items.¶
  - (2) A licensee may not treat or otherwise adulterate hemp or a hemp item with any chemical, biologically active drug, plant, substance, including nicotine, or other compound that has the effect or intent of altering the usable hemp's color, appearance, weight or smell.¶
  - (3) "Adulterated" means to make industrial hemp for human consumption or a hemp item impure by adding or applying foreign or inferior ingredients or substances, including but not limited if the hemp or hemp item:¶
    - (a) In the Department's judgment, bears or contains any poisonous or deleterious substance in a quantity rendering it injurious in a manner that may pose a risk to human health, including but not limited to tobacco or nicotine;¶
    - (b) Bears or contains any added poisonous or deleterious substance exceeding a safe tolerance if such tolerance has been established;¶
    - (c) Consists in whole or in part of any filthy, putrid, or decomposed substance, or otherwise is unfit for human consumption;¶
    - (d) Is processed, prepared, packaged, or is held under improper time-temperature conditions or under other conditions increasing the probability of contamination with excessive microorganisms or physical contaminants;¶
    - (e) Is processed, prepared, packaged, or held under insanitary conditions increasing the probability of contamination or cross-contamination;¶
    - (f) Is held or packaged in containers composed, in whole or in part, of any poisonous or deleterious substance rendering the contents potentially injurious to health;¶
    - (g) Any substance has been substituted wholly or in part therefor;¶
    - (h) Damage or inferiority has been concealed in any manner; or¶
    - (i) Any substance has been added thereto or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is;¶
    - (j) Is treated with a pesticide that is not on the Department's guide list or approved by the EPA for use on industrial hemp. ¶
  - (4) The Department may request or require a licensee to recall any industrial hemp for human consumption or hemp item that the licensee has sold or transferred that does not meet the minimum standards established by these rules, including but not limited to when there is evidence that:¶
    - (a) Pesticides were used in the production of industrial hemp in violation of ORS chapter 634 or OAR chapter 603, division 57.¶
    - (b) The industrial hemp for human consumption or a hemp item is adulterated, contaminated, may pose a risk to public health and safety, or is otherwise unfit for human use, consumption, or application.¶
    - (c) The industrial hemp for human consumption or hemp item does not meet testing requirements of these rules.¶
  - (5) In addition to the actions above, the Department may initiate an action to detain, seize, embargo or dispose of hemp or hemp items if it does not meet the minimum standards established in these rules and as described in section (4) of this rule in accordance with OAR 603-048-0900.¶
  - (6) Each harvest or process lot of industrial hemp for human consumption and each hemp item supplied, transferred, or sold in violation of this rule is a separate violation.
- Statutory/Other Authority: ORS 571.263, 571.281, 561.605-561.630, 571.272, 571.309, 571.330, 571.339
- Statutes/Other Implemented: ORS 571.263, 571.281

AMEND: 603-048-2300

RULE SUMMARY: Updates testing requirements for industrial hemp for human consumption and hemp items.

CHANGES TO RULE:

603-048-2300

Testing of Industrial Hemp for Human Consumption and Hemp Items

(1) A grower or handler may not sell or transfer industrial hemp for human consumption or a hemp item unless it is first tested by a laboratory as required by these rules.¶¶

(2) Violations of these rules may result in the suspension or revocation of a licensee's license or the imposition of civil penalties, or both. Violations include:¶¶

(a) Failure to test industrial hemp for human consumption or a hemp item in accordance with these rules;¶¶

(b) Selling, transferring, or attempting to sell or transfer industrial hemp for human consumption or a hemp item that fails to meet testing requirements required by these rules;¶¶

(c) Failure to maintain a copy of all required test reports as required by OAR 603-048-0500; and¶¶

(d) Failure to report failed test results to the Department electronically to HempTestReports@oda.oregon.gov using the forms provided by the Department within 24 hours after receipt of failed result.¶¶

(e) Altering or falsifying a laboratory test report or result.¶¶

(3) These rules require industrial hemp for human consumption and hemp items to be sampled, tested, and reported in a manner consistent with the Authority's marijuana sampling and testing rules in OAR 333-007-0300 to 333-007-0500 and OAR 333-064. In applying those rules:¶¶

(a) Industrial hemp for human consumption and hemp items are treated as their marijuana equivalents as described in OAR 603-048-2310;¶¶

(b) References to "licensee or registrant" or "processor or processing site" should be read as "grower" or "handler";¶¶

(c) References to "Authority or the Commission" should be read as "Department"; and¶¶

(d) References to "consumer or patient" should be read as "consumer" as that is defined in OAR 603-048-2310.¶¶

(4) To be sufficient to meet the requirement for testing under these rules, a grower or handler must ensure through a testing agreement or contract with the laboratory that the laboratory:¶¶

(a) Samples industrial hemp for human consumption and hemp items according to OAR 333-007-0360 and OAR 333-064-0100;¶¶

(b) Tests industrial hemp for human consumption and hemp items according to OAR 333-007-0390 to 333-007-0445 and 333-064-0100;¶¶

(c) Keeps records in accordance with OAR 333-064-0100.¶¶

(d) Reports all failed tests to the Department electronically to HempTestReports@oda.oregon.gov using the forms provided by the Department consistent with reporting requirements under OAR 333-064-0110;¶¶

(e) Provides the handler/licensee with test reports that meet the requirements in OAR 333-064-0110.¶¶

(f) Provides test reports that clearly identify the process lot identifier.¶¶

(g) Meets the proficiency testing requirements in OAR 333-064-0120.¶¶

(h) Can demonstrate that its limit of quantification (LOQ) for THC is at or below 0.3 percent THC.¶¶

(5) Each hemp item or lot of industrial hemp for human consumption sold, transferred, or attempted to be sold or transferred in violation of these rules is a separate violation.

Statutory/Other Authority: ORS 561.190, ORS 571.263, ORS 571.281, ORS 571.285, ORS 571.322, ORS 571.330, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.322, ORS 571.330, ~~OL 2021, Ch. 542~~, ORS 571.333, ORS 571.336, ORS 571.337, ORS 571.339, ORS 571.348

AMEND: 603-048-2305

RULE SUMMARY: Updates calendar date for purpose of testing rules.

CHANGES TO RULE:

603-048-2305

Purpose

(1) The purpose of OAR 603-048-2300 to 603-048-2500 is to establish minimum testing standards for industrial hemp for human consumption and hemp items. ¶

(2) All references to OAR Chapter 333, Division 7 refer to the rules in effect as of ~~March 31, 2022~~xxxxx (will be updated to the date rules are filed).

Statutory/Other Authority: ORS 561.190, ORS 571.263, ORS 571.281, ORS 571.285, ORS 571.322, ORS 571.330, ORS 571.337, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.322, ORS 571.330, ORS 571.337, ~~OL 2021, Ch. 542~~, ORS 571.333, ORS 571.336, ORS 571.339, ORS 571.348

RULE SUMMARY: Updates definitions for testing rules.

CHANGES TO RULE:

603-048-2310

## Definitions ¶¶

- (1) "Added substance" means any component or ingredient added to usable hemp, cannabinoid concentrate or cannabinoid extract during or after processing that is present in the finished cannabinoid product, including but not limited to flavors, non-cannabis derived terpenes, and any substances used to change the viscosity or consistency of the cannabinoid product.¶¶
- (2) "Adult use cannabinoid" includes, but is not limited to, tetrahydrocannabinols, tetrahydrocannabinolic acids that are artificially or naturally derived, delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, the optical isomers of delta-8-tetrahydrocannabinol or delta-9 tetrahydrocannabinol and any artificially derived cannabinoid that is reasonably determined to have an intoxicating effect.¶¶
- (3)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant Cannabis family Cannabaceae.¶¶
- (b) "Artificially derived cannabinoid" does not include:¶¶
- (A) A naturally occurring chemical substance that is separated from the plant Cannabis family Cannabaceae by a chemical or mechanical extraction process;¶¶
- (B) Cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst; or¶¶
- (C) Any other chemical substance identified by the Commission, in consultation with the Authority and the Department of Agriculture, by rule.¶¶
- (4) "Authority" means the Oregon Health Authority.¶¶
- (5) "Batch" means:¶¶
- (a) A quantity of hemp, usable hemp or hemp stalk from a harvest lot; or¶¶
- (b) A quantity of hemp concentrate or extract or hemp cannabinoid product from a process lot.¶¶
- (6) "Cannabinoid" means any of the chemical compounds that are the active constituents of the cannabis plant.¶¶
- (7) "Cannabinoid capsule"¶¶
- (a) Means a small, soluble pill, tablet, or container that contains liquid or powdered hemp cannabinoid product, hemp concentrate, or hemp extract and is intended for human ingestion.¶¶
- (b) For sampling and testing purposes is equivalent to a cannabinoid capsule as that is defined in OAR 333-007-0310.¶¶
- (c) Does not mean a cannabinoid suppository.¶¶
- (8) "Cannabinoid hemp product"¶¶
- (a) Means a hemp edible or any other product intended for human consumption including a hemp topical or hemp transdermal patch, that contains cannabinoids from industrial hemp or the dried leaves or flowers of hemp; or¶¶
- (b) Usable hemp, hemp extracts and hemp concentrates that have been combined with an added substance.¶¶
- (c) Cannabinoid hemp product does not include usable hemp by itself, hemp stalk by itself, a hemp concentrate or extract by itself, hemp seed incapable of germination by itself, or other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients.¶¶
- (d) For sampling and testing purposes is equivalent to a cannabinoid product as that is defined in OAR 333-007-0310.¶¶
- (9) "Cannabis Tracking System" or "CTS" means the Commission's system for tracking the transfer of hemp and marijuana items and other information as authorized by ORS 475C.177, ORS 571.336 and 571.337.¶¶
- (10) "CBD" means cannabidiol, Chemical Abstracts Service Number 13956-29-1.¶¶
- (11) "CBDA" means cannabidiolic acid, Chemical Abstracts Service Number 1244-58-2.¶¶
- (12) "Chain of custody procedures" means procedures employed by laboratory personnel using a chain of custody form to record the possession of samples from the time of sampling through the retention time specified by the Department.¶¶
- (13) "Commission" means the Oregon Liquor and Cannabis Commission.¶¶
- (14) "Consumer" includes:¶¶
- (a) A person who purchases, acquires, owns, holds or uses hemp items other than for the purpose of resale; and¶¶
- (b) A person who purchases, receives, or otherwise uses hemp items who is not a registered licensed handler or a marijuana processor, wholesaler or retailer licensed by the Commission.¶¶
- (15) "Consumption" means ingestion, inhalation, or topical application to the skin or hair.¶¶

- (16) "Duplicate sample" means sample increments taken in an identical manner to sample increments taken from the primary sample and representative of the same hemp item being sampled that is prepared and analyzed separately from the primary sample.¶¶
- (17) "Finished hemp concentrate or extract" means a hemp concentrate or extract that is in its final form ready for packaging for sale or transfer to a consumer.¶¶
- (18) "Finished cannabinoid hemp product" means a cannabinoid hemp product that is in its final form ready for packaging for sale or transfer to a consumer and includes all ingredients whether or not the ingredients contain cannabinoids.¶¶
- (19) "Food" means a raw, cooked, or processed edible substance, or ingredient used or intended for use or for sale in whole or in part for human consumption, chewing gum and includes beverages.¶¶
- (20) "Hemp concentrate or extract"¶¶
- (a) Means a substance obtained by separating cannabinoids from industrial hemp leaves, flowers, or stalk by a mechanical, chemical or other process.¶¶
- (b) For sampling and testing purposes is equivalent to a cannabinoid concentrate or edible as that is defined in OAR 333-007-0310.¶¶
- (21) "Hemp edible"¶¶
- (a) Means a food or potable liquid into which industrial hemp, a hemp concentrate, a hemp extract, or the dried leaves or flowers of hemp have been incorporated.¶¶
- (b) Does not mean hemp seed incapable of germination by itself or other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients.¶¶
- (c) For sampling and testing purposes is equivalent to a cannabinoid edible as that is defined in OAR 333-007-0310.¶¶
- (22) "Hemp item"¶¶
- (a) Means usable hemp, hemp stalk, a hemp cannabinoid product, or a hemp concentrate or extract.¶¶
- (b) For sampling and testing purposes is equivalent to a marijuana item as that is defined in OAR 333-007-0310.¶¶
- (23) "Hemp stalk"¶¶
- (a) Means the stalk of industrial hemp intended for human consumption.¶¶
- (b) For sampling and testing purposes is equivalent to usable marijuana as that is defined in OAR 333-007-0310.¶¶
- (24) "Hemp suppository" means a small soluble container designed to melt at body temperature within a body cavity other than the mouth, especially the rectum or vagina, containing a hemp cannabinoid product, concentrate, or extract.¶¶
- (25) "Hemp tincture"¶¶
- (a) Means a liquid hemp cannabinoid product packaged in a container of four (4) fluid ounces or less that consists of either:¶¶
- (A) A non-potable solution of at least 25 percent non-denatured alcohol, in addition to a hemp concentrate, hemp extract, or usable hemp and perhaps other ingredients intended for human consumption that is exempt from the Liquor Control Act under ORS 471.035; or¶¶
- (B) A non-potable solution comprised of glycerin, plant-based oil, or concentrated syrup; hemp concentrate or extract or usable hemp, and perhaps other ingredients that does not contain any added sweeteners and is intended for human consumption or ingestion.¶¶
- (b) For sampling and testing purposes is equivalent to a cannabinoid tincture as that is defined in OAR 333-007-0310.¶¶
- (26) "Hemp topical"¶¶
- (a) Means a substance intended to be applied to skin or hair that contains a hemp cannabinoid product, hemp concentrate or extract and for purposes of testing includes a hemp transdermal patch.¶¶
- (b) For sampling and testing purposes is equivalent to a cannabinoid topical as that is defined in OAR 333-007-0310.¶¶
- (27) "Hemp transdermal patch"¶¶
- (a) Means an adhesive substance applied to human skin that contains a hemp cannabinoid product, hemp concentrate or extract for absorption into the bloodstream.¶¶
- (b) For sampling and testing purposes is equivalent to a cannabinoid transdermal patch as that is defined in OAR 333-007-0310.¶¶
- (28) "High heat" means a temperature exceeding 180 degrees Fahrenheit.¶¶
- (29) "Homogeneous" means a hemp cannabinoid product, hemp concentrate or extract has uniform composition and properties throughout each process lot.¶¶
- (30) "Industrial hemp-derived vapor item" means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269, whether alone or combined with other substances, that is intended for use in an inhalant delivery system.¶¶
- (31) "Industrial hemp for human consumption" ¶¶



(a) Means industrial hemp that is intended to be processed and used for human consumption into a hemp item.¶  
 (b) For sampling and testing purposes is equivalent to marijuana as that is defined in OAR 333-007-0310.¶

(32) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.¶

(323) "Marijuana testing rules" means Authority testing rules for marijuana items found in OAR Chapter 333, Divisions 7 and 64, and all referenced tables and exhibits.¶

(334) "ORELAP" means the Oregon Environmental Laboratory Accreditation Program administered by the Authority pursuant to ORS 438.605 to 438.620.¶

(345) "Process lot" means:¶  
 (a) Any amount of hemp concentrate or extract of the same type and processed using the same extraction methods, standard operating procedures and batches from the same or a different harvest lot; or¶  
 (b) Any amount of a hemp cannabinoid product of the same type and processed using the same ingredients, standard operating procedures and batches from the same or a different harvest lot or process lot of hemp concentrate or extract.¶

(356) "Relative percentage difference" or "RPD" means the comparison of two quantities while taking into account the size of what is being compared as calculated under OAR 333-064-0100.¶

(367) "Relative standard deviation" or "RSD" means the standard deviation expressed as a percentage of the mean recovery as calculated under OAR 333-064-0100.¶

(378) "Remediation":¶  
 (a) Means a process or technique applied to a hemp item to remove heavy metals, pesticides or solvents.¶  
 (b) Does not include dilution.¶

(389) "Replicate Sample" means a sample in addition to the primary and duplicate samples that consists of the same number of increments taken in the same manner as the primary and duplicate samples.¶

(3940) "Sample" means an amount of a hemp item or hemp collected by laboratory personnel from a grower or handler and provided to a laboratory for testing.¶

(401) "Sample increment" means an amount of a hemp item or hemp collected by laboratory personnel from a grower or handler that may be combined into a sample for purposes of testing.¶

(412) "Standard operating procedure" means a written set of instructions or procedures using the same ingredients, methods and steps to create a single type of industrial hemp item or hemp-derived vapor item.¶

(423) "Sterilization" means the removal of all microorganisms and other pathogens from a hemp item by treating it with approved chemicals or subjecting it to high heat or other process.¶

(434) "Test batch" means a group of samples from a batch submitted collectively to a laboratory for testing purposes.¶

(445) "Texture" means the feel, appearance, or consistency of a hemp item.¶

(456) "THC" means tetrahydrocannabinol and has the same Chemical Abstracts Service Number as delta-9 THC.¶

(467) "THCA" means tetrahydrocannabinolic acid, Chemical Abstracts Service Number 23978-85-0.¶

(478) "These rules" means OAR 603-048-2300 through 603-048-2500.¶

(489) "TNI" means The NELAC (National Environmental Laboratory Accreditation Conference) Institute, a voluntary organization of state and federal environmental officials and interest groups purposed primarily to establish consensus standards for accrediting environmental laboratories.¶

(4950) "TNI EL Standards" means the adopted 2009 TNI Environmental Lab Standards (© 2009 The NELAC Institute), which describe the elements of laboratory accreditation developed and established by the consensus principles of TNI and that meet the approval requirements of TNI procedures and policies.¶

(501) "Unit of sale" means an amount of a hemp item commonly packaged for transfer or sale to a consumer or capable of being packaged for transfer or sale to a consumer.¶

(512) "Usable hemp"¶  
 (a) Means the flowers and leaves of industrial hemp intended for human consumption that does not fall within meaning hemp concentrate or extract, hemp edible, or hemp cannabinoid product.¶  
 (b) Includes, for purposes of these rules, pre-rolled hemp as long as the pre-roll consists of only dried hemp leaves and flowers, an unflavored rolling paper and a filter or tip.¶  
 (c) For sampling and testing purposes is equivalent to usable marijuana as that is defined in OAR 333-007-0310.

Statutory/Other Authority: ORS 561.190, ORS 571.263, ORS 571.281, ORS 571.330, ORS 571.337, ~~OL 2021, Ch. 542~~  
 Statutes/Other Implemented: ~~OL 2021, Ch. 542~~, ORS 571.260 - 571.348

AMEND: 603-048-2320

RULE SUMMARY: Updates requirements for industrial hemp for human consumption and usable hemp.

CHANGES TO RULE:

603-048-2320

Compliance Testing Requirements for Industrial Hemp for Human Consumption and Usable Hemp

~~(1) A grower or handler must have every batch from a harvest lot of industrial hemp for human consumption tested as required and in the same manner as marijuana under OAR 333-007-0320 prior to sale or transfer.¶~~

~~(2) For, including usable hemp or, hemp stalks:¶¶~~

~~(a) Harvested before March 1, 2023, a grower or handler must test a harvest lot of usable hemp or hemp stalks for microbiological contaminants, tested as required and in the same manner as a marijuana item, in accordance with OAR 333-007-0390, upon written request by the Department.¶¶~~

~~(b) Harvested on or after March 1, 2023, a grower or handler must test a harvest lot of usable hemp or hemp stalks for microbiological contaminants in the same manner as a marijuana item in accordance with OAR 333-007-0320 and 333-007-0390 under OAR 333-007-0320 prior to sale or transfer.~~

Statutory/Other Authority: ORS 561.190, ORS 571.263, ORS 571.281, ORS 571.330, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.330, ~~OL 2021, Ch. 542~~, ORS 571.339

AMEND: 603-048-2330

RULE SUMMARY: Updates testing requirements for hemp concentrates or extracts.

CHANGES TO RULE:

603-048-2330

Compliance Testing Requirements for Hemp Concentrate or Extract

(1) A handler must have every process lot of a hemp concentrate or extract, including kief, intended for use by a ~~person~~ handler to make a hemp cannabinoid product tested in the same manner as a cannabinoid concentrate or extract under OAR 333-007-0330(2) prior to sale or transfer, except for a hemp extract or concentrate that meets the criteria in section (5) of this rule.¶

(2) A handler must have every process lot of a finished hemp concentrate or extract, including kief, tested in the same manner as a finished cannabinoid concentrate or extract under OAR 333-007-0330(1) prior to sale or transfer.¶

~~(3) For a process lot of a hemp concentrate or extract manufactured before March 1, 2023, a handler must have the process lot of a hemp concentrate or extract tested in the same manner as a cannabinoid concentrate or extract for microbiological contaminants in accordance with OAR 333-007-0390, upon written request by the Department.¶~~

~~(4) For a process lots of hemp concentrate or extract manufactured on or after March 1, 2023, a handler must have the process lot of a hemp concentrate or extract tested in the same manner as a cannabinoid concentrate or extract for microbiological contaminants in accordance with OAR 333-007-0330(2)(e) and OAR 333-007-0390.¶~~

~~(5) A process lot of a hemp concentrate that is made only using food grade animal fat or food grade plant-based oil is not required to be tested for pesticides, heavy metals starting March 1, 2023, mycotoxins starting July 1, 2022, or microbiological contaminants starting March 1, 2023 if:¶~~

~~(a) All industrial hemp or usable hemp used to make the concentrate was tested for and passed:¶~~

~~(A) Pesticide testing in accordance with OAR 333-007-0400.¶~~

~~(B) Heavy metal testing in accordance with OAR 333-007-0415 on or after March 1, 2023.¶~~

~~(C) Mycotoxin testing in accordance with OAR 333-007-0425 on or after July 1, 2022.¶~~

~~(D) Microbiological contaminants in accordance with OAR 333-007-0390 on or after March 1, 2023.¶~~

~~(b) The solvent used to make the concentrate is food grade animal fat or food grade plant-based oil; and¶~~

~~(c) The concentrate itself is only used to make a hemp cannabinoid product intended for human consumption or use but not intended for inhalation and the concentrate is not sold directly to consumers.~~

Statutory/Other Authority: ORS 561.190, ORS 571.263, ORS 571.281, ORS 571.330, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.330, ~~OL 2021, Ch. 542~~, ORS 571.339

AMEND: 603-048-2342

RULE SUMMARY: Updates requirements for compliance testing requirements for industrial hemp-derived vapor items.

CHANGES TO RULE:

603-048-2342

Compliance Testing Requirements for Industrial Hemp-Derived Vapor Items

~~(1) Pesticides in accordance with OAR 333-007-0400.~~

~~(2) Solvents in accordance with OAR 333-007-0410.~~

~~(3) Adult use cannabinoid and CBD concentration in accordance with OAR 333-007-0430.~~

~~(4) Heavy metals in accordance with OAR 333-007-0415 if the~~A handler must ensure that every process lot of an industrial hemp-derived vapor item is or was manufactured on or after March 1, 2023.

~~(5) Mycotoxins in accordance with OAR 333-007-0425 if the industrial hemp-derived vapor item is or was manufactured on or after July 1, 2022.~~

~~(6) Microbiological contaminants in accordance with OAR 333-007-0390 if the industrial hemp-derived vapor item is or was manufactured on or after March 1, 2023 for use by a consumer is tested as described in OAR 333-007-0342 prior to sale or transfer.~~

Statutory/Other Authority: ORS 561.190, ORS 571.263, ORS 571.281, ORS 571.330, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.263, ORS 571.281, ORS 571.330, ~~OL 2021, Ch. 542~~

AMEND: 603-048-2350

RULE SUMMARY: Updates batch requirements for compliance testing.

CHANGES TO RULE:

603-048-2350

Batch Requirements for Compliance Testing

(1) Usable hemp:¶¶

~~(a) A handler must separate each harvest lot of usable hemp harvested before July 1, 2022, into no larger than 30 pound batches.¶¶~~

~~(b) A handler must separate each harvest lot of usable hemp harvested on or after July 1, 2022, and industrial hemp intended for human consumption into no larger than 50.0 pound batches.¶¶~~

(2) Hemp concentrates or extracts:¶¶

(a) A process lot of a hemp concentrate or extract is considered a batch.¶¶

(b) A batch of hemp concentrate or extract must be produced using a standard operating procedure and result in one finished hemp concentrate or extract that is uniform in texture and form.¶¶

(3) Hemp Cannabinoid products:¶¶

(a) A handler must separate process lots into not larger than 35,000 unit of sale batches.¶¶

(b) A batch of a hemp cannabinoid product must be produced using a standard operating procedure and result in a finished hemp cannabinoid product that is uniform in potency, texture, and weight. A standard operating procedure may use different flavors or colors in a batch if the different flavors or colors:¶¶

(A) Are substituted for one another at a 1:1 ratio; and¶¶

(B) Do not affect the potency, texture, or weight of the finished hemp cannabinoid product.¶¶

(c) If a hemp cannabinoid product is or may be sold in different quantities in a unit of sale, then the process lot shall be sampled based on the smallest unit of sale for the purposes of sampling and testing. All proposed units of sales must meet the Commission's concentration limit rules found in Chapter 845, division 26.¶¶

(4) Industrial hemp-derived vapor items¶¶

(a) A process lot of an industrial hemp-derived vapor item is considered a batch.¶¶

(b) A batch of an industrial hemp-derived vapor item must be made from a standard operating procedure and result in one final industrial hemp-derived vapor item that is uniform in flavor, texture, and form.¶¶

(5) A handler must assign each batch a process lot identifier as described in OAR 603-048-0500 and that process lot identifier must be:¶¶

(a) Provided to the individual responsible for taking samples; and¶¶

(b) Included on the batch label as required in OAR 603-048-2380.¶¶

(6) A handler may not reuse a process lot identifier.¶¶

(7) For the purposes of this rule, "flavor" means:¶¶

(a) The essential oil or essence which contains the flavoring constituents derived from a spice, fruit, fruit juice, vegetable, vegetable juice, herb, root, leaf, or similar plant material.¶¶

(b) Any substance, the function of which is to impart flavor, which is not derived from a spice, fruit juice, vegetable, vegetable juice, herb, root, leaf, or similar plant material.¶¶

(c) Flavor does not include flavoring constituents derived from the cannabis plant.

Statutory/Other Authority: ORS 561.190, ORS 571.263, ORS 571.281, ORS 571.330, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.263, ORS 571.281, ORS 571.330, ~~OL 2021, Ch. 542~~

AMEND: 603-048-2450

RULE SUMMARY: Updates requirements for failed test samples.

CHANGES TO RULE:

603-048-2450

Failed Test Samples ¶¶

(1) If a sample or a duplicate sample (collectively referred to as "sample" for the purposes of this rule) fails any initial test, the laboratory that did the testing may reanalyze the sample. The laboratory that did the initial test may not subcontract the reanalysis. If a primary sample or a duplicate sample fails, both must be reanalyzed. If the sample passes, another laboratory must resample the batch and confirm that result in order for the batch to pass testing.¶¶

(a) If a grower or handler wishes to have a sample reanalyzed, the grower or handler must request a reanalysis within seven (7) calendar days from the date the laboratory sent notice of the failed test to the grower or handler. The reanalysis must be completed by the laboratory within 30 calendar days from the date the reanalysis was requested.¶¶

(b) If a grower or handler has requested a reanalysis in accordance with subsection (1)(a) of this rule and the sample passes, the handler has seven (7) calendar days from the date the laboratory sent notice of the passed test to request that another laboratory resample the batch and confirm the passed test result. The retesting must be completed by the second laboratory within 30 calendar days from the date the retesting was requested.¶¶

(c) A grower or handler must inform the Department within 24 hours, of the following, electronically to HempTestReports@oda.oregon.gov using the forms provided the Department:¶¶

(A) A request for reanalysis of a sample;¶¶

(B) The testing results of the reanalysis;¶¶

(C) A request for retesting; and¶¶

(D) The results of retesting.¶¶

(2) If a sample fails a test or a reanalysis under section (1) of this rule, the batch:¶¶

(a) May be remediated or sterilized ~~in accordance with OAR 333-007-0450~~ing to the requirements of OAR 333-007-0450 for their marijuana equivalents as described in OAR 603-048-2310; or¶¶

(b) Must be destroyed as required by OAR 333-007-0450 in a manner specified by the Department if the batch is not or cannot be remediated or sterilized under OAR 333-007-0450 or fails testing as described in OAR 333-007-0450.¶¶

(3) If a grower or handler is permitted to remediate or sterilize under this rule, the grower or handler must provide notice to the Department of the handler's intent to remediate or sterilize.¶¶

(4) A grower or handler must inform a laboratory prior to samples being taken that the batch has failed a test and is being retested after undergoing remediation or sterilization.¶¶

(5) A grower or handler must, as applicable:¶¶

(a) Have detailed procedures for sterilization processes to remove microbiological contaminants and for reducing the concentration of solvents.¶¶

(b) Document all sampling, testing, sterilization, remediation and destruction that are a result of failing a test under these rules.¶¶

(c) A grower or handler must report failed test results to the Department within 24 hours of receipt of the failed test report electronically to HempTestReports@oda.oregon.gov using the forms provided by the Department.¶¶

(6) If a batch fails a test under these rules, the grower or handler must store, segregate, label, and may not remove the batch from the registered premises without permission from the Department in accordance with OAR 333-007-0450.

Statutory/Other Authority: ORS 561.190, ORS 571.263, ORS 571.281, ORS 571.319, ORS 571.330, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.263, ORS 571.281, ORS 571.319, ORS 571.330, ~~OL 2021, Ch. 542~~

AMEND: 603-048-2480

RULE SUMMARY: Updates requirements for additional testing.

CHANGES TO RULE:

603-048-2480

Additional Testing ¶¶

(1) The Department may require a ~~grower or handler~~licensee to submit samples identified by the Department to a laboratory of the ~~handler~~licensee's choosing to be tested in order to determine whether a ~~grower or handler~~licensee is in compliance with OAR 603-048-2300 through 603-048-2500 or any other rule of the Department, and may require additional testing that is not required by these rules.¶¶

(2) To be sufficient to meet the requirement for audit testing under this rule, a ~~grower or handler~~licensee must ensure, through a testing agreement or contract, that the laboratory conducting the testing complies with these rules, to the extent they are applicable, and if conducting testing not required by these rules, may only use Authority approved methods.¶¶

(3) The Department may establish a process for the random testing of hemp items for microbiological contaminants.¶¶

(4) Any testing ordered under this rule must be paid for by the ~~grower or handler~~licensee.¶¶

(5) The Department may obtain a hemp item from a person at any time and have it tested to ensure compliance with these rules and OAR chapter 333, division 7, or to protect the public health and safety.

Statutory/Other Authority: ORS 561.190, ORS 571.263, ORS 571.281, ORS 571.330, ~~OL 2021, Ch. 542~~

Statutes/Other Implemented: ORS 571.263, ORS 571.281, ORS 571.330, ~~OL 2021, Ch. 542~~

REPEAL: 603-048-4000

RULE SUMMARY: Repeals definitions for county moratoriums.

CHANGES TO RULE:

~~603-048-4000~~

~~Definitions~~

~~(1) For the purposes of OAR 603-048-4000 to 603-048-4020, unless the context provides otherwise or section (2) of this rule provides an alternative definition, the definitions in OAR 603-048-0010 apply.¶~~

~~(2) For purposes of OAR 603-048-4000 to 603-048-4020, "growing season" means the calendar year.~~

~~Statutory/Other Authority: ORS 561.090, ORS 571.260 – 571.348, OL 202, Ch. 542, SB 1564-A(2022)~~

~~Statutes/Other Implemented: ORS 571.260 – 571.348, OL 202, Ch. 542, SB 1564-A(2022)~~



REPEAL: 603-048-4010

RULE SUMMARY: Repeals rules for Local State of Emergency Declaration.

CHANGES TO RULE:

~~603-048-4010~~

~~Local State of Emergency Declaration~~

~~(1) The governing body of a county that, pursuant to ORS 401.309, declares a state of emergency related to cannabis, may notify the Department of the declaration and request that the Department deny the issuance of grower licenses under ORS 571.281, including grower license applications submitted on or after January 1, 2022, for grow sites located in an area subject to the jurisdiction of the requesting county. ¶¶~~

~~(2) The declaration of a state of emergency described in section (1) of this rule must: ¶¶~~

~~(a) Be for a duration that include the entire industrial hemp growing season; and ¶¶~~

~~(b) Include a statement that the Department's denial of grower license applications under ORS 571.281 may alleviate the conditions giving rise to the declaration. ¶¶~~

~~(3) Notification to the Department described in section (1) of this rule must: ¶¶~~

~~(a) Be made annually for each year during which the governing body of the county declares a state of emergency as described in section (1) of this rule; and ¶¶~~

~~(b) Received by the Department: ¶¶~~

~~(A) Not later than March 15, 2022, for the 2022 growing season. ¶¶~~

~~(B) Not later than January 1, 2023, for the 2023 growing season.~~

~~Statutory/Other Authority: ORS 561.090, ORS 571.260–571.348, OL 2021, Ch. 542, SB 1564-A (2022)~~

~~Statutes/Other Implemented: ORS 571.260–571.348, OL 2021, Ch. 542, SB 1564-A (2022)~~

REPEAL: 603-048-4020

RULE SUMMARY: Repeals rules for Grower License Denial Based on State of Emergency Declaration.

CHANGES TO RULE:

~~603-048-4020~~

~~Grower License Denial Based on State of Emergency Declaration~~

~~(1) Subject to the provisions of ORS Ch. 183, the Department must deny applications for grower licenses submitted on or after January 1, 2022, when the applicant seeks to license a grow site located in a county that has declared a state of emergency relating to cannabis and submitted the notification and request to the Department as described in OAR 603-048-4010.¶¶~~

~~(2) Notwithstanding section (1) of this rule, the Department may process applications for a grower license under ORS 571.281 for a grow site located in an area subject to the jurisdiction of a county that has declared a state of emergency as described in OAR 603-048-4010 if:¶¶~~

~~(a) the applicant held a valid grower license or registration under ORS 571.281 during the 2020 or 2021 calendar year in an area subject to the jurisdiction of a county that has declared a state of emergency; and¶¶~~

~~(b) the entity name listed on the grower license application is identical to the entity name on the 2020 or 2021 valid grower license or registration.¶¶~~

~~(3) In accordance with ORS 561.303, the Department may refund application fees paid by an applicant whose grower license is denied under section (1) rule.~~

~~Statutory/Other Authority: ORS 561.090, ORS 571.260–571.348, OL 2021, Ch. 542, SB 1564-A (2022)~~

~~Statutes/Other Implemented: ORS 571.260–571.348, OL 2021, Ch. 542, SB 1564-A (2022)~~

REPEAL: 603-048-8010

RULE SUMMARY: Repeals Presumptive Marijuana rules.

CHANGES TO RULE:

#### ~~603-048-8010~~

##### ~~Presumptive Marijuana~~

~~(1) For the purposes of this Division, unless the context provides otherwise or section (2) of this rule provides an alternative definition, the definitions in OAR 603-048-0010 apply.~~

~~(2) In addition to the definitions in section (1) of this rule, the following definitions apply:~~

~~(a) "Applicant" means a person, joint venture, or cooperative who has submitted an application for a grower license in accordance with OAR 603-048-0200.~~

~~(b) "Good cause" includes, but is not limited to, when an action, delay, or failure to act arises from an excusable mistake, surprise, excusable neglect, reasonable reliance on the statement of a party or agency relating to procedural requirements, or from fraud, misrepresentation, or other misconduct of a party or agency participating in the proceeding.~~

~~(c) "OAH" means the Office of Administrative Hearings.~~

~~(d) "Pre-harvest testing" means sampling and testing of growing cannabis by a laboratory conducted in accordance with OAR 603-048-0600.~~

~~(e) "Presumptive test" means testing conducted in accordance with OAR 845-026-4100.~~

~~(f) "Licensee" means a person, joint venture or cooperative that produces industrial hemp and is licensed with the Department under ORS 571.281.~~

~~(3) Cannabis plants may be distinguished between industrial hemp and marijuana in three methods:~~

~~(a) Testing pursuant to OAR 603-048-0600 to 603-48-0625.~~

~~(b) Testing by the State Department of Agriculture pursuant to ORS 571.281(7).~~

~~(c) Presumptive testing in accordance with OAR 845-026-4100.~~

~~(4) In the Department's discretion, the Department or its designee may inspect and sample cannabis grown at a licensed or proposed grow site or grown pursuant to a grower's license to conduct presumptive testing as described in OAR 845-026-4100.~~

~~(5) A licensed grower or applicant must permit Department staff, or its designee, to inspect and access all parts of the grow site or proposed grow site, equipment, facilities, and any area where cannabis is grown pursuant to the license and cooperate with such an inspection in accordance with OAR 603-048-0650(3).~~

~~(6) Sampling for a presumptive test shall be conducted in accordance with OAR 845-026-4100.~~

~~(7) The Department may detain, seize, or embargo all cannabis at a grow site if any sampling at the grow site conducted pursuant to OAR 845-026-4100 contains total THC of 0.35 percent or more. Any such action shall be conducted in accordance with OAR 603-048-0900.~~

~~(8) The provisions of OAR 603-048-8010 to 603-048-8040 apply to all sampling and testing conducted under Oregon Laws 2021, Ch. 542 and OAR 845-026-4100 that occurred on or after July 20, 2021.~~

~~(9) Except for as specifically identified in OAR 603-048-8010 to 8040, the provisions of OAR 603-048-0010 to 603-048-2500 do not apply to OAR 603-048-8010 to 8040.~~

~~Statutory/Other Authority: ORS 561.190, ORS 571.260–571.348, OL 2021, Ch. 542~~

~~Statutes/Other Implemented: ORS 571.260–571.348, OL 2021, Ch. 542~~

RULE SUMMARY: Repeals Notice of Detainment for Presumptive Marijuana rules.

CHANGES TO RULE:

**603-048-8020**

**Notice of Detainment for Presumptive Marijuana**

(1) The Department may detain, seize, or embargo all cannabis that is determined to be presumptive marijuana pursuant to OAR 845-026-4100 in accordance with ORS 561.605 to 561.630.¶¶

(a) If the licensee or person in possession of the subject cannabis does not timely request a hearing, withdraws a request for hearing, notifies the Department or the administrative law judge that they will not appear, or fails to appear at a scheduled hearing, the Department may summarily destroy or otherwise dispose of the cannabis, or summarily issue an order requiring the licensee or person in possession to dispose of the subject cannabis in accordance with OAR 603-048-0640.¶¶

(b) A licensee may only rebut a finding that the cannabis is presumptively marijuana by conducting valid pre-harvest sampling and testing that is performed by the Department in accordance with OAR 603-048-0600. Pre-harvest sampling and testing that is not performed by the Department is insufficient to rebut a finding that the cannabis is presumptively marijuana. The Department is not responsible for any costs for any pre-harvest testing.¶¶

(A) To request sampling and testing for purposes of rebutting a finding that cannabis is presumptively marijuana, within three (3) calendar days from the date the Department issued the notice of detainment, seizure, embargo a grower must submit to the Department, a completed sampling request form provided by the Department that includes:¶¶

(i) A written sampling request for THC analysis for each harvest lot, as identified by the harvest lot identifier, for which the grower is requesting sampling and testing and the total number of harvest lots to be sampled and tested;¶¶

(ii) A description of the location of the production area of each harvest lot, as identified by the harvest lot identifier, including the GPS coordinates or address of the harvest lot; and¶¶

(iii) A written description and visual depiction of each harvest lot to be sampled and tested such that the production area for each harvest lot is apparent from a visual inspection of the premises and easily discernible from other harvest lots.¶¶

(B) Harvest lots or production areas sampled and tested by the Department in compliance with OAR 603-048-0600 that pass testing under OAR 603-048-0600 may be released from detainment. The Department shall not issue an order to destroy until the time to request sampling and preharvest testing has expired.¶¶

(C) Cannabis that does not pass testing must be destroyed in accordance with 603-048-0640, except that when requesting approval to dispose of the presumptive marijuana in accordance with OAR 603-048-0640(2)(a), the licensee must submit the request at least two (2) calendar days, not including weekends and holidays, prior to disposal. ¶¶

**(2) Hearings.¶¶**

(a) If a hearing is timely requested, the hearing and the order shall be issued as soon as practicable and not later than the timelines set out in this rule, unless the reason for the delay is explained in the final order.¶¶

(A) A hearing held pursuant to a timely request shall be conducted within 11-20 calendar days of the request unless the Department requests a postponement, or the licensee requests a delay and the administrative law judge determines there is good cause or the Department otherwise agrees to a postponement.¶¶

(B) The record shall be closed within 48 hours from the conclusion of the hearing.¶¶

(C) A proposed or final order must be issued by the administrative law judge within five (5) days, excluding weekends and holidays, from the closing of the record unless the administrative law judge determines there is good cause to delay the proposed or final order.¶¶

(b) OAH may select a hearing date and notify the licensee and the Department in writing. The hearing date may be changed with good cause.¶¶

(c) OAH may serve and communicate with the licensee by electronic mail unless the licensee requests in writing that service be accomplished by facsimile or regular mail. Service by e-mail is effective at the time a properly addressed email is sent. For cases where final order authority is delegated to OAH, OAH shall also mail a copy of the final order to the licensee.¶¶

**(d) Discovery and Exchange of Exhibits and Witness Lists.¶¶**

(A) Witness information and documents or objects planned to be offered as evidence as described in OAR 137-003-0566(1)(a)-(c) must be exchanged no later than three (3) calendar days before the hearing date unless there is good cause for delay.¶¶

(B) Requests for production of documents to the Department are limited to the following:¶¶

(i) The licensee's application for the current license;¶¶

(ii) Sampling and testing documentation for the cannabis subject to the disputed notice of detainment;¶¶

(iii) Any inspection report regarding the sampling and testing of the cannabis subject to the disputed notice of detainment prepared by the Department or the Department's designee.¶¶

(C) Requests for admission and written interrogatories are limited to a total of 10 separate requests (each subpart to count as a separate request).¶¶

(D) Depositions of Department witnesses, staff, or designees are not authorized.¶¶

(e) Motions for summary determination are not available in contested case proceedings regarding notices of detainment issued under this rule.¶¶

(f) A final order issued by OAH that finds in the Department's favor shall require the licensee or person in possession to dispose of the subject cannabis in accordance with OAR 603-048-0640 within ten (10) calendar days from the date of the order unless extended in writing by the Department.¶¶

(3) A licensee subject to a detainment, seizure, embargo, or disposal order under this section must comply with OAR 603-048-0900(4) except that the cannabis may be sampled by the Department for the purposes of pre-harvest testing in accordance with this rule.¶¶

(4) A licensee must dispose of presumptive marijuana ordered to be disposed under this rule in accordance with OAR 603-048-0640, except that when requesting approval to dispose of the presumptive marijuana in accordance with OAR 603-048-0640(2)(a), the licensee must submit the request at least two (2) calendar days, not including weekends and holidays, prior to disposal. The licensee must dispose of the presumptive marijuana by the date the final order requires destruction unless extended by the Department in writing.¶¶

(5) The Department does not offer collaborative dispute resolution regarding notices issued under this rule.

Statutory/Other Authority: ORS 561.190, ORS 561.605–561.620, ORS 571.260–571.348, OL 2021, Ch. 542

Statutes/Other Implemented: OL 2021, Ch. 542, ORS 571.263

REPEAL: 603-048-8030

RULE SUMMARY: Repeals Final Order of Disposal of Presumptive rules.

CHANGES TO RULE:

~~603-048-8030~~

~~Final Order of Disposal of Presumptive~~

~~(1) For presumptive marijuana that meets any of the following criteria, the Department may issue a final order requiring destruction of all cannabis determined to be presumptively marijuana pursuant to OAR 845-026-4100:¶¶~~

~~(a) At least fifty percent of composite samples taken from mature plants test at or above ten percent total delta-9-THC.¶¶~~

~~(b) The average total delta-9-THC among the composite samples taken from mature plants tests at or above ten percent.¶¶~~

~~(2) A final order issued under this rule shall be appealable as an order in other than contested case order under ORS 183.484.¶¶~~

~~(3) A licensee may only rebut a finding that the cannabis is presumptively marijuana by conducting pre-harvest sampling and testing that is performed by the Department in accordance with OAR 603-048-0600. Pre-harvest sampling and testing performed by a laboratory is not sufficient to rebut a finding that the cannabis is presumptively marijuana. The Department is not responsible for any costs for any pre-harvest testing.¶¶~~

~~(a) To request sampling and testing for purposes of rebutting a finding that cannabis is presumptively marijuana, within three (3) calendar days from the date of the notification in subsection (1) a grower must submit to the Department, a completed sampling request form provided by the Department that includes:¶¶~~

~~(A) A written sampling request for THC analysis for each harvest lot, as identified by the harvest lot identifier, for which the grower is requesting sampling and testing and the total number of harvest lots to be sampled and tested;¶¶~~

~~(B) A description of the location of the production area of each harvest lot, as identified by the harvest lot identifier, including the GPS coordinates or address of the harvest lot; and¶¶~~

~~(C) A written description and visual depiction of each harvest lot to be sampled and tested such that the production area for each harvest lot is apparent from a visual inspection of the premises and easily discernible from other harvest lots.¶¶~~

~~(b) Harvest lots or production areas sampled and tested by the Department in compliance with OAR 603-048-0600 that pass testing under OAR 603-048-0600 may be released from detainment.¶¶~~

~~(4) The Department shall amend or withdraw a final order if a harvest lot or production area passes testing under OAR 603-048-0600 and the grower complies with all requirements in this rule. A grower must destroy presumptive marijuana in accordance with the destruction order if:¶¶~~

~~(a) The presumptive marijuana does not pass testing under OAR 603-048-0600;¶¶~~

~~(b) Valid test results are not timely provided to the Department; or¶¶~~

~~(c) The grower fails to comply with the requirements of this rule.¶¶~~

~~(5) A licensee must dispose of presumptive marijuana ordered to be disposed under this rule in accordance with OAR 603-048-0640, except that when requesting approval to dispose of the presumptive marijuana in accordance with OAR 603-048-0640(2)(a), the licensee must submit the request at least two (2) calendar days, not including weekends and holidays, prior to disposal. The licensee must dispose of the presumptive marijuana by the date the final order requires destruction unless extended by the Department in writing.~~

~~Statutory/Other Authority: ORS 561.190, ORS 561.605 – 561.620, ORS 571.260 – 571.348, OL 2021, Ch. 542~~

~~Statutes/Other Implemented: OL 2021, Ch. 542, ORS 571.263~~

REPEAL: 603-048-8040

RULE SUMMARY: Repeals Compliance with Detainment, Seizure, Embargo, Disposal Notice or Order rules.

CHANGES TO RULE:

**603-048-8040**

**Compliance with Detainment, Seizure, Embargo, Disposal Notice or Order**

(1) A person subject to a detainment, seizure, embargo, or disposal notice or order based on a determination that the cannabis is presumptive marijuana must ensure that the cannabis subject to the action are not removed from the location identified in the notice of the action or subject to any harvesting, processing, or manufacturing processes without written permission from the Department.¶¶

(a) A person subject to a detainment, seizure, embargo or disposal notice or order shall take all reasonable steps to prevent theft or removal of the cannabis from the location identified in the notice of the action.¶¶

(b) A person subject to a detainment, seizure, embargo, or disposal notice or order is strictly liable for any violation of the notice or order, including removal of the cannabis from the location identified in the notice without permission or direction from the person subject to the action.¶¶

(c) A person subject to a detainment, seizure, embargo, or disposal notice or order may submit a written request to harvest, move, or take other action to preserve the cannabis pending a legal proceeding challenging the propriety of the order. The person may only take such action upon written permission from the Department and subject to any requirements or restrictions imposed by the Department.¶¶

(2) The Department shall revoke a person's hemp grower license or deny the person's hemp grower application for a license if the person fails to comply with section (1) of this rule, including but not limited to if the cannabis subject to detainment, seizure, embargo, or disposal notice or order is removed from the location identified in the notice or order without prior written permission from the Department.

Statutory/Other Authority: ORS 561.190, ORS 561.605 – 561.620, ORS 571.260 – 571.348, OL 2021, Ch. 542

Statutes/Other Implemented: OL 2021, Ch. 542, ORS 571.263