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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DOA 7-2022

CHAPTER 603

DEPARTMENT OF AGRICULTURE

FILED

05/03/2022 1:37 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Implementing hemp license moratorium in counties with local state of emergency declaration for cannabis.

EFFECTIVE DATE: 05/09/2022 THROUGH 11/04/2022

AGENCY APPROVED DATE: 05/03/2022

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NEED FOR THE RULE(S):

The Oregon Legislature passed Senate Bill 1564 (SB1564) during the 2022 Oregon Legislative session. In part, the bill requires the department to adopt rules regarding a moratorium on new hemp licenses in counties that declare a state of emergency related to cannabis and notify the department of the emergency. When the department receives a county emergency declaration related to cannabis that meets the requirements of SB1564, the department shall deny the issuance of a new hemp license in the county.

JUSTIFICATION OF TEMPORARY FILING:

These rules require immediate action due to the passage of Senate Bill 1564 at the 2022 Legislative Session. The bill has an emergency clause that requires the department to act, as failing to do so may result in public health and safety consequences and severe economic impact to hemp growers. With planting dates for hemp and hemp license application cut-off date of May 31, 2022 quickly approaching, the department needs to implement these rules quickly so that growers in affected counties can make appropriate planting plans. By taking immediate action the agency is meeting the requirements of legislation and is mitigating possible adverse impacts to growers.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

2022 Senate Bill 1564 (available from the Oregon State Legislature)

ODA rulemaking files (available upon request from the ODA)

RULES:

603-048-4000, 603-048-4010, 603-048-4020

ADOPT: 603-048-4000

RULE SUMMARY: Definitions

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)

ADOPT: 603-048-4010

RULE SUMMARY: Establishes standards for what must be in a 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)

ADOPT: 603-048-4020

RULE SUMMARY: Gives the department the authority to deny a new hemp grower license in a county that has declared a state of emergency.

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)