

September 18, 2023

CANNABIS TESTING INFORMATION BULLETIN 2023-03

Subject: Temporary rule to remove aspergillus testing

The Oregon Health Authority (OHA), Public Health Division, Oregon Medical Marijuana Program (OMMP) has amended OAR 333-007-0390 via temporary rule to remove the requirement for aspergillus testing. The temporary rule is in effect from September 15, 2023, through March 12, 2024.

OMMP is taking this action in light of a legal challenge to the testing requirement and the issuance of a stay of the requirement on August 25, 2023, by the Oregon Court of Appeals. In addition to removing the testing requirement, the temporary rules make it clear that marijuana items and industrial hemp-derived vapor items that failed for aspergillus and were remediated, or were attempted to be remediated, on or before August 25, 2023, must be resampled and retested for all required tests due to the item either changing forms or undergoing a fundamental change. Retesting an item after remediation ensures the integrity of the item and ensures it meets other testing requirements before being transferred for use by a consumer or patient. Remediated items are not required to be tested for aspergillus. The temporary rules do not affect testing for Shiga toxin-producing *Escherichia coli* and *Salmonella* species, and they remain required tests.

The temporary rule also specifies that for the purposes of OAR 333-007-0450, any items that were found to contain *Aspergillus* during testing on or before August 25, 2023, are not considered to have failed a compliance test. It is OHA's intention to enter into rulemaking to make permanent changes prior to the expiration of the temporary rule.

The full text of the rule change can be found on the OMMP Rules and Statute page under the [Temporary Rules](#) section.