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

CHAPTER 845  
OREGON LIQUOR AND CANNABIS COMMISSION

**FILED**

08/28/2024 3:34 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Amend and adopt rules to implement 2024 legislation and make technical updates related to hemp.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/27/2024 12:00 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.*

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Filed By:  
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HEARING(S)

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

DATE: 09/18/2024

TIME: 10:00 AM - 11:00 AM

OFFICER: Nicole Blosse

REMOTE HEARING DETAILS

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

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 859378925

SPECIAL INSTRUCTIONS:

Please visit: [https://www.oregon.gov/olcc/Pages/public\\_meetings.aspx](https://www.oregon.gov/olcc/Pages/public_meetings.aspx) for meeting details

NEED FOR THE RULE(S)

The Oregon Legislature passed House Bill 4121 during the 2024 Oregon legislative session which has several provisions that require agency rulemaking to implement. Specifically, House Bill 4121:

- 1) Requires the Oregon Liquor and Cannabis Commission (OLCC) to develop by rule a methodology to distinguish between marijuana and industrial hemp plants. OAR 845-026-4110, which was adopted by Temporary Administrative Order OLCC 4-2024, is being adopted on a permanent basis to comply with this requirement.
- 2) Requires OLCC to adopt standards for approving industrial hemp products that contain artificially derived cannabinoids. OAR 845-026-0400 is being amended and OARs 845-026-0410 and -0415 are being adopted to comply with this requirement.

Additionally, OLCC is proposing to adopt, amend, and correct rules in OAR chapter 845, divisions 25 and 26 to address technical issues, including but not limited to:

3) OAR 845-025-1310 is being amended to clarify how the commission applies its judgment in determining if an artificially derived cannabinoid is impairing or intoxicating, specifically that the commission takes into account the concentration of the cannabinoid in the product. This clarification prevents circumstances where a nonintoxicating product might be prohibited based on the presence of a small amount of a cannabinoid that would be intoxicating or impairing if it were present in a much larger concentration.

4) OARs 845-025-2700, -2750, -5800, -5815, -5820 and -5830 are being amended to allow Commission-certified hemp growers to transfer usable hemp and hemp kief to OLCC marijuana licensees, consistent with the changes in license privileges adopted by the Oregon Department of Agriculture (ODA) on December 14, 2023.

5) OAR 845-025-5815 is being amended to harmonize the requirements for hemp in the OLCC-licensed marijuana market with changes to marijuana testing requirements in OAR 333-007-0315 adopted by the Oregon Health Authority on April 1, 2024.

6) OAR 845-026-0400 is being modified to implement only the concentration and serving standards adopted pursuant to ORS 571.309; establish a serving size limit for hemp tinctures; and establish conditions for the presence of artificially derived cannabinoids. Previously, this rule included standards adopted under both ORS 571.309 and ORS 475C.257.

7) OAR 845-026-0410 is being adopted to implement the concentration and serving standards adopted pursuant to ORS 475C.257, establish a serving concentration limit for hemp tinctures; and establish conditions for the presence of adult use cannabinoids that are artificially derived cannabinoids. These standards were previously included in OAR 845-026-0400.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OLCC rulemaking files (available upon request from the OLCC)

Chapter 16, Oregon Laws 2024 (House Bill 4121)

([https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2024orlaw0016.pdf](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2024orlaw0016.pdf))

Temporary Administrative Order OLCC 4-2024

(<https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/10199074>)

Permanent Administrative Order DOA 49-2023

(<https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/9847889>)

Permanent Administrative Order PH 6-2024

(<https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/10086801>)

ODA Notice of Proposed Rulemaking filed 03/28/2024

(<https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/10086706>)

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

At this time, the Commission has no data to suggest that this rule will impact racial equity in the state.

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#### FISCAL AND ECONOMIC IMPACT:

This statement takes into account the fiscal impact on (a) Marijuana licensees and hemp businesses (b) Local Government; (c) State Agencies; and (d) the Public.

(a) Marijuana Licensees and Hemp Businesses:

The fiscal impact to marijuana licensees is expected to be minimal. There is some potential for a degree of increased competition within and between markets. Hemp products being available to licensees from a wider pool of sources could benefit licensees. Having products containing artificially derived cannabinoids available to consumers outside of the OLCC-licensed marijuana market could potentially reduce sales from consumers who primarily shop at marijuana retailers for these specific products.

The fiscal impact to hemp businesses is expected to be positive. Hemp retailers will have the ability to sell a wider variety of products. Hemp growers will have the ability to sell a greater range of commodities and products into the OLCC-licensed marijuana market. There are costs to hemp growers and product manufacturers to access these additional privileges, but those costs are offset by the ability to expand their potential market for their products.

(b) Local Government:

These rule changes are not expected to have any fiscal impact on local governments.

(c) State Agencies:

These rule changes are expected to have a modest impact on ODA and OLCC, and are not expected to have any significant impact on other state agencies.

The only expected impact to ODA is in the enforcement of presumptive marijuana testing, applying the methodology to distinguish between marijuana and industrial hemp plants. However, these rules do not obligate any action on the part of ODA; enforcement is subject to ODA's discretion and the specifics of ODA's rulemaking to implement these rules. Additionally, ODA has already been enforcing substantially the same methodology since 2021. These rules are reimplementing provisions of 2021 House Bill 3000 that were repealed at the beginning of 2024 before being adopted again in 2024 House Bill 4121.

Impacts to OLCC come in the form of a potentially increased volume of hemp certificate applications, if additional hemp growers decide to apply for the certificate to exercise the privilege to transfer usable hemp or hemp kief to OLCC licensees. The rule related to standards for approving industrial hemp products that contain artificially derived cannabinoids will not have any immediate fiscal impact on OLCC because OLCC does not have the authority to begin applying these standards to approve products until January 1, 2026.

(d) The Public:

The rule changes related to artificially derived cannabinoids and hemp certificate privileges are expected to have a positive impact on the public. These changes will access to a wider range of hemp products outside of the OLCC-licensed marijuana market. Within the OLCC-licensed marijuana market, these changes have the potential to encourage a larger selection of usable hemp and hemp kief products directly from the growers and manufacturers of those products.

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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).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

These rule changes are not expected to any costs of compliance to units of local government or the public. These rule changes may have modest impacts on ODA and OLCC, as described above.

2. Cost of compliance on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries subject to the rule:

This rule impacts hemp businesses and marijuana licensees.

As of August 28, 2024, there are 179 hemp grower licenses and 211 hemp handler licenses (including 12 OLCC-licensed processors with a hemp handler license by reciprocity) issued by ODA. Additionally, there are 194 hemp vendor site licenses currently issued by ODA. There are an unknown number of additional vendors (retailers, distributors, out-of-state manufacturers, etc.) that have not yet received an ODA license. In March 2024, ODA estimated the total number of vendors to be 6,000. ODA has previously estimated that most of the affected hemp businesses would qualify as small businesses.

There are currently approximately 2,781 adult use marijuana licenses issued by OLCC: 13 laboratories, 1,386 producers, 296 processors, 798 retailers, and 259 wholesalers. The Commission estimates that 85% of these would qualify as small businesses.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The rule amendments proposed in this package do not require any additional costs for compliance. Any changes that could create additional reporting, recordkeeping, or administrative activities do so only in the context of allowing products to access markets which were previously not available. For example, these rules allow a business to sell some hemp products containing artificially derived cannabinoids to Oregon consumers outside of the OLCC-licensed marijuana market. While there are administrative activities associated with this activity, this ultimately allows the sale of products in a manner that was previously prohibited. Additionally, an ODA-licensed hemp grower who wishes to sell usable hemp or hemp kief to OLCC-licensed marijuana processors, wholesalers, or retailers would be able to do so under these rules. There are recordkeeping and administrative activities, including applying for an OLCC hemp grower certificate and using Metrc, but only for those growers who choose to take advantage of this new access to the OLCC-licensed marijuana market.

c. Equipment, supplies, labor and increased administration required for compliance: There are no additional costs for equipment, supplies, labor, or administration for a business that continues to operate in the manner they did prior to these rule changes. As described above, additional costs would only apply to the exercise of new privileges, such as supplies and labor for Metrc tracking of usable hemp and hemp kief if an ODA-licensed hemp grower is interested in transferring these products into the OLCC-licensed marijuana system

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

OLCC held a Rules Advisory Committee meeting on August 13, 2024 to assist in the development of these proposed changes and invited representatives of small businesses impacted by these rules, including growers, handlers, and laboratories.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

845-025-1310, 845-025-2700, 845-025-2750, 845-025-5800, 845-025-5815, 845-025-5820, 845-025-5830, 845-026-0400, 845-026-0410, 845-026-0415, 845-026-4110

AMEND: 845-025-1310

RULE SUMMARY: This rule details regulations for artificially derived cannabinoids. The changes to this rule clarify that that the commission takes into account the concentration of the cannabinoid in the product in determining whether an artificially derived cannabinoid is impairing or intoxicating.

CHANGES TO RULE:

845-025-1310

Artificially Derived Cannabinoids

- (1) A licensee may transfer, sell, transport, purchase, possess, accept, return, or receive an artificially derived cannabinoid, including an artificially derived cannabinoid created by a refinement process using a reactive material such as bleaching clay, or a marijuana or hemp item that contains an artificially derived cannabinoid if:
- (a) The artificially derived cannabinoid:
    - (A) Is not a controlled substance under OAR chapter 855, division 80;
    - (B) Was manufactured in compliance with applicable laws relating to food safety;
    - (C) In the Commission's judgment, is not impairing or intoxicating at the intended concentration in the item; and
    - (D) Has been reported as a naturally-occurring component of the plant Cannabis family Cannabaceae in at least three peer-reviewed publications.
  - (b) The item is not intended for human inhalation; and
  - (c) The manufacturer of the artificially derived cannabinoid:
    - (A) Has made a "Generally Recognized as Safe" (GRAS) determination for the artificial cannabinoid and supplied a copy of that determination to the Commission;
    - (B) Has provided to the Commission a Food and Drug Administration (FDA) letter responding to a "Generally Recognized as Safe" (GRAS) notice for the artificially derived cannabinoid manufactured by the same method that the manufacturer uses, affirming that FDA has no questions about the notice; or
    - (C) Has provided to the Commission an FDA letter of acknowledgement with no objections in response to a New Dietary Ingredient notification for the artificially derived cannabinoid manufactured by the same method that the manufacturer uses.
- (2) The Commission will notify the licensee of acceptance of documentation received under paragraph (1)(c)(A), (B) or (C) of this rule and may apply additional labeling and concentration limit rules.
- (3) Until January 2, 2025, a licensee may transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana or hemp item manufactured before July 1, 2023 containing the artificially derived cannabinoid cannabinol (CBN) if:
- (a) The item is not intended for human inhalation; and
  - (b) The CBN:
    - (A) Is not a controlled substance under OAR chapter 855, division 80; and
    - (B) Was manufactured in compliance with applicable laws relating to food safety.
- (4) Until January 2, 2025, a licensee may transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana or hemp item manufactured on or after July 1, 2023 containing the artificially derived cannabinoid cannabinol (CBN) if:
- (a) The item is not intended for human inhalation; and
  - (b) The CBN:
    - (A) Is not a controlled substance under OAR chapter 855, division 80;
    - (B) Was manufactured in compliance with applicable laws relating to food safety; and
    - (C) Was manufactured by a person with written approval from the Commission affirming that the manufacturer:
      - (i) Has taken substantial steps towards meeting the requirements described in subsection (1)(c) of this rule,

including but not limited to initiating or contracting to initiate safety studies; ¶

(ii) Has conducted a hazard analysis as described in 21 CFR 117.130 to identify foreseeable hazards in the process of manufacturing the CBN and provided the Commission with a copy of the analysis; and ¶

(iii) Has provided the Commission with copies of any preventative controls, as described in 21 CFR 117.135 that minimize or prevent any hazards requiring a preventive control. ¶

(5) A manufacturer may request written approval as described in paragraph (4)(b)(C) of this rule in a form and manner prescribed by the Commission. The Commission: ¶

(a) Shall publish a list of manufacturers who obtain this written approval. ¶

(b) May revoke this approval if the manufacturer no longer meets the requirements described in subsection (4)(b) of this rule. If the Commission revokes approval, the manufacturer has the right to a hearing under the procedures in ORS chapter 183. ¶

(c) May consult with the Oregon Department of Agriculture for the purposes of reviewing the request. ¶

(6) If the Commission requires a manufacturer to submit or produce documents to the Commission that the manufacturer believes falls within the definition of a trade secret as defined in ORS 192.501, the manufacturer must mark each document "confidential" or "trade secret." ¶

(7) A licensee may not transfer, sell, transport, purchase, possess, accept, return, or receive an artificially derived cannabinoid or a marijuana or hemp item that contains an artificially derived cannabinoid other than as provided in this rule. ¶

(8) The Commission may reevaluate the regulation of artificially derived cannabinoids on an annual basis, including establishing purity standards.

Statutory/Other Authority: ORS 475C.017

Statutes/Other Implemented: ORS 475C.017

AMEND: 845-025-2700

RULE SUMMARY: This rule describes the application, denial, and revocation of industrial hemp grower certificate applications. The changes to this rule enable hemp grower certificate holders to transfer usable hemp and hemp kief made by the grower to OLCC licensees, consistent with their Oregon Department of Agriculture hemp grower license privileges.

CHANGES TO RULE:

845-025-2700

Industrial Hemp Grower Certificate Application; Denial; Revocation

(1) Hemp growers may apply for an industrial hemp grower certificate to transfer industrial hemp or hemp items to a processor licensed under ORS 475BC.090 or 85, a wholesaler licensed under ORS 475B.100C.093, or a retailer licensed under ORS 475C.097. ¶

(2) The application must: ¶

(a) Include proof of licensure under ORS 571.281; ¶

(b) Include the certificate and application fees specified in OAR 845-025-1060; ¶

(c) Identify the licensed Oregon Department of Agriculture location from which the industrial hemp or hemp items will be transferred from for transport to a Commission licensee; and ¶

(d) Include any other information identified in the application form. ¶

(3) Incomplete Applications. ¶

(a) The Commission must review an application to determine if it is complete. An application may be considered incomplete if an application form is not complete, the full application and certificate fee has not been paid, or some or all of the additional information required under these rules is not submitted. ¶

(b) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Commission within 10 days of the date the incomplete notice was mailed to the applicant. The Commission shall give the applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550. ¶

(4) Denial. ¶

(a) The Commission may deny any application under this rule if: ¶

(A) The application does not meet the requirements of section (2) of this rule; ¶

(B) The applicant submits false or misleading information; or ¶

(C) The Commission has reasonable cause to believe that the applicant does not have a good record of compliance with ORS 475BC.0405 to 475BC.5425 or applicable rules adopted thereunder, or with ORS 571.260 to ORS 571.348 or applicable rules adopted thereunder prior to or after certification. ¶

(b) If the Commission denies an application, it shall issue a notice of denial in accordance with ORS 183. The applicant has the right to a hearing in accordance with ORS 183. ¶

(5) Revocation. ¶

(a) The Commission shall revoke any industrial hemp grower certificate if the holder no longer holds a valid industrial hemp grower license issued under ORS 571.281. ¶

(b) The Commission may revoke any industrial hemp grower certificate if: ¶

(A) The holder violates a provision of ORS 475BC.0405 to 475BC.5425, ~~ORS 475BC.5540 to 475BC.59086~~, 475BC.600 to 475BC.65544 or Commission rules adopted thereunder; ¶

(B) The holder violates a provision of ORS 571.260 to ORS 571.348 or a rule adopted thereunder; or ¶

(C) The holder submits false or misleading information to the Commission. ¶

(c) If the Commission revokes a certificate, the holder has a right to a hearing in accordance with ORS 183.

Statutory/Other Authority: ORS 475BC.02517

Statutes/Other Implemented: ORS 571.336, 571.337

AMEND: 845-025-2750

RULE SUMMARY: This rule details industrial hemp grower certificate privileges and prohibitions. The changes to this rule enable hemp grower certificate holders to transfer usable hemp and hemp kief made by the grower to OLCC licensees, consistent with their Oregon Department of Agriculture hemp grower license privileges,

CHANGES TO RULE:

845-025-2750

Industrial Hemp Grower Certificate Privileges; Prohibitions

(1) A Commission-certified hemp grower may deliver industrial hemp or hemp items to a processor~~er~~, wholesaler, or retailer that holds a license issued under ORS 475C.085, 475C.093, or 475C.093~~7~~ in accordance with this rule.

¶

(2) If transferring, selling, or transporting to a Commission licensee, a Commission-certified hemp grower may: ¶

(a) Transfer, sell, or transport harvested industrial hemp, usable hemp manufactured in compliance with OAR 603-048-0125(6), or hemp kief as defined in OAR 603-048-0010 manufactured in compliance with OAR 603-048-

0125(7) to a processor licensed under ORS 475C.085 that holds an industrial hemp endorsement; or ¶

(b) Transfer, sell, or transport harvested industrial hemp ~~to a wholesaler licensed under ORS 475C.093~~, usable hemp, or hemp kief as defined in OAR 603-048-0010 to a wholesaler licensed under ORS 475C.093; or ¶

(c) Transfer, sell, or transport usable hemp or hemp kief as defined in OAR 603-048-0010 to a retailer licensed under ORS 475C.097. ¶

(3) When transferring, selling, or transporting pursuant to section (2) of this rule, a Commission-certified hemp grower: ¶

(a) May only transfer, sell, or transport harvested industrial hemp, usable hemp, or hemp kief as defined in OAR 603-048-0010 that: ¶

(A) Has been tested in accordance with OAR 845-025-5800 to 845-025-5850; and ¶

(B) Otherwise complies with the requirements for marijuana items under ORS 475C.005 to 475C.525, 475C.540 to 475C.586, 475C.600 to 475C.644, and Commission rules. ¶

(b) May only transfer harvested industrial hemp, usable hemp, or hemp kief as defined in OAR 603-048-0010 from the location identified in the application under OAR 845-025-2700(2)(c), and only if the Commission-certified hemp grower holds an active hemp grower license issued under ORS 571.281 at that location; ¶

(c) Must: ¶

(A) Hold a valid industrial hemp grower certificate issued by the Commission. ¶

(B) Provide the licensee a copy of any test result conducted on the industrial hemp. Test results include, but are not limited to, any pre-harvest test result conducted under OAR 603-048-0600 and any results from research and development testing. ¶

(C) Comply with CTS requirements in accordance with OAR 845-025-2775. ¶

(D) Transport industrial hemp in compliance with the requirements for a licensee transporting marijuana items under OAR 845-025-7700(2), (3)(b), and (8); and ¶

(d) May not transfer to a licensee: ¶

(A) Any industrial hemp that has failed the testing described in OAR 603-048-0600 to 603-048-0650; ¶

(B) Any batch of harvested industrial hemp, usable hemp, or hemp kief as defined in OAR 603-048-0010 that has failed a test described in OAR 845-025-5800 to 845-025-5850; ¶

(C) Any living industrial hemp plants; or ¶

(D) Industrial hemp seed.

Statutory/Other Authority: ORS 475C.017

Statutes/Other Implemented: ORS 475C.017, ORS 571.336, 571.337



AMEND: 845-025-5800

RULE SUMMARY: This rule sets definitions for the purposes of industrial hemp and hemp item testing. The changes to this rule enable hemp grower certificate holders to transfer usable hemp and hemp kief made by the grower to OLCC licensees, consistent with their Oregon Department of Agriculture hemp grower license privileges.

CHANGES TO RULE:

845-025-5800

Definitions for Industrial Hemp and Hemp Item Testing

For the purposes of OAR 845-025-5800 to 845-025-5850, unless otherwise specified:¶

(1) "Batch" means:¶

(a) A quantity of industrial hemp or usable hemp from a harvest lot; or¶

(b) A quantity of industrial hemp concentrate, industrial hemp extract, or hemp cannabinoid product from a process lot.¶

(2) "Certificate holder" means a Commission-certified hemp grower or Commission-certified hemp handler.¶

(3) "Finished hemp cannabinoid product"¶

(a) Means a hemp cannabinoid 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.¶

(b) For sampling and testing purposes, is equivalent to a "finished cannabinoid product" as that term is defined in OAR 333-007-0310.¶

(4) "Finished industrial hemp concentrate or extract"¶

(a) Means an industrial hemp concentrate or industrial hemp extract that is in its final form ready for packaging for sale or transfer to a consumer.¶

(b) For sampling and testing purposes, is equivalent to a "finished cannabinoid concentrate or extract" as that term is defined in OAR 333-007-0310.¶

(5) "Finished inhalable hemp cannabinoid product"¶

(a) Means a hemp cannabinoid product that is intended for human use via inhalation, is in its final form ready for packaging for sale or transfer to consumer; and includes all ingredients whether or not the ingredients contain cannabinoids.¶

(b) For sampling and testing purposes, is equivalent to a "finished inhalable cannabinoid product" as that term is defined in OAR 333-007-0310.¶

(6) "Harvested industrial hemp"¶

(a) Has the meaning given that term in OAR 845-025-1015.¶

(b) For sampling and testing purposes, is equivalent to "marijuana" as that term is defined in OAR 333-007-0310.¶

(7) "Hemp cannabinoid product"¶

(a) Has the meaning given that term in OAR 845-025-1015.¶

(b) For sampling and testing purposes, is equivalent to a cannabinoid product as that term is defined in OAR 333-007-0310.¶

(8) "Hemp kief" has the same meaning as "kief" in OAR 603-048-0010.¶

(9) "Industrial hemp concentrate"¶

(a) Has the meaning given that term in ORS 571.269; and includes hemp kief.¶

(b) For sampling and testing purposes, is equivalent to a "cannabinoid concentrate or extract" as that term is defined in OAR 333-007-0310.¶

(10) "Industrial hemp extract"¶

(a) Has the meaning given that term in ORS 571.269.¶

(b) For sampling and testing purposes, is equivalent to a "cannabinoid concentrate or extract" as that term is defined in OAR 333-007-0310.¶

(11) "Usable hemp"¶

(a) Has the meaning given that term in OAR 845-025-1015.¶

(b) For sampling and testing purposes, is equivalent to "usable marijuana" as that term is defined in OAR 333-007-0310.

Statutory/Other Authority: ORS 475C.017, ORS 571.336, 571.337

Statutes/Other Implemented: ORS 571.336, 571.337

AMEND: 845-025-5815

RULE SUMMARY: This rule details how to order tests for industrial hemp and hemp items. The changes to this rule harmonize this rule with recent changes to OAR 333-007-0315 and enable hemp grower certificate holders to transfer usable hemp and hemp kief made by the grower to OLCC licensees, consistent with their Oregon Department of Agriculture hemp grower license privileges.

CHANGES TO RULE:

845-025-5815

#### Ordering Tests for Industrial Hemp and Hemp Items

- (1) A certificate holder must enter a batch of industrial hemp or a hemp item into CTS prior to requesting testing under these rules.¶
  - (2) To request a compliance test, a requestor must provide a laboratory licensee, prior to the laboratory taking samples, with at a minimum, the following information as applicable:¶
    - (a) The licensee's or certificate holder's license or certificate number.¶
    - (b) The name, address, and contact information of the licensee or certificate holder.¶
    - (c) Whether the item is harvested industrial hemp or a hemp item and, if the item is a hemp item, the type of hemp item.¶
    - (d) Harvest lot identifier that is associated with the batch, if applicable.¶
    - (e) Process lot number or identifier that is associated with the batch, if applicable.¶
    - (f) Batch numbers or identifiers to be sampled.¶
    - (g) Total mass of each batch to be sampled.¶
    - (h) For hemp cannabinoid products, all intended units of sale.¶
    - (i) Identification of the test or tests the laboratory is being requested to conduct.¶
    - (j) Whether the test or tests being requested are compliance tests.¶
    - (k) Whether the test or tests being requested are for quality control, research and development, or any purpose other than a compliance test.¶
    - (l) Whether a batch is being re-sampled because of a failed test and if so, the date the failed test result was received by the licensee and laboratory licensee's license number of the laboratory that conducted the initial test.¶
    - (m) Whether the hemp or hemp item was remediated, if remediation is permitted under OAR 845-025-5850.¶
    - (n) For tests requested by a certificate holder, whether the harvested industrial hemp or hemp item is intended to be transferred to a licensee.¶
    - (o) For tests requested by a processor, whether the hemp item is intended to be transferred to an unlicensed person in accordance with OAR 845-025-3320.¶
    - (p) If a wholesaler is requesting a test on behalf of a processor, the wholesaler must provide in addition to their own license number and name, the license number and name of that processor.¶
  - (3) If the licensee or certificate holder informs a laboratory licensee that a batch of hemp or a hemp item is being re-sampled after a failed test, the licensee or certificate holder must provide the laboratory licensee with documentation of the failed test as applicable.¶
  - (4) It is the responsibility of the licensee or certificate holder to order the tests necessary to comply with these rules.¶
  - (5) Limitations on the testing that a licensee or certificate holder may request.¶
    - (a) A licensee may only order a compliance test for a hemp item that the licensee has processed, except a wholesaler who may order a compliance test.¶
    - (b) An industrial hemp grower certificate holder may order a compliance test for any harvested industrial hemp, usable hemp, or hemp kief in the certificate holder's possession at the location where the certificate is held.¶
    - (c) An industrial hemp handler certificate holder may order a compliance test for any harvested industrial hemp or hemp item in the certificate holder's possession at the location where the certificate is held.¶
  - (6) More than one compliance test for the same harvested industrial hemp or hemp item may not be ordered.¶
  - (7) It is a violation of these rules for a licensee to:¶
    - (a) Fail to provide the information required in these rules to the laboratory licensee; or¶
    - (b) Submit false or misleading information to a laboratory licensee or a directed agent to submit false or misleading information to a laboratory licensee.¶
  - (8) Once a test order has been submitted to a laboratory licensee by a licensee or certificate holder and at least one test has already been performed, the order may not be canceled unless written permission is given by the Commission, the Oregon Health Authority, or the Oregon Department of Agriculture.
- Statutory/Other Authority: ORS 475C.017, ORS 571.336, 571.337

Statutes/Other Implemented: ORS 571.336, 571.337

AMEND: 845-025-5820

RULE SUMMARY: This rule describes compliance testing requirements for industrial hemp and hemp items. The changes to this rule enable hemp grower certificate holders to transfer usable hemp and hemp kief made by the grower to OLCC licensees, consistent with their Oregon Department of Agriculture hemp grower license privileges.

CHANGES TO RULE:

845-025-5820

#### Compliance Testing Requirements for Industrial Hemp and Hemp Items

(1) Harvested industrial hemp.¶

(a) A certificate holder must have every batch from a harvest lot of harvested industrial hemp tested as required and in the same manner as marijuana under OAR 333-007-0320; and.¶

(b) A certificate holder must have every batch from a harvest lot of harvested industrial hemp tested for adult use cannabinoid and CBD concentration as described in OAR 333-007-0430, in addition to and notwithstanding whether this test would be required for marijuana under OAR 333-007-0320.¶

(2) Usable hemp.¶

(a) A ~~Commission-certified hemp handler~~ certificate holder must have every batch from a harvest lot of usable hemp tested as required and in the same manner as usable marijuana under OAR 333-007-0320; and.¶

(b) A ~~Commission-certified hemp handler~~ certificate holder must have every batch from a harvest lot of usable hemp tested for adult use cannabinoid and CBD concentration as described in OAR 333-007-0430, in addition to and notwithstanding whether this test would be required for usable marijuana under OAR 333-007-0320.¶

(3) Industrial hemp concentrates and industrial hemp extracts.¶

(a) A Commission-certified hemp handler or processor must have every process lot of industrial hemp concentrate or industrial hemp extract tested as required and in the same manner as cannabinoid concentrates and extracts under OAR 333-007-0330; and.¶

(b) A Commission-certified hemp handler must have every process lot of industrial hemp concentrate or industrial hemp extract tested for adult use cannabinoid and CBD concentration as described in OAR 333-007-0430, in addition to and notwithstanding whether this test would be required for a cannabinoid concentrate or extract under OAR 333-007-0330.¶

(c) A Commission-certified hemp grower must have every process lot of hemp kief tested as required and in the same manner as cannabinoid concentrates and extracts under OAR 333-007-0330; and.¶

(d) A Commission-certified hemp grower must have every process lot of hemp kief tested for adult use cannabinoid and CBD concentration as described in OAR 333-007-0430, in addition to and notwithstanding whether this test would be required for a cannabinoid concentrate or extract under OAR 333-007-0330.¶

(4) Hemp cannabinoid products.¶

(a) A Commission-certified hemp handler or processor must have every process lot of hemp cannabinoid product tested as required and in the same manner as cannabinoid products under OAR 333-007-0340; and.¶

(b) A Commission-certified hemp handler must have every process lot of hemp cannabinoid product tested for adult use cannabinoid and CBD concentration in accordance with OAR 333-007-0430, notwithstanding whether this test would be required for a cannabinoid product under OAR 333-007-0340.¶

(5) Finished inhalable hemp cannabinoid products. A Commission-certified hemp handler or processor must have every process lot of finished inhalable hemp cannabinoid product tested as required and in the same manner as finished inhalable cannabinoid products under OAR 333-007-0340.

Statutory/Other Authority: ORS 475C.017, ORS 571.336, 571.337

Statutes/Other Implemented: ORS 571.336, 571.337

AMEND: 845-025-5830

RULE SUMMARY: This rule details batch testing requirements for industrial hemp and hemp items. The changes to this rule enable hemp grower certificate holders to transfer usable hemp and hemp kief made by the grower to OLCC licensees, consistent with their Oregon Department of Agriculture hemp grower license privileges.

CHANGES TO RULE:

845-025-5830

#### Batch Testing Requirements for Industrial Hemp and Hemp Items

##### (1) Harvested industrial hemp: ¶

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

(b) A certificate holder must separate each harvest lot of harvested industrial hemp harvested on or after July 1, 2022 into no larger than 50.0 pound batches. ¶

##### (2) Usable hemp: ¶

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

(b) A processor or ~~Commission-certified hemp handler~~ certificate holder must separate each harvest lot of usable hemp harvested on or after July 1, 2022 into no larger than 50.0 pound batches. ¶

##### (3) Industrial hemp concentrates or extracts: ¶

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

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

##### (4) Hemp cannabinoid products: ¶

(a) A processor or Commission-certified hemp 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 OAR 845-025-2760. ¶

##### (5) Finished inhalable hemp cannabinoid products: ¶

(a) A process lot of a finished inhalable hemp cannabinoid product is considered a batch. ¶

(b) A batch of a finished inhalable hemp cannabinoid product must be made form a standard operating procedure and result in one finished inhalable cannabinoid product that is uniform in flavor, texture, and form. ¶

##### (6) Batch identifiers: ¶

(a) A Commission-certified hemp grower must: ¶

(A) Assign each batch grown by the grower a unique numerical identifier as described in OAR 603-048-0500 and enter this information into CTS. ¶

(B) Record the lot identifier or unique identifier for any harvested industrial hemp not grown by the handler as described in OAR 603-048-0500 and enter this information into CTS. ¶

(C) Assign each batch of usable hemp or hemp kief processed by the grower a process lot identifier as described in OAR 603-048-0500 and enter this information into CTS. A grower may not reuse a process lot identifier. ¶

(B) Record the process lot identifier or unique identifier for any usable hemp or hemp kief not processed by the grower as described in OAR 603-048-0500 and enter this information into CTS. ¶

(b) A Commission-certified hemp handler must: ¶

(A) Assign each batch processed by the handler a process lot identifier as described in OAR 603-048-0500 and enter this information into CTS. A handler may not reuse a process lot identifier. ¶

(B) Record the lot identifier or unique identifier for any harvested industrial hemp or hemp item not processed by the handler as described in OAR 603-048-0500 and enter this information into CTS. ¶

(c) A processor must assign every process lot a unique identification number and enter this information into CTS. ¶

##### (7) Sampling and sample size requirements for compliance testing: ¶

(a) Harvested industrial hemp and usable hemp must be sampled as described for marijuana or usable marijuana in OAR 333-007-0360. ¶

(b) Industrial hemp concentrates, industrial hemp extracts, hemp cannabinoid products, and finished inhalable hemp cannabinoid products must be sampled as required in OAR 333-007-0360 for the equivalent marijuana item identified in OAR 845-025-5800.¶

(8) 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 475C.017, ORS 571.336, 571.337

Statutes/Other Implemented: ORS 571.336, 571.337

AMEND: 845-026-0400

RULE SUMMARY: This rule sets the scope, definitions, purpose, and effective date for hemp item concentration and serving size limits pursuant to ORS 571.309. The changes to this rule separates limits established pursuant to ORS 475C.257 from limits established pursuant to ORS 571.309; establish a serving size limit for hemp tinctures; and establish conditions for the presence of artificially derived cannabinoids.

CHANGES TO RULE:

845-026-0400

Hemp Item/Maximum Concentration and Serving Size Limits for Industrial Hemp Products: Definitions, Purpose, Scope and Effective Date.

(1) Applicability. ¶

(a) Except as provided in subsection (b) of this section, this rule applies to industrial hemp products that: ¶

(A) Contain cannabinoids and are intended for human consumption or intended for human use; and ¶

(B) Are offered for sale ~~or, transfer, or delivery~~ to a consumer in Oregon or imported into Oregon for delivery to a consumer ~~on or after July 1, 2022.~~ ¶

(b) This rule does not apply to a hemp item, as that term is defined in OAR 845-025-1015, that is subject to the concentration and serving size limits in OAR 845-025-2760. ¶

(2) An industrial hemp product meets the concentration limits permitted under this rule if: ¶

(a) The total delta-9-THC as calculated in accordance with OAR 333-064-0100(4) does not exceed the maximum amount of THC permitted by more than 10 percent; ¶

(b) The total delta-9-THC as calculated in accordance with OAR 333-064-0100(4) does not exceed the maximum concentration of THC permitted by more than 10 percent; and ¶

(c) The testing done in accordance with ORS 571.330 or 571.339 was performed using a method with a LOQ sufficient to demonstrate that the total delta-9-THC does not exceed the maximum amount of THC permitted in a container by more than 10 percent. ¶

(3) The maximum concentration and amount of total delta-9-THC permitted in a container and the maximum concentration or amount of total delta-9-THC permitted in a serving is listed in Table 3, incorporated by reference. ¶

(4) An industrial hemp product may ~~not only~~ contain any artificially derived cannabinoids. ¶

~~(5) Serving size is as determined by the processor and must if: ¶~~

(a) Until January 2, 2025: ¶

(A) The industrial hemp product contains only artificially derived cannabinoid cannabitol (CBN); ¶

(B) The product is not intended for human inhalation; and ¶

(C) The CBN: ¶

(i) Is not a controlled substance under OAR chapter 855, division 80; ¶

(ii) Was manufactured in compliance with applicable serving size limits, laws relating to food safety; and ¶

~~(6D) An industrial hemp product that does not fall within a category in Table 3 must meet the concentration and serving size limit.~~ The manufacturer of the CBN: ¶

(i) Has taken substantial steps towards meeting the requirements described in subsection (1)(c) of this rule, including but not limited to initiating or contracting to initiate safety studies; ¶

(ii) Has conducted a hazard analysis as described in 21 CFR 117.130 to identify foreseeable hazards in the process of manufacturing the CBN; and ¶

(iii) Has documented any preventative controls, as described in 21 CFR 117.135 that minimize or prevent any hazards requiring preventive control; or ¶

(b) At any time: ¶

(A) The artificially derived cannabinoid: ¶

(i) Is not a controlled substance under OAR chapter 855, division 80; ¶

(ii) Was manufactured in compliance with applicable to a cannabinoid edible in Table 3. ¶

~~(7) Civil Penalties. The Commission laws relating to food safety; ¶~~

(iii) In the Commission's judgment, is not impairing or intoxicating at the intended concentration in the product; and ¶

(iv) Has been reported as a naturally-occurring component of the plant Cannabis family Cannabaceae in at least three peer-reviewed publications. ¶

(B) The product is not intended for human ~~impose a civil pen~~halation; and ¶

(C) The manufacturer of the artificially derived cannabinoid: ¶

(i) Has made a "Generally of no more than \$10,000 for each violation of ORS 475B.254 by a person other than a marijuana retailer that holds a license issued under ORS 475B.105 selling an industrial hemp product to a

~~consumer that exceeds the concentration and serving size limits in this rule~~Recognized as Safe" (GRAS) determination for the artificial cannabinoid; ¶

(ii) Has received a Food and Drug Administration (FDA) letter responding to a "Generally Recognized as Safe" (GRAS) notice for the artificially derived cannabinoid manufactured by the same method that the manufacturer uses, affirming that FDA has no questions about the notice; or ¶

(iii) Has received an FDA letter of acknowledgement with no objections in response to a New Dietary Ingredient notification for the artificially derived cannabinoid manufactured by the same method that the manufacturer uses. ¶

(5) Serving size is as determined by the manufacturer and must comply with applicable serving size limits. ¶

(6) An industrial hemp product that does not fall within a category in Table 3 must meet the concentration and serving size limits applicable to a cannabinoid edible in Table 3.

Statutory/Other Authority: ORS 475B.025, ORS 475B.254, 475B.41617, 475C.405, ORS 571.309, 20214 OL Ch. 542,16 Sec. 172

Statutes/Other Implemented: ORS 475B.254571.309, 20214 OL Ch. 542,16 Sec. 17, ORS 475B.6259

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



**OAR 845-026-0400**

**Table 3**

<b>INDUSTRIAL HEMP PRODUCT THC CONCENTRATION AND SERVING SIZE LIMITS</b>			
<b>Type of Industrial Hemp Product</b>	<b>Maximum Amount of Total Delta-9-THC Per Serving</b>	<b>Maximum Amount of Total Delta-9-THC per Container</b>	<b>Maximum Concentration of Total Delta-9-THC</b>
Hemp Edibles	2 mg	20 mg	0.3%
Hemp Topicals	N/A	N/A	0.3%
Hemp Transdermal Patches	2 mg	20 mg	0.3%
Hemp Tinctures	2 mg	100 mg	0.3%
Usable Hemp	N/A	N/A	0.3%
Industrial Hemp Concentrates or Extracts	N/A	N/A	0.3%
Cannabinoid Hemp Products Other than Hemp Edibles, Topicals, Tinctures, or Transdermal Patches	2 mg	20 mg	0.3%

ADOPT: 845-026-0410

RULE SUMMARY: This rule sets the scope, definitions, purpose, and effective date for hemp item concentration and serving size limits pursuant to ORS 475C.257. The changes to this rule separates limits established pursuant to ORS 475C.257 from limits established pursuant to ORS 571.309; establish a serving concentration limit for hemp tinctures; and establish conditions for the presence of adult use cannabinoids that are artificially derived cannabinoids.

CHANGES TO RULE:

845-026-0410

Adult Use Cannabinoid Concentration Level for Industrial Hemp Commodities or Products Constituting Marijuana Items: Definitions, Purpose, Scope and Effective Date

(1) Applicability. ¶

(a) Except as provided in subsection (b) of this section, this rule applies to industrial hemp commodities or products that: ¶

(A) Contain cannabinoids and are intended for consumption or use by humans or animals; and ¶

(B) Are offered for sale or transfer to a consumer in Oregon or imported into Oregon for delivery to a consumer. ¶

(b) Hemp items, as that term is defined in OAR 845-025-1015, subject to the concentration and serving size limits in OAR 845-025-2760 must also comply with the requirements in OAR 845-025-2760. ¶

(2) An industrial hemp commodity or product does not exceed the concentration limits established under this rule if: ¶

(a) The total delta-9-THC as calculated in accordance with OAR 333-064-0100(4) does not exceed the maximum amount of THC permitted by more than 10 percent; ¶

(b) The total delta-9-THC as calculated in accordance with OAR 333-064-0100(4) does not exceed the maximum concentration of THC permitted by more than 10 percent; and ¶

(c) The testing done in accordance with ORS 571.330 or 571.339 was performed using a method with a LOQ sufficient to demonstrate that the total delta-9-THC does not exceed the maximum amount of THC permitted in a container by more than 10 percent. ¶

(3) Table 4, incorporated by reference, establishes the maximum concentration and amount of total delta-9-THC for a container and the maximum concentration or amount of total delta-9-THC for a serving. ¶

(4) An industrial hemp commodity or product may contain an adult use cannabinoid that is an artificially derived cannabinoid only if: ¶

(a) Until January 2, 2025: ¶

(A) The industrial hemp product contains only artificially derived cannabinoid cannabitol (CBN); ¶

(B) The product is not intended for human inhalation; and ¶

(C) The CBN: ¶

(i) Is not a controlled substance under OAR chapter 855, division 80; ¶

(ii) Was manufactured in compliance with applicable laws relating to food safety; and ¶

(D) The manufacturer of the CBN: ¶

(i) Has taken substantial steps towards meeting the requirements described in subsection (1)(c) of this rule, including but not limited to initiating or contracting to initiate safety studies; ¶

(ii) Has conducted a hazard analysis as described in 21 CFR 117.130 to identify foreseeable hazards in the process of manufacturing the CBN; and ¶

(iii) Has documented any preventative controls, as described in 21 CFR 117.135 that minimize or prevent any hazards requiring preventive control; or ¶

(b) At any time: ¶

(A) The artificially derived cannabinoid: ¶

(i) Is not a controlled substance under OAR chapter 855, division 80; ¶

(ii) Was manufactured in compliance with applicable laws relating to food safety; ¶

(iii) In the Commission's judgment, is not impairing or intoxicating at the intended concentration in the product; and ¶

(iv) Has been reported as a naturally-occurring component of the plant Cannabis family Cannabaceae in at least three peer-reviewed publications. ¶

(B) The product is not intended for human inhalation; and ¶

(C) The manufacturer of the artificially derived cannabinoid: ¶

(i) Has made a "Generally Recognized as Safe" (GRAS) determination for the artificial cannabinoid; ¶

(ii) Has received a Food and Drug Administration (FDA) letter responding to a "Generally Recognized as Safe" (GRAS) notice for the artificially derived cannabinoid manufactured by the same method that the manufacturer uses, affirming that FDA has no questions about the notice; or ¶

(iii) Has received an FDA letter of acknowledgement with no objections in response to a New Dietary Ingredient notification for the artificially derived cannabinoid manufactured by the same method that the manufacturer uses.

¶

(5) Serving size is as determined by the manufacturer and must comply with applicable serving size limits. ¶

(6) An industrial hemp commodity or product that does not fall within a category in Table 4 must meet the concentration and serving size limits applicable to a cannabinoid edible in Table 4. ¶

(7) Civil Penalties. The Commission may impose a civil penalty of no more than \$10,000 for each violation of ORS 475C.257 against a person other than a commission-licensed marijuana retailer for selling an industrial hemp commodity or product to a consumer that exceeds the concentration and serving size limits in this rule.

Statutory/Other Authority: ORS 475C.017, ORS 475C.257, 2024 OL Ch. 16 Sec. 9

Statutes/Other Implemented: ORS 475C.257, 2024 OL Ch. 16 Sec. 9

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

**OAR 845-026-0410**

**Table 4**

<b>INDUSTRIAL HEMP PRODUCT THC CONCENTRATION AND SERVING SIZE LIMITS</b>			
<b>Type of Industrial Hemp Product</b>	<b>Maximum Amount of Total Delta-9-THC Per Serving</b>	<b>Maximum Amount of Total Delta-9-THC per Container</b>	<b>Maximum Concentration of Total Delta-9-THC</b>
Hemp Edibles	2 mg	20 mg	0.3%
Hemp Topicals	N/A	N/A	0.3%
Hemp Transdermal Patches	2 mg	20 mg	0.3%
Hemp Tinctures	2 mg	100 mg	0.3%
Usable Hemp	N/A	N/A	0.3%
Industrial Hemp Concentrates or Extracts	N/A	N/A	0.3%
Cannabinoid Hemp Products Other than Hemp Edibles, Topicals, Tinctures, or Transdermal Patches	2 mg	20 mg	0.3%

ADOPT: 845-026-0415

RULE SUMMARY: This rule establishes standards for approving industrial hemp products that contain artificially derived cannabinoids.

CHANGES TO RULE:

845-026-0415

Standards for Approving Industrial Hemp Products That Contain Artificially Derived Cannabinoids

An industrial hemp product that contains an artificially derived cannabinoid may be approved on or after January 1, 2026, if:

(1) The artificially derived cannabinoid:

(a) Is not a controlled substance under OAR chapter 855, division 80;

(b) Was manufactured in compliance with applicable laws relating to food safety;

(c) In the Commission's judgment, is not impairing or intoxicating at the intended concentration in the product; and

(d) Has been reported as a naturally-occurring component of the plant Cannabis family Cannabaceae in at least three peer-reviewed publications.

(2) The product is not intended for human inhalation; and

(3) The manufacturer of the artificially derived cannabinoid:

(a) Has made a "Generally Recognized as Safe" (GRAS) determination for the artificial cannabinoid;

(b) Has received a Food and Drug Administration (FDA) letter responding to a "Generally Recognized as Safe" (GRAS) notice for the artificially derived cannabinoid manufactured by the same method that the manufacturer uses, affirming that FDA has no questions about the notice; or

(c) Has received an FDA letter of acknowledgement with no objections in response to a New Dietary Ingredient notification for the artificially derived cannabinoid manufactured by the same method that the manufacturer uses.

Statutory/Other Authority: ORS 475C.017, ORS 571.309, 2024 OL Ch. 16 Sec. 9

Statutes/Other Implemented: ORS 571.309, 2024 OL Ch. 16 Sec. 9

ADOPT: 845-026-4110

RULE SUMMARY: This rule details the procedures and requirements for presumptive testing of hemp crops.

CHANGES TO RULE:

845-026-4110

Presumptive Testing

(1) For the purpose of this rule: ¶

(a) "Crop" has the meaning given that term in OAR 603-048-0010. ¶

(b) "Composite Sample" means cuttings from at least five cannabis plants removing the top five to eight inches and compositing in one receptacle for purposes of testing. ¶

(c) "Grow site" has the meaning given that term in OAR 603-048-0010. ¶

(d) "Presumptive test" means testing in accordance with this rule. ¶

(e) "Production area" has the meaning given that term in OAR 603-048-0010. ¶

(2) For the purposes of this rule: ¶

(a) The number of production areas at a grow site is determined by a representative of the State Department of Agriculture or the Oregon Liquor and Cannabis Commission who is on-site at the time of the sampling. The representative may consider documents submitted by the licensee associated with the grow site and the number of production areas at the site actively producing cannabis at the time of the sampling. ¶

(b) It is within the discretion of a representative of the State Department of Agriculture or the Oregon Liquor and Cannabis Commission who is on-site at the time of the sampling to determine what qualifies as different areas of the grow site. ¶

(3) In addition to any sampling conducted under OAR 603-048-0600, a representative of the State Department of Agriculture or the Oregon Liquor and Cannabis Commission may sample from an industrial hemp grow site licensed under ORS 571.281 for the purposes of conducting a presumptive test. ¶

(4) To conduct sampling for a presumptive test: ¶

(a) A minimum of three composite samples from mature cannabis plants or a minimum of three composite samples from immature cannabis plants must be collected. Each composite sample must be taken from a different production area, or if the grow site has less than three production areas with growing cannabis, each composite sample must be taken from three different areas of the grow site; ¶

(b) Grow sites with multiple production areas must have a composite sample collected from at least one out of every 10 separate production areas; and ¶

(c) Sampling is not required to be representative of the crop, grow site, or production area. ¶

(5) All cannabis plants at a grow site are presumptively marijuana for purposes of Section 2 of 2024 Oregon Laws Chapter 16 if sampling at the grow site meets any of the following criteria: ¶

(a) At least 50 percent of composite samples taken from mature cannabis plants test at or above five percent total delta-9-THC; ¶

(b) The average total delta-9-THC among the composite samples taken from mature cannabis plants tests at or above five percent; ¶

(c) At least 50 percent of composite samples taken from immature cannabis plants test at or above a 5:1 ratio of total THC to total CBD, with total CBD calculated as described in OAR 333-064-0100, and the total THC concentration of each composite sample exceeds 0.3 percent; ¶

(d) At least 50 percent of composite samples taken from immature cannabis plants test at or above one percent total delta-9-THC; or ¶

(e) The average total delta-9-THC among the composite samples taken from immature cannabis plants tests at or above one percent total delta-9-THC.

Statutory/Other Authority: ORS 475C.017, 2024 OL Ch. 16 Sec. 2

Statutes/Other Implemented: 2024 OL Ch. 16 Sec. 2