

# UPDATE FOR INDUSTRY ON THE BILL & TECHNICAL RULES PACKAGE

## RULES UPDATE SERIES SESSION 3: HEMP



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# RULES UPDATE

## ACCESSING THE RULES

- Current administrative rule language can always be accessed through Oregon Secretary of State: <https://secure.sos.state.or.us/oard/ruleSearch.action>



^ Browse By Chapter

845 - Oregon Liquor and Cannabis Commission

Order by:  Chapter Number  Chapter Name

- This rule package included changes in Chapter 845 [Division 25](#) and [Division 26](#).

^ Division 25 - RECREATIONAL MARIJUANA

^ Division 26 - ADULT USE CANNABIS AND HEMP CONCENTRATION LIMITS

- A document showing the changes from previous rule is available: [https://www.oregon.gov/olcc/Docs/commission\\_minutes/2021/Draft-Final-Rule-2021-Marijuana-Bill-and-Technical-Package.pdf](https://www.oregon.gov/olcc/Docs/commission_minutes/2021/Draft-Final-Rule-2021-Marijuana-Bill-and-Technical-Package.pdf)
- This document does **not** include all rules, only rules that have changed.

# RULES UPDATE

## SCOPE OF RULE CHANGES

- The Bill & Technical Rule Package adopted by the Commission on December 28, 2021 covers a wide range of subjects, including but not limited to:
  - Violation reclassification
  - THC concentration limits for marijuana items
  - THC concentration limits for hemp items
  - Regulation of artificially derived cannabinoids
  - Updating license transfer privileges
  - Interjurisdictional home delivery
  - Regulation of industrial hemp-derived vapor items
  - Miscellaneous technical fixes
- This webinar session will focus generally on changes impacting hemp, especially outside the OLCC adult use marijuana market.
- This webinar reflects the status of OLCC rules as of January 1, 2022. Anyone viewing these materials at a later time should verify whether the rules have changed.

# RULES UPDATE

## NEW OREGON REVISED STATUTES

- The 2021 Edition of the Oregon Revised Statutes (ORS) has been published.
- ORS 475B, which used to house the bulk of Oregon's cannabis laws, has been replaced.
- Now the bulk of Oregon's cannabis laws are in ORS 475C:  
[https://www.oregonlegislature.gov/bills\\_laws/ors/ors475c.html](https://www.oregonlegislature.gov/bills_laws/ors/ors475c.html)
- They have also been updated to include legislative changes from the 2020 and 2021 legislative sessions.
- Statutes governing the Oregon Department of Agriculture's hemp program remain in ORS 571:  
[https://www.oregonlegislature.gov/bills\\_laws/ors/ors571.html](https://www.oregonlegislature.gov/bills_laws/ors/ors571.html)

# RULES UPDATE

## SCOPE OF CANNABINOID LIMITS FOR HEMP

- Sale to minors
  - Effective July 19, 2021:
    - OAR [845-026-0300](#)
- Sale to Oregon consumers
  - Effective July 1, 2022:
    - OAR [845-026-0400](#) (hemp products **outside** of the OLCC marijuana market)
  - Effective March 1, 2019; amended effective January 1, 2022:
    - OAR [845-025-2760](#) (hemp products **within** the OLCC marijuana market)
- Export
  - Current law in effect since July 1, 2018; amended effective January 1, 2022
  - ORS [475C.229](#) (formerly ORS 475B.227)

# RULES UPDATE

## REGULATION OF HEMP IN OREGON

- **Oregon Department of Agriculture (ODA):**
  - Primary hemp regulator. Licenses hemp growers, hemp handlers, and agricultural hemp seed producers.
  - Responsible for hemp testing rules, which follow marijuana testing rules.
  - Also issues food safety licenses, which are required for manufacture of edible items, or products intended for use as ingredients in edible items.
- **Oregon Liquor and Cannabis Commission (OLCC):**
  - Primary regulator of marijuana.
  - Regulates hemp entering Oregon's licensed adult use marijuana system.
  - Sets cannabinoid limits for hemp products for sale to minors and sale to adults.
  - Regulates testing and labeling of industrial hemp-derived vapor items.

# RULES UPDATE

## CATEGORIES OF HEMP

- “Industrial Hemp”: Live plants, viable seeds, harvested crops, “minimally processed” biomass (dried, chopped, separated). Does not include “usable hemp” (smokable flower). OAR [603-048-0010\(24\)](#)
- “Industrial Hemp Commodity or Product”: Items made from hemp that contain hemp or chemical substances derived from hemp. May or may not include cannabinoids. E.g. hemp textiles, hemp paper, hempcrete, hemp hearts or foods made from hemp hearts, hemp seed oil, hemp edibles or tinctures, hemp topicals, hemp extracts, hemp concentrates, usable hemp. OAR [603-048-0010\(25\)](#)
- “Hemp Item”: A subset of industrial hemp commodities and products that generally contains cannabinoids and is intended for consumption or use. Includes hemp edibles, hemp tinctures, hemp topicals, hemp extracts, hemp concentrates, usable hemp, and other hemp cannabinoid products (e.g. industrial hemp-derived vapor items with non-cannabis additives). Does not include grain or fiber products without cannabinoids. OAR [603-048-2310\(19\)](#)

# RULES UPDATE

## CATEGORIES OF HEMP

- Types of “Hemp Items”:
  - “Industrial hemp concentrate”
  - “Industrial hemp extract”
  - “Usable hemp”
  - “Hemp cannabinoid products”:
    - “Hemp edible”
    - “Hemp tincture”
    - “Hemp topical”
    - “Hemp transdermal patch”
  - Any other item that combines two or more of: usable hemp; industrial hemp concentrates; industrial hemp extracts; an added substance (not including marijuana).

# RULES UPDATE

## CATEGORIES OF HEMP

<i>Combined with</i>	<b>Usable Hemp</b>	<b>Industrial Hemp Concentrate</b>	<b>Industrial Hemp Extract</b>	<b>Hemp Cannabinoid Product</b>	<b>Non-Cannabis Ingredients</b>
<b>Usable Hemp</b>	<b>Usable Hemp</b>	Hemp Cannabinoid Product	Hemp Cannabinoid Product	Hemp Cannabinoid Product	Hemp Cannabinoid Product
<b>Industrial Hemp Concentrate</b>	Hemp Cannabinoid Product	<b>Industrial Hemp Concentrate</b>	Hemp Cannabinoid Product	Hemp Cannabinoid Product	Hemp Cannabinoid Product
<b>Industrial Hemp Extract</b>	Hemp Cannabinoid Product	Hemp Cannabinoid Product	<b>Industrial Hemp Extract</b>	Hemp Cannabinoid Product	Hemp Cannabinoid Product
<b>Hemp Cannabinoid Product</b>	Hemp Cannabinoid Product	Hemp Cannabinoid Product	Hemp Cannabinoid Product	<b>Hemp Cannabinoid Product</b>	Hemp Cannabinoid Product
<b>Non-Cannabis Ingredients</b>	Hemp Cannabinoid Product	Hemp Cannabinoid Product	Hemp Cannabinoid Product	Hemp Cannabinoid Product	<b>Not a Hemp Item</b>

- For example, a hemp vape cartridge made by combining an industrial hemp extract with non-cannabis terpenes or flavors is a hemp cannabinoid product.
- Note that “industrial hemp-derived vapor items,” which can include certain hemp extracts, concentrates, and cannabinoid products, have additional requirements that will be covered later in this presentation.

# RULES UPDATE

## CATEGORIES OF HEMP

- The difference between an “Industrial hemp concentrate” and “Industrial hemp extract” is how they are made.
- Both involve separating cannabinoids from hemp.
- If the cannabinoids were separated from hemp using hydrocarbon solvents (e.g. butanes or propane) or by using carbon dioxide (CO<sub>2</sub>) as an extraction solvent, then the result is an industrial hemp extract.
- If the cannabinoids were separated from hemp by purely mechanical methods, or by using solvents other than hydrocarbons or CO<sub>2</sub>, then the result is an industrial hemp concentrate.

# RULES UPDATE

## WHO CAN MANUFACTURE HEMP MATERIALS

- **Hemp Growers** (ODA): Can grow industrial hemp.
- **Hemp Handlers** (ODA): Can transform industrial hemp into hemp commodities and products.
- **Agricultural Hemp Seed Producer** (ODA): Can process agricultural hemp seed.
- **Processors** (OLCC): Processors with a hemp endorsement can process industrial hemp or hemp items. Processors who handle industrial hemp also need an ODA hemp handler license.
- **Unlicensed\* Persons or Businesses**: Can process hemp commodities or products into other hemp commodities or products. Cannot handle “industrial hemp.”
- **Out-of-State Manufacturers**: Requirements vary by state. Hemp commodities and products that do not exceed 0.3% total  $\Delta^9$ -THC may be imported to Oregon.

\*Anyone manufacturing foods or food ingredients needs to comply with ODA food safety requirements, including licensing requirements.



# RULES UPDATE

## WHO CAN SELL HEMP ITEMS TO CONSUMERS

- Selling hemp items does not require any specific license.
- **OLCC-licensed marijuana retailers:** Can sell hemp to adults (21+) and OMMP cardholders (18+) subject to OLCC tracking and labeling requirements, and OLCC limits on THC and artificially derived cannabinoids.
- **Other businesses:** Can sell hemp to minors and adults subject to OLCC limits on THC and artificially derived cannabinoids. Includes:
  - Businesses with OLCC-issued alcohol licenses;
  - OLCC retail sales agents (“liquor stores”);
  - Businesses without any OLCC license or ODA hemp license.
- Any business that sells foods needs to comply with ODA food safety requirements, including food safety licensing requirements.



# RULES UPDATE

## PRODUCT TESTING REQUIREMENTS

- OAR [603-048-1500](#); OARs [603-048-2300](#) to [-2500](#); ORS [571.330](#); ORS [571.339](#)
- **Finished product testing is required** for all “hemp items.”
- Any Oregon business that sells hemp items to consumers **must obtain and maintain documentation of the test results** for any required compliance tests: copies of the certificate of analysis (“COA”).
- If the hemp item was processed or manufactured in Oregon, compliance testing must be performed by an OLCC-licensed laboratory that is accredited by the Oregon Environmental Laboratory Accreditation Program (ORELAP).
- If the hemp item was processed or manufactured in another state, it must be tested by “a laboratory accredited to the same or more stringent standards” as an OLCC-licensed, ORELAP-accredited laboratory.



# RULES UPDATE

## ALCOHOL AND HEMP ITEMS

- At this time, no alcoholic beverages in Oregon are permitted to contain CBD or THC, even if it is derived from hemp.
- OAR [845-006-0345\(14\)](#): “No licensee or permittee will manufacture, store, transport, sell, or offer to sell an alcoholic beverage that is manufactured with any substance derived from cannabis, or cannabinoids derived from any source, unless the substance has been approved for use in alcoholic beverages by the Alcohol and Tobacco Tax and Trade Bureau (TTB) and the U.S. Food and Drug Administration (FDA). Violation of this section is a Category III violation.”
- TTB has approved some alcoholic beverages that contain ingredients derived from hemp seeds, but indicates that they will continue to consult with FDA on the regulatory status of other hemp ingredients.
- [TTB Industry Circular 2019-1](#)
- [FDA Regulation of Cannabis and Cannabis-Derived Products](#)



# RULES UPDATE

## ARTIFICIALLY DERIVED CANNABINOIDS

- What is an artificially derived cannabinoid (ADC)? OAR [845-025-1015\(3\)](#)

(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, by rule.

# RULES UPDATE

## ARTIFICIALLY DERIVED CANNABINOIDS

- What is an artificially derived cannabinoid (ADC)? OAR [845-025-1015\(3\)](#)
- Key feature is how it's made: "by a chemical reaction that changes the molecular structure of any chemical substance derived from" cannabis.
- May or may not be intoxicating.
- May or may not also occur naturally in cannabis.
- Does not include decarboxylation or other changes that occur with heat or age without the addition of reagents.
- Examples of substances that are commonly created as artificially derived cannabinoids:
  - $\Delta^8$ -THC; CBN;  $\Delta^8$ -THC-O-acetate;  $\Delta^9$ -THC-O-acetate; HHC



# HEMP ITEM REGULATIONS IN THE GENERAL MARKET



# RULES UPDATE

## LIMITS FOR SALE TO MINORS

- Effective July 19, 2021: It is unlawful to sell or deliver an “adult use cannabis item” to a person under 21 years of age. ORS [475C.213](#)
- “Adult use cannabis item” **includes hemp items** with 0.5 mg THC or greater, as well as hemp items that meet certain other criteria (see next slides). OAR [845-026-0300](#)
- This prohibition applies **at the retail level**: The person or business selling the item is responsible for ensuring that they do not sell adult use cannabis items to minors.
  - Manufacturers and distributors can help retailers stay in compliance by identifying whether the hemp products they manufacture or distribute are “adult use cannabis items.”
  - Manufacturers and distributors should provide retailers with copies of the test results for hemp products; they cannot sell the products without this.



# RULES UPDATE

## LIMITS FOR SALE TO MINORS

- OAR [845-026-0100](#)(2) “Adult use cannabis item”

(a) Means:

(A) A marijuana item;

(B) An industrial hemp commodity or product that meets the criteria in OAR 845-026-0300; or

(C) An industrial hemp commodity or product that exceeds the greater of:

(i) A concentration of more than 0.3 percent total delta-9-tetrahydrocannabinol; or

(ii) The concentration of total delta-9-tetrahydrocannabinol allowed under federal law.

(b) Does not mean:

(A) 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;

(B) Industrial hemp seed processed such that it is incapable of germination and processed such that is suitable for human consumption; or

(C) Other products derived only from hemp fiber or hemp seeds incapable of germination that may include other non-cannabis ingredients.

# RULES UPDATE

## LIMITS FOR SALE TO MINORS

- OAR [845-026-0300](#) Adult Use Cannabis Item

(1) An industrial hemp commodity or product is an adult use cannabis item if it is a hemp item as defined in OAR 603-048-2310 and:

(a) Contains 0.5 milligrams or more of:

(A) Total delta-9-THC;

(B) Any other tetrahydrocannabinol or tetrahydrocannabinolic acid, including delta-8-tetrahydrocannabinol; or

(C) Any other cannabinoids advertised by the manufacturer or seller as having an intoxicating effect;

(b) Contains any quantity of artificially derived cannabinoids; or

(c) The testing done in accordance with ORS 571.330 or 571.339 was performed using a method with a LOQ that is not sufficient to demonstrate that the total delta-9-THC does not exceed 0.5 milligrams.

(2) An adult use cannabis item cannot be sold or delivered to a person under 21 years of age, except by a marijuana retailer that holds a license issued under ORS 475B.105 and that is registered under ORS 475B.146 to sell or deliver marijuana items to a registry identification cardholder who is 18 years of age or older or as allowed under ORS 475B.785 to 475B.949.

(3) Civil Penalties. The Commission may impose a civil penalty of no more than \$10,000 for each violation of section (2) of this rule.

# RULES UPDATE

## LIMITS FOR SALE TO MINORS

- A hemp item is an “adult use cannabis item” and cannot be sold to a minor if:
  - The unit of sale contains **0.5 milligrams or more** of:
    - Total  $\Delta^9$ -THC; or
    - Any other isomer of THC or THCA (such as  $\Delta^8$ -THC); or
    - Any other cannabinoids advertised by the manufacturer or seller as having an intoxicating effect; **or**
  - It contains **any quantity** of artificially derived cannabinoids; **or**
  - The required finished product testing was performed using a method with an LOQ that is not sufficient to demonstrate that the total  $\Delta^9$ -THC does not exceed 0.5 milligrams.
- This **does not apply to hemp grain and fiber products** such as hemp hearts, hemp seed oil, topicals or cosmetics made from hemp seed oil without added cannabinoids, hemp clothing or textiles, etc.

# RULES UPDATE

## READING CERTIFICATES OF ANALYSIS

- How does a retail business know whether a hemp item:
  - Has less than 0.5 mg total  $\Delta^9$ -THC; or
  - Was tested using a method that is capable of demonstrating that the item contains less than 0.5 mg total  $\Delta^9$ -THC.
- Need to look at the COA.
- Remember: Anyone selling a hemp item is required to have the COA.
- Understanding the COA is important to know whether a hemp item can be sold to a minor.

# RULES UPDATE

## READING CERTIFICATES OF ANALYSIS

- Important terminology:
- **Total  $\Delta^9$ -THC:** A calculated value that adds the amount of  $\Delta^9$ -THC and the potential for  $\Delta^9$ -THCA to convert into  $\Delta^9$ -THC when heated. Cannabis COAs *usually* include the total  $\Delta^9$ -THC, which is calculated by this formula:
  - $[\text{Total } \Delta^9\text{-THC}] = [\Delta^9\text{-THC}] + 0.877 \times [\Delta^9\text{-THCA}]$
- **Limit of Quantification (LOQ):** The lowest concentration at which the lab can reliably quantify the amount of a substance that is present.
- **Limit of Detection (LOD):** The lowest concentration at which the lab can reliably report whether a substance is present (but cannot reliably quantify the concentration).

# RULES UPDATE

## READING CERTIFICATES OF ANALYSIS

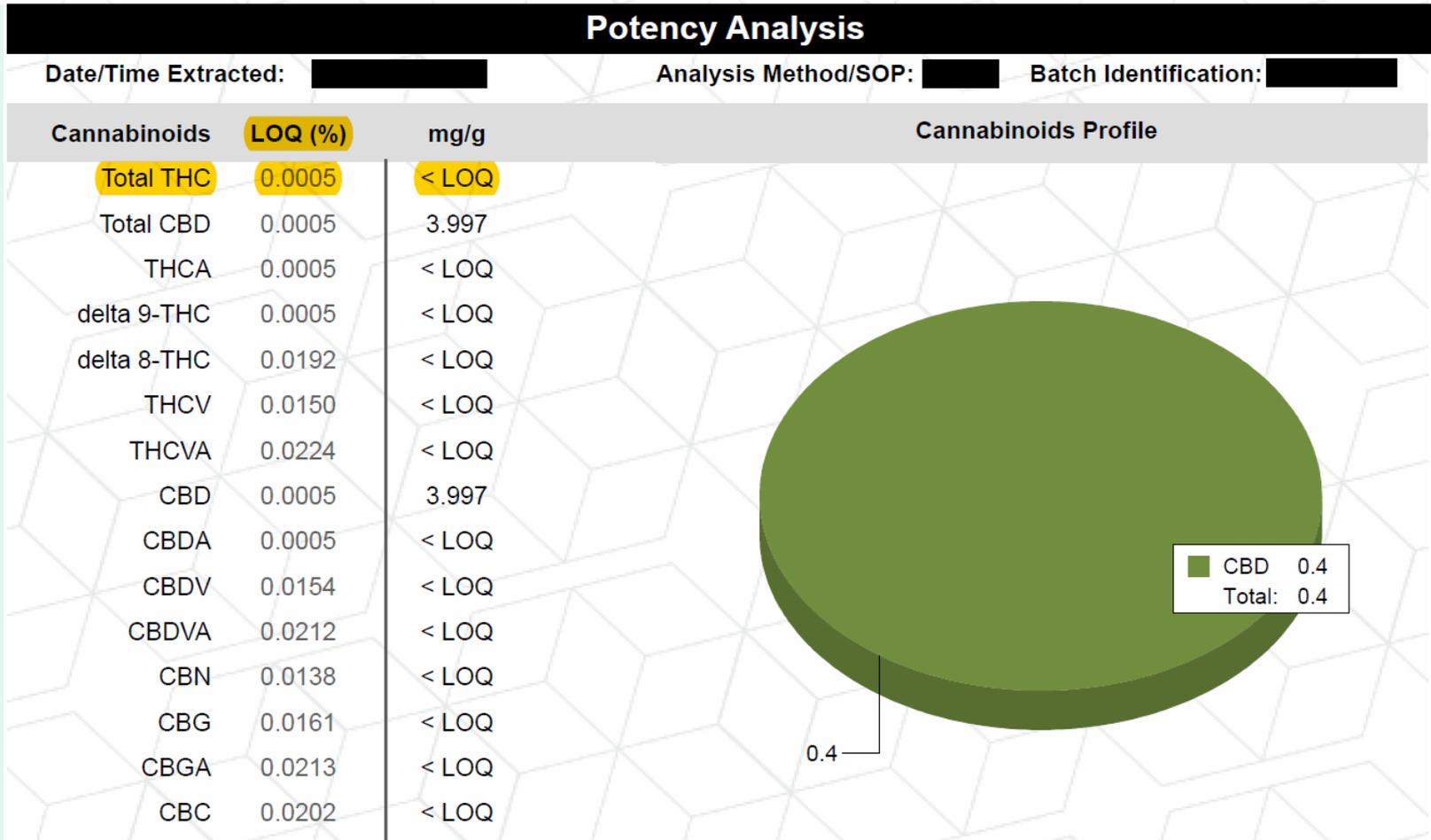
- To calculate how much THC is in a product, you need to know:
  - The weight of the product; and
  - The concentration of total  $\Delta^9$ -THC reported in the product.
    - If the reported concentration is "<LOQ": Use the LOQ in the calculation.
    - If the reported concentration is "<LOD": Use the LOD in the calculation.

$$\text{(amount of THC)} = \text{(concentration of THC)} \times \text{(weight of the product)}$$

- To calculate the amount of THC in milligrams, it's simplest to use the weight of the item in grams and the concentration of THC in mg/g.
  - If the COA lists the concentration as a percent, multiply by 10 to convert to mg/g. For example,  $0.01\% \times 10 = 0.1 \text{ mg/g}$ .
- Example calculation for a 25 gram item with 0.01 mg/g total  $\Delta^9$ -THC:
  - $25 \text{ g} \times 0.01 \text{ mg/g} = 0.25 \text{ mg}$  total  $\Delta^9$ -THC in the product.

# RULES UPDATE

## EXAMPLE COA



# RULES UPDATE

## EXAMPLE COA

- The total  $\Delta^9$ -THC in this item is below the limit the lab was able to quantify.

Cannabinoids	LOQ (%)	mg/g
Total THC	0.0005	< LOQ

- This means it contains less than 0.0005% total  $\Delta^9$ -THC (the listed LOQ).
- Converting from percent to mg/g (multiply by 10): The LOQ is 0.005 mg/g.
- COAs may or may not list the product weight. This one does not. However, the net weight of the item is usually listed on the label.
  - This product weighs 120 g.
- Maximum amount of THC:  **$120 \text{ g} \times 0.005 \text{ mg/g} = 0.6 \text{ mg total } \Delta^9\text{-THC}$**
- The lab results show this product contains less than 0.6 mg total  $\Delta^9$ -THC. It does **not** show that the item contains less than 0.5 mg total  $\Delta^9$ -THC.
  - **This is an adult use cannabis item and cannot be sold to minors.**

# RULES UPDATE

## ADULT USE CANNABIS ITEMS

- Who can sell an “adult use cannabis item” to consumers? Depends on the item.
- **Marijuana items:** Can only be sold by OLCC-licensed marijuana retailers.
- **Hemp items that exceed 0.3% total  $\Delta^9$ -THC:** Can only be sold by OLCC-licensed marijuana retailers, and only if the item does not exceed the cannabinoid thresholds specified in OAR [845-025-2760](#).
- **Hemp items with no more than 0.3% total  $\Delta^9$ -THC:** Can be sold to adults, age 21 and over, by...
  - Any business, as long as the item does not exceed the cannabinoid thresholds specified in OAR [845-026-0400](#).
  - An OLCC-licensed marijuana retailer, as long as the item does not exceed the cannabinoid thresholds specified in OAR [845-025-2760](#).

# RULES UPDATE

## THC LIMITS FOR SALE TO ADULTS (GENERAL MARKET)

- **Beginning July 1, 2022**, OAR [845-026-0400](#) limits cannabinoid content in hemp items for sale to adults:
  - THC cannot exceed the limits in Table 3 (next slide) by more than 10%.
  - No artificially derived cannabinoids can be in the item.
- These limits apply to industrial hemp products that:
  - Contain cannabinoids;
  - Are intended for consumption or use; and
  - Are offered for sale or transfer to a consumer in Oregon or imported into Oregon for delivery to a consumer.
- This **does not apply to hemp grain and fiber products** such as hemp hearts, hemp seed oil, topicals or cosmetics made from hemp seed oil without added cannabinoids, hemp clothing or textiles, etc.

# RULES UPDATE

## THC LIMITS FOR SALE TO ADULTS (GENERAL MARKET)

INDUSTRIAL HEMP PRODUCT THC CONCENTRATION AND SERVING SIZE LIMITS			
Type of Industrial Hemp Product	Maximum Amount of Total Delta-9-THC Per Serving	Maximum Amount of Total Delta-9-THC per Container	Maximum Concentration of Total Delta-9-THC
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	N/A	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%



# RULES UPDATE

## THC LIMITS FOR SALE TO ADULTS (GENERAL MARKET)

- **Beginning July 1, 2022:**
- All hemp items are limited to no more than 0.3% total  $\Delta^9$ -THC, in addition to any milligram limits that apply to the item category.
- Hemp tinctures are limited to no more than 100 mg total  $\Delta^9$ -THC
  - Note: For tinctures that are 1 fl oz or smaller, the 0.3% limit may be more restrictive than the milligram limit. For example, a 30 gram tincture is limited to no more than 90 mg total  $\Delta^9$ -THC based on the 0.3% limit:  
 $30 \text{ g} \times 0.3\% = 90 \text{ mg total } \Delta^9\text{-THC}$
  - “Hemp Tincture” is defined in OAR [845-026-0100](#)(25) and means a liquid cannabinoid hemp product intended for human consumption or ingestion, packaged in a container of four fluid ounces or less, that consists of either:
    - A non-potable solution of at least 25 percent non-denatured alcohol, in addition to a hemp concentrate or extract or usable hemp, and perhaps other ingredients, that is exempt from the Liquor Control Act under ORS 471.035; or
    - A non-potable solution comprised of glycerin or plant-based oil, a hemp concentrate or extract or usable hemp, and perhaps other ingredients, that does not contain any added sweeteners.

# RULES UPDATE

## THC LIMITS FOR SALE TO ADULTS (GENERAL MARKET)

- **Beginning July 1, 2022:**
- Hemp edibles, hemp transdermal patches, and any other cannabinoid hemp product other than tinctures or topicals are limited to no more than:
  - 2 mg total  $\Delta^9$ -THC per serving; and
  - 20 mg total  $\Delta^9$ -THC per container.
  - Note: For very small products (less than 6.7 g per container, or less than 0.67 g per serving), the 0.3% limit will be more restrictive than the milligram limit.
- There are no specific milligram limits for usable hemp (smokable flower), industrial hemp concentrates, industrial hemp extracts, or hemp topicals. These products are just limited to no more than 0.3% total  $\Delta^9$ -THC.

# RULES UPDATE

## ARTIFICIALLY DERIVED CANNABINOIDS

- **Beginning July 1, 2022:**
- Hemp items sold to Oregon consumers on the general market are not permitted to contain any amount of artificially derived cannabinoids.
- This limitation includes both intoxicating and non-intoxicating artificially derived cannabinoids, including but not limited to:
  - CBN made synthetically from CBD or THC
  - $\Delta^8$ -THC made synthetically from CBD or THC
  - “THCO” (acetylated forms of THC)
  - “HHC” (hexahydrocannabinol) or “HHCO”
- There is still a limited path for products containing non-intoxicating artificially derived cannabinoids to be sold in the OLCC-licensed adult use marijuana market.

# RULES UPDATE

## RECAP

- **For hemp items to Oregon consumers on the general market:**
  - The seller must have COAs for any hemp items that they sell; items that have not been tested cannot be sold.
  - A hemp item cannot be sold to a minor under 21 years of age if:
    - The item contains more than 0.5 mg total  $\Delta^9$ -THC, other THC isomers, or any other cannabinoid advertised as intoxicating by the manufacturer; or
    - The testing does not show the item contains less than 0.5 mg total  $\Delta^9$ -THC; or
    - The item contains any artificially derived cannabinoids.
  - A hemp item cannot be sold to any consumer, including adults, if:
    - The item contains more than 0.3% total  $\Delta^9$ -THC; or
    - The item exceeds per-serving or per-container milligram limits for total  $\Delta^9$ -THC set in OAR [845-026-0400](#), Table 3, by more than 10%; or
    - The item contains any artificially derived cannabinoids.



# HEMP ITEM REGULATIONS IN THE OLCC MARKET



# RULES UPDATE

## REFRESHER: HEMP IN THE OLCC MARKET

- Licensees can only receive hemp or hemp items via a **licensed transfer** in Metrc.
- Key terminology:
  - **Hemp license**: Issued by ODA. E.g. Hemp Grower or Hemp Handler.
  - **Hemp certificate**: Issued by OLCC to a Hemp Grower or Hemp Handler. Hemp certificate holders receive a Metrc account and can transfer harvested hemp or hemp items to an OLCC licensee (as allowed by rule).
  - **Hemp endorsement**: A privilege that may be requested by an OLCC-licensed marijuana processor. Processors with a hemp endorsement may receive, process, and transfer hemp and hemp items (as allowed by rule).
- Types of hemp material that may be transferred to OLCC licensees:
  - **Harvested industrial hemp**: Raw harvested material that has not been processed into a commodity or product. Does not include “usable hemp.”
  - **Hemp item**: Hemp commodities or products that contain cannabinoids. Includes: “usable hemp” (smokable flower), industrial hemp concentrates, industrial hemp extracts, and cannabinoid hemp products.



# RULES UPDATE

## REFRESHER: HEMP IN THE OLCC MARKET

- Hemp Grower Certificate holders can only transfer harvested industrial hemp, **not** hemp items.
- Hemp Handler Certificate holders can transfer harvested industrial hemp and hemp items.
- Processors **with a hemp endorsement** can receive harvested industrial hemp and hemp items.
- Wholesalers can receive harvested industrial hemp and hemp items.
- Retailers can only receive hemp items, **not** harvested industrial hemp.
- Producers **cannot receive** harvested industrial hemp or hemp items.



# RULES UPDATE

## REFRESHER: HEMP IN THE OLCC MARKET

- Before transferring harvested industrial hemp or hemp items to an OLCC licensee, the hemp certificate holder must:
  - Enter the hemp or hemp item into Metrc.
  - Request the required compliance testing. The test samples are recorded in Metrc so the results attach to the package when the lab completes testing.
  - If the hemp or hemp item passes testing, including having THC results below the limits allowed under OAR [845-025-2760](#), the item can be transferred to an OLCC licensee as allowed by rule.
- Handlers may not transfer hemp items containing artificially derived cannabinoids unless the licensee is allowed to receive them under OAR [845-025-1310](#).
- Finished products must comply with OLCC labeling requirements, including either having an approved label or using a valid generic label.



# RULES UPDATE

## SALE OF HEMP AT MARIJUANA RETAILERS

- Marijuana Retailers can only sell products to adults age 21 and over and OMMP cardholders age 18 and over. They cannot sell products to minors except for OMMP cardholders age 18 and over.
- The prohibition on selling adult use cannabis items to a minor does not apply to Retailers selling to OMMP cardholders age 18 and over. THC limits for hemp items sold by a Retailer are the same for consumers and OMMP cardholders.
- Hemp items are not subject to the tax on sales of marijuana.
- All hemp items sold by a marijuana Retailer must be tracked in Metrc.
- Any other hemp commodities and products that are not a “hemp item” are treated the same as any non-cannabis product. Retailers can sell these products and do not need to track them in Metrc. Examples include: hemp clothing, hemp paper, foods made from hemp hearts, hemp seed oil, soaps or cosmetics made from hemp seed oil without added cannabinoids, etc.

# RULES UPDATE

## HEMP ITEM DAILY SALES LIMITS

- There are no daily sales limits for hemp items. However:
- A retailer may only sell hemp items to a “consumer.”
- A consumer is someone who is purchasing the items “other than for the purpose of resale.” E.g. for personal use, or to share with friends.
- Equivalent to alcohol: There is no limit on the amount of beer and wine a person can buy from a grocery store, but the grocery store cannot wholesale alcohol under their retail license.
- If someone wants to purchase hemp items in bulk for the purpose of resale or further commercial processing, they can receive bulk hemp items directly from a processor who has a hemp endorsement.

# RULES UPDATE

## THC LIMITS FOR HEMP ITEMS (OLCC SYSTEM)

- OAR [845-025-2760](#), Table 1 (limits for hemp items **in the OLCC system**)

THC CONCENTRATION LIMITS FOR INDUSTRIAL HEMP AND HEMP ITEMS			
Category of Hemp or Hemp Item	Maximum Amount of Total Delta-9-THC Per Serving	Maximum Amount of Total Delta-9-THC per Container	Maximum Concentration of Total Delta-9-THC
Harvested Industrial Hemp	N/A	NA	1%
Usable Hemp	N/A	NA	1%
Hemp Concentrates or Extracts	N/A	100 mg	5%
Hemp Cannabinoid Product – Tincture	N/A	100 mg	1%
Hemp Cannabinoid Product – Topical	N/A	NA	0.3%
Hemp Cannabinoid Products Other than Tinctures or Topicals	2 mg	20 mg	1%

# RULES UPDATE

## THC LIMITS FOR HEMP ITEMS (OLCC SYSTEM)

- Changes:
  - THC limit for hemp edibles (and hemp cannabinoid products other than tinctures or topicals) increased to 2 mg per serving and 20 mg per container (previous limit was 1 mg per serving and 10 mg per container).
  - THC limit for hemp tincture, hemp concentrates, and hemp extracts increased to 100 mg per container (previous limit was 50 mg).
  - THC limit for hemp tinctures increased to 100 mg per container.
  - THC limit for topicals changed to 0.3% (previous limit was 10 mg per container; for products weighing more than 3.3 g, this change is an increase).
- These changes are generally in line with limits for hemp products outside the OLCC system.
- Main difference from limits outside the OLCC system is that products in the OLCC system may sometimes exceed 0.3% THC.

# RULES UPDATE

## ARTIFICIALLY DERIVED CANNABINOIDS

- Prohibitions on transferring ADCs: OAR [845-025-1310\(1\)](#)
- Licensees may only transfer an ADC or a product containing an ADC if:
  - The ADC is not a controlled substance in Oregon; **and**
  - The ADC was manufactured by an OLCC Processor or ODA Hemp Handler; **and**
  - The ADC was manufactured in a facility with an ODA food safety license; **and**
  - The ADC is not intended for inhalation; **and**
  - The ADC is non-intoxicating; **and**
  - The ADC also occurs as a natural component of cannabis (as reported in at least three peer-reviewed publications); **and**
  - The manufacturer of the ADC has submitted a New Dietary Ingredient (NDI) notification to FDA and received a “no objections” response **or** made a Generally Recognized as Safe (GRAS) determination (either self-affirmed or acknowledged by FDA).
- There are two limited exceptions to this prohibition.



# RULES UPDATE

## ARTIFICIALLY DERIVED CANNABINOIDS

- Sell-through for existing products containing artificially derived cannabinoids. OAR [845-025-1310\(4\)](#)
- **Until July 1, 2022** licensees may continue to process and sell products containing ADCs if:
  - The ADC was manufactured by a processor or received from a Commission-certified hemp handler before January 1, 2022.
  - The processing of the ADC did not violate OLCC rules.
    - For example, converting CBD into delta-8-THC, THC-O-acetate, or hexahydrocannabinol violates OAR [845-025-3220\(3\)](#), which prohibits treating marijuana items with a substance that increases the potency.
- On and after July 1, 2022, products containing ADCs can no longer be transferred or sold to consumers unless the product complies with the general ADC requirements (previous slide), or the ADC is CBN and the product complies with the exemption for certain CBN products (next slide).

# RULES UPDATE

## ARTIFICIALLY DERIVED CANNABINOIDS

- Exemption for certain CBN products. OAR [845-025-1310\(3\)](#)
- Some marijuana products and hemp products are made with cannabitol (CBN) that is created synthetically from CBD or THC derived from cannabis.
- **Until July 1, 2023**, these products can continue to be sold as long as:
  - The CBN is not a controlled substance in Oregon; **and**
  - The CBN was manufactured by an OLCC Processor or ODA Hemp Handler; **and**
  - The CBN was manufactured in a facility with an ODA food safety license; **and**
  - The product is not intended for inhalation.
- Beginning July 1, 2022, these products must have an approved label that complies with OAR [845-025-7145](#).
- After July 1, 2023, products containing artificially-derived CBN must comply with the normal ADC requirements in OAR [845-025-1310\(1\)](#).



# RULES UPDATE

## ARTIFICIALLY DERIVED CANNABINOIDS

- Artificially derived cannabinoid labeling requirements. OAR [845-025-7145](#)

On or after July 1, 2022, a label for a marijuana or hemp item that contains an artificially derived cannabinoid allowed by OAR 845-025-1310 must comply with the following requirements:

(1) In addition to the requirements of OAR 845-025-7000 through 845-025-7190, the product identity must clearly identify that the product contains an artificially derived cannabinoid and must include the words “artificially derived cannabinoid.”

(2) If these rules require the label for the marijuana or hemp item to list the ingredients, the ingredient listing must identify any artificially derived cannabinoid by its full name and use the words “artificially derived” in the description of the specific ingredient.

- ADC labels cannot be a “generic label.” OAR [845-025-7000\(22\)\(b\)\(B\)](#)

(22) “Generic label”

(b) Does not mean:

(B) A label for a marijuana or hemp item that contains an artificially derived cannabinoid allowed by OAR 845-025-1310 that is sold or transferred on or after July 1, 2022.

# RULES UPDATE

## ARTIFICIALLY DERIVED CANNABINOIDS

- Beginning July 1, 2022, all products containing ADCs, including CBN, must have an approved label that complies with OAR [845-025-7145](#).
- On and after July 1, 2022, retailers cannot sell an ADC-containing product to a consumer unless it complies with these labeling requirements.
- On and after July 1, 2022, products containing ADCs **cannot use a generic label**.
- The label must disclose that the product contains an ADC:
  - Must include the words “artificially derived cannabinoid” in the product identity.
  - If the item type requires an ingredient list, the ingredient listing must identify any artificially derived cannabinoid by its full name and use the words “artificially derived” in the description of the specific ingredient.

# RULES UPDATE

## ARTIFICIALLY DERIVED CANNABINOIDS

- Recap: Requirements come into effect in three stages. Products with artificially derived cannabinoids can be sold to consumers as long as they meet at least one of the rule conditions listed below.
- **From now until July 1, 2022:**
  - OAR 845-025-1310(4); or
  - OAR 845-025-1310(3); or
  - OAR 845-025-1310(1)
- **From July 1, 2022 to June 30, 2023:** Product has an approved ACD label and meets:
  - OAR 845-025-1310(3); or
  - OAR 845-025-1310(1)
- **From July 1, 2023 onward:** Product has an approved label and meets the requirements of OAR 845-025-1310(1)



# RULES UPDATE

## TRANSFERRING HEMP TO NON-LICENSEES

- Hemp Item Transfers to Unlicensed Persons. OAR [845-025-3320](#)
- Processors with an industrial hemp endorsement may transfer hemp items out of the OLCC-licensed system to unlicensed businesses and individuals if:
  - The hemp item has passed compliance testing; **and**
  - The hemp item does not exceed 0.3% total THC; **and**
  - The hemp item otherwise complies with OLCC rules.
- All transfers must be recorded in Metrc, and a manifest must be generated.
- The hemp items must be held on-site under camera coverage for at least three business days (not including weekends or holidays) after generating the manifest.
- If the processor is transporting the items, they must carry a physical copy of the manifest.



# RULES UPDATE

## TRANSFERRING HEMP TO NON-LICENSEES

- If the processor is transferring hemp items to a consumer, or to a minor, they also need to comply with general requirements for sales to consumers or minors:
  - Cannot transfer an item to a minor (under 21 years of age) unless it complies with OAR [845-026-0300](#): Contains less than 0.5 mg or more total THC, does not contain artificially derived cannabinoids (ADCs), etc.
  - Cannot transfer an item to a consumer in Oregon if it contains more THC than allowed under OAR [845-026-0400](#), or contains ADCs.
- If the processor is transferring hemp items to a person other than a consumer and the recipient is at least 21 years of age, OARs [845-026-0300](#) and [845-026-0400](#) do not apply.



# INDUSTRIAL HEMP-DERIVED VAPOR ITEMS



# RULES UPDATE

## INDUSTRIAL HEMP-DERIVED VAPOR ITEMS

- On and after **July 1, 2022**, all “industrial hemp-derived vapor items” for sale to consumers in Oregon must be tested and labeled according to rules in [Division 26](#).
- These rules are *only* applicable to products that are not being sold in the OLCC marketplace, such as a gas station, grocery store, convenience shop, or smoke shop.
- Generally speaking, these rules apply to hemp extracts and concentrates that are put in “vape cartridges,” whether alone or combined with a battery.
- The rules would not apply to hemp extract or concentrate that is being placed in a jar or other receptacle that does not meet the definition of an “inhalant delivery system.” See ORS [431A.175](#) for the specific definition.



# RULES UPDATE

## INDUSTRIAL HEMP-DERIVED VAPOR ITEMS

- There are three important definitions in [Division 26](#) for these products.
- “Hemp vapor item manufacturer”; OAR [845-026-0100](#)(28). Means a person responsible for the labeling or manufacturing of an industrial hemp-derived vapor item sold in Oregon and includes:
  - (a) A hemp handler licensed with the Oregon Department of Agriculture under ORS [571.281](#) to process industrial hemp into commodities, products or agricultural hemp seed.
  - (b) Any other person responsible for the labeling of an industrial hemp-derived vapor item sold in Oregon.
- “Person”; OAR [845-026-0100](#)(43). Has the meaning given that term in ORS [174.100](#).
- “Industrial hemp-derived vapor item”; OAR [845-026-0100](#)(34). Means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS [571.269](#), whether alone or combined with non-cannabis additives, that is intended for use in an inhalant delivery system.

# RULES UPDATE

## INDUSTRIAL HEMP-DERIVED VAPOR ITEMS

- Prior to the sale or transfer of an industrial hemp derived vapor item, a hemp vapor item manufacturer must comply with the Oregon Health Authority's (OHA) testing rules in OAR [333-007-0300 to 333-007-0490](#) and OAR [333, Division 64](#). OAR [845-026-5700](#)
- More information regarding testing requirements can be found on OHA's website [here](#).
- OLCC has the authority to audit, compliance, and random testing of industrial hemp-derived vapor items. OAR [845-026-5760](#)
- OLCC laboratory licensees will be responsible for tracking and entering information into CTS regarding the testing of industrial hemp-derived vapor items. See OAR [845-025-5045](#) and [Compliance Bulletin CE2021-04](#) for more detail.
- Questions related to testing can be sent to [olcc.labs@oregon.gov](mailto:olcc.labs@oregon.gov).



# RULES UPDATE

## INDUSTRIAL HEMP-DERIVED VAPOR ITEMS

- Prior to transferring or offering for sale an industrial hemp-derived vapor item, the hemp vapor item manufacturer must comply with OLCC packaging and labeling rules.
- These rules more or less mirror the requirements for marijuana and hemp extracts and concentrates that are sold in the OLCC marketplace with a few minor exceptions.
- Labels must feature the hemp symbol and the cartridge of vaporizing device must have the hemp symbol affixed to it. The symbol can be downloaded [here](#).



# RULES UPDATE

## INDUSTRIAL HEMP-DERIVED VAPOR ITEMS

- OARs [845-026-7000](#) through -7070 set the standards for industrial hemp derived vapor items.
- There are specific regulations for “non-cannabis additives,” which is defined in OAR [845-026-0100](#)(42), but generally means things like “non-cannabis terpenes,” “botanical terpenes,” or flavorings. See OAR [845-026-7040](#) and [Compliance Bulletin CE2020-07](#).
- Label applications must be submitted in the OLCC’s online licensing system. Hemp vapor item manufacturers can make an account [here](#) and select “register for a business account.”
- Generic labels are not subject to pre-approval and you do not need to make an account if you are using a generic label. The definition of generic label is in OAR [845-026-7000](#)(7). A generic label **only** contains the information required by rule, it cannot have any logos, colors, additional text, etc.... If it does, it is subject to pre-approval by the OLCC. An industrial hemp-derived vapor item that contains a non-cannabis additive cannot use a generic label.
- The OLCC does not have specific guidance for the labeling of industrial hemp-derived vapor items yet, however, the OLCC’s Packaging and Labeling [website](#) should be consulted in the interim, including the [Packaging and Labeling Guide](#).
- Questions related to labeling can be sent to [marijuana.packaging@oregon.gov](mailto:marijuana.packaging@oregon.gov).



# PRESUMPTIVE MARIJUANA TESTING



# RULES UPDATE

## PRESUMPTIVE MARIJUANA TESTING

- Establishing “presumptive marijuana” thresholds for hemp. OAR [845-026-4100](#)
- Goal is not to catch slightly-hot hemp, only commercial marijuana. Thresholds for presumptive marijuana were set significantly higher than 0.3%.
- Mature plants (flowering):
  - 5% total THC
- Immature plants (not flowering):
  - 1% total THC; or
  - $\geq 5:1$  ratio of THC to CBD
- Crop is presumptive marijuana if  $\geq 50\%$  of samples or the average of all samples exceeds an applicable threshold.

# RULES UPDATE

## HELPFUL LINKS

- Helpful links:
  - OLCC Website: <https://marijuana.oregon.gov/>
  - OLCC Public Meetings: [https://www.oregon.gov/olcc/pages/public\\_meetings.aspx](https://www.oregon.gov/olcc/pages/public_meetings.aspx)
  - GovDelivery: [https://public.govdelivery.com/accounts/OLCC/subscriber/new?topic\\_id=OLCC\\_14](https://public.govdelivery.com/accounts/OLCC/subscriber/new?topic_id=OLCC_14)
  - OAR 845 Division 25: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3873>
  - OAR 845 Division 26: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=6492>
  - ORS 475C: [https://www.oregonlegislature.gov/bills\\_laws/ors/ors475C.html](https://www.oregonlegislature.gov/bills_laws/ors/ors475C.html)



# RULES UPDATE

## MORE QUESTIONS?

- Questions for OLCC about...
  - Marijuana compliance: [OLCC.Marijuana@oregon.gov](mailto:OLCC.Marijuana@oregon.gov)
  - Marijuana licensing: [Marijuana.Licensing@oregon.gov](mailto:Marijuana.Licensing@oregon.gov)
  - Packaging & labeling: [Marijuana.Packaging@oregon.gov](mailto:Marijuana.Packaging@oregon.gov)
  - Testing: [OLCC.Labs@oregon.gov](mailto:OLCC.Labs@oregon.gov)
  - Hemp: [OLCC.Hemp@oregon.gov](mailto:OLCC.Hemp@oregon.gov)
  - Rulemaking: [OLCC.Rulemaking@oregon.gov](mailto:OLCC.Rulemaking@oregon.gov)
  - Metrc questions:
    - [support@metrc.com](mailto:support@metrc.com) / 877-566-6506
    - [Marijuana.CTS@oregon.gov](mailto:Marijuana.CTS@oregon.gov)

