

## DEPARTMENT OF AGRICULTURE

### DIVISION 48 INDUSTRIAL HEMP

#### 603-048-0010

##### Definitions

The following definitions apply to OAR 603-048-0010 through 603-048-1000 unless the context requires otherwise.

- (1) "Agricultural hemp seed" means Cannabis seed:
  - (a) That is sold to or intended to be sold to registered growers for planting; or
  - (b) That remains in an unprocessed or partially processed condition that is capable of germination.
- (2) "Agricultural hemp seed producer" means a registered grower or handler that produces agricultural hemp seed or processes industrial hemp into agricultural hemp seed.
- (3) "CBD" means cannabidiol, Chemical Abstracts Service Number 13956-29-1.
- (4) "Intended for human consumption" means intended for a human to ingest, inhale, topically apply to the skin or hair, or otherwise absorb into the body.
- (5) "Consumable Product" means an industrial hemp product intended for human consumption.
- (6) "Crop" means industrial hemp grown under a single registration.
- (7) "Department" means the Oregon Department of Agriculture.
- (8) "Grower" means a person, joint venture or cooperative that produces industrial hemp.
- (9) "Handler" means a person, joint venture or cooperative that receives industrial hemp for processing into commodities, products or agricultural hemp seed.
- (10) "Harvest Lot":
  - (a) Means a quantity of industrial hemp harvested in a distinct timeframe for sampling and testing purposes that is:
    - (i) Grown in one contiguous field or growing area; or
    - (ii) Grown in a portion or portions of one contiguous field or one growing area.
  - (b) Does not include a quantity of industrial hemp comprised of industrial hemp grown in noncontiguous fields or noncontiguous growing areas.
- (11) "Industrial hemp":
  - (a) Means all nonseed parts and varieties of the Cannabis plant, whether growing or not, that contain an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.
  - (b) Means any Cannabis seed:
    - (A) That is part of a crop;
    - (B) That is retained by a grower for future planting;
    - (C) That is agricultural hemp seed;
    - (D) That is for processing into or for use as agricultural hemp seed; or
    - (E) That has been processed in a manner or to an extent that the Cannabis seed is incapable of germination.

- (c) Does not mean industrial hemp commodities or products.
- (12) “Industrial hemp product”:
- (a) Means an item processed by a registered handler containing any industrial hemp or containing any chemical compounds derived from industrial hemp, including CBD derived from industrial hemp.
- (b) Includes items intended for human consumption that is:
- (i) Processed in a manner or to an extent that the seed is incapable of germination and is suitable for human consumption;
- (ii) Tested and approved by a laboratory to meet requirements adopted by the Oregon Health Authority under ORS 475B.555(1)(a) and (b) and (2) for marijuana items; and
- (iii) Meets all department rules pertaining to industrial hemp products intended for human consumption.
- (c) Does not include industrial hemp that has not been processed in any form or agricultural hemp seed.
- (13) “Laboratory” means a laboratory that is licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the Oregon Health Authority under ORS 475B.565.
- (14) “Produce” means the planting, cultivation, growing, or harvesting of industrial hemp.
- (15) “Process” means the processing, compounding, or conversion of industrial hemp into industrial hemp commodities or products or agricultural hemp seed.
- (16) “Registrant” means a grower or handler or agricultural hemp seed producer registered with the department under these rules.

### **603-048-0100**

#### **Production and Handling of Industrial Hemp and Agricultural Hemp Seed**

- (1) Industrial hemp is an agricultural product subject to regulation by the department.
- (2) Only a grower registered with the department may produce industrial hemp. Only a handler registered with the department may process industrial hemp.
- (3) Registrations are personal and may not be transferred. A registrant may not sell or transfer an industrial hemp or agricultural hemp seed production registration.
- (4) A registered grower may use any propagation method, including planting seeds from, or starts, or the use of clones or cuttings, to produce industrial hemp.
- (5) Any person holding a valid three-year or one-year industrial hemp license or agricultural hemp seed permit shall be considered a registrant for the purposes of these rules for the term remaining on the license or permit.
- (6) The department shall make available to registered growers information that identifies registered agricultural hemp seed producers from whom growers may purchase agricultural hemp seed.
- (7) A registrant may sell or transfer as follows:
- (a) A registrant may only sell or transfer industrial hemp to another registrant.
- (b) A registered agricultural hemp seed producer may only sell or transfer agricultural hemp seed to a registered grower, registered handler, or a registered agricultural hemp seed producer.
- (c) A registered handler may sell or transfer industrial hemp commodities or products to any person.

## **603-048-0200**

### **Applications to Register or Renew Registrations**

Registrations are valid for a one-year term beginning on January 1 of each calendar year. To ensure the department has sufficient time to process applications for registration, or renew a registration, any person applying for registration must apply with the department no less than 30 days prior to the date of the intended activity.

- (1) Applications for registration under this section must be submitted to the department on forms provided by the department, and must be accompanied by the fee as described in OAR 603-048-0700. A person seeking to produce or process agricultural hemp seed must also apply for a separate registration as described in OAR 603-048-0300(2).
- (2) An application to grow industrial hemp must include all of the following information:
  - (a) The name and address of the applicant;
  - (b) The name and address of the applicant's industrial hemp operation(s);
  - (c) The global positioning system (GPS) coordinates provided in decimal of degrees and taken at the approximate center of the growing field, or entrance of building;
  - (d) A map of the growing area showing clear boundaries of the production area; and
  - (e) If industrial hemp is cultivated in a field, the number of square feet or acres of each cultivated field;
  - (f) If industrial hemp is cultivated in a greenhouse or other building, the approximate dimension or square feet of the building.
- (3) An application to handle industrial hemp must include all of the following information:
  - (a) The name and address of the applicant;
  - (b) The name and address of applicant's industrial hemp operation(s).
- (4) In addition to the requirements in sections (1) to (3), all applicants for registration must acknowledge and agree that:
  - (a) Any information provided to the department may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant;
  - (b) The department may enter any field, facility or greenhouse used for the production or handling of industrial hemp or agricultural hemp seed and may take samples of industrial hemp or agricultural hemp seed as necessary for the administration of the department's laws.
  - (c) All fees lawfully due to the department will be timely paid.
  - (d) The information provided is true and correct and that applicant's signature is an attestation of that fact.

## **603-048-0300**

### **Agricultural Hemp Seed**

Registrations for growing or handling agricultural hemp seed are valid for a one-year term beginning on January 1 of each calendar year. To ensure the department has sufficient time to process applications for registration, or renew a registration, any person applying for registration must apply with the department no less than 30 days prior to the date of the intended activity.

- (1) Only a grower registered with the department may produce agricultural hemp seed. Only a handler registered with the department may process agricultural hemp seed. An applicant may apply for a grower or handler registration at the same time the applicant applies for registration as an agricultural hemp seed producer.
- (2) A registered grower or handler seeking to produce or process agricultural hemp seed must register with the department, on forms provided by the department, as an agricultural hemp seed producer unless:
  - (a) A registered grower retains agricultural hemp seed for the purpose of propagating industrial hemp for the grower's own use in future years;
  - (b) A registered grower produces Cannabis seeds that are incapable of germination; or
  - (c) A registered handler processes agricultural hemp seed in such a manner that the seeds are incapable of germination.
- (3) An application to produce agricultural hemp seed must include all of the following information:
  - (a) The name and address of the applicant;
  - (b) The name and address of the applicant's agricultural hemp seed operation(s);
  - (c) The global positioning system (GPS) coordinates provided in decimal of degrees and taken at the approximate center of the growing field, or entrance of building;
  - (d) A map of the growing area showing clear boundaries of the production area; and
  - (e) If industrial hemp is produced in a field, the number of square feet or acres of each cultivated field;
- (4) An application to process agricultural hemp seed must include all of the following information:
  - (a) The name and address of the applicant;
  - (b) The name and address of applicant's facility used for processing industrial hemp agricultural seed.
- (5) A registered grower may retain agricultural hemp seed without registering as an agricultural hemp seed producer or complying with other seed standards set by the department under ORS 633.511 to 633.750 for the purpose of propagating industrial hemp in future years, except that a registered grower may not:
  - (a) Retain seed from a harvest lot for future planting when laboratory test results of the harvest lot indicate the tetrahydrocannabinol concentration exceeds 0.3 percent on a dry weight basis.
  - (b) Sell or transfer agricultural hemp seed for the purpose of planting without first obtaining a registration for agricultural hemp seed.
- (6) An applicant for registration must acknowledge and agree that:
  - (a) Any information provided to the department may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant;
  - (b) The department may enter any field, facility or greenhouse used for the production or processing of industrial hemp and may take samples of industrial hemp as necessary for the administration of the department's laws.
  - (c) All fees lawfully due to the department will be timely paid.
  - (d) The information provided is true and correct and that applicant's signature is an attestation of that fact.

**603-048-0400**

## **Reporting Requirements**

A registered grower must ensure the grower's entire crop and each harvest lot is timely sampled and tested for tetrahydrocannabinol and must ensure test results are timely reported to the department.

(1) A registrant must immediately report to the department:

- (a) The theft or loss of industrial hemp;
- (b) All laboratory test results for tetrahydrocannabinol, for all harvest lots.

(2) On forms provided for by department, a registrant must immediately report to the department:

- (a) Changes to the name, address, or telephone number of the registration holder;
- (b) Changes in the ownership of the land or facilities used to produce or process industrial hemp or agricultural hemp seed;
- (c) Changes in the ownership or structure of the entity holding an industrial hemp registration or agricultural hemp seed production registration;
- (d) Changes in location or the addition of a facility for processing industrial hemp prior to beginning processing at the new location; and
- (e) Changes in location or the addition of a field or growing area for producing industrial hemp prior to producing at the new location.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996

Stats. Implemented: ORS 571.300 - 571.315 Hist.: DOA 3-2015, f. & cert. ef. 1-29-15

## **603-048-0500**

### **Record Keeping Requirements**

Registrants must maintain records of all transfers of ownership or possession of industrial hemp for no less than three (3) years after the total disposition of each harvest lot.

(1) A registered grower must maintain records, which include:

- (a) For any transfer of industrial hemp to a registered handler, the name and address of the recipient; receiving any amount of industrial hemp;
- (b) Date(s) in which industrial hemp was transferred to the registered handler;
- (c) Amount of industrial hemp, in pounds, transferred to the registered handler;
- (d) All records of sampling including date, approximate number of plants sampled, total sample weight, and name of sampling entity;
- (e) Name of laboratory that analyzed the sample(s); and
- (f) All test report records for tetrahydrocannabinol for each harvest lot, as reported by the laboratory.

(2) A registered handlers of industrial hemp must maintain records, which include:

- (a) For any receipt of industrial hemp from a registered grower or handler, the name and address of the transferor;
- (b) All test report records for tetrahydrocannabinol for all industrial hemp received;
- (c) Date industrial hemp was received;
- (d) Amount in pounds and type of industrial hemp received;
- (e) A copy of the test report records indicating concentration of tetrahydrocannabinol for each harvest lot of industrial hemp received; and
- (f) When a registered handler sells or transfers an industrial hemp product or commodity intended for human consumption, test reports from a laboratory, as required by the

Oregon Health Authority under ORS 475B.555 (1) (a) and (b) and (2) for testing marijuana items.

- (3) A registered agricultural hemp seed producer must maintain records which include:
- (a) For any transfer of agricultural hemp seed to a registered grower or handler, the name and address of the recipient;
  - (b) Date(s) agricultural hemp seed was transferred to the registered grower or handler;
  - (c) Amount of agricultural hemp seed, in pounds, transferred to the registered grower or handler;
  - (d) All records of sampling including date, approximate number of plants sampled, total sample weight, and name of approved sampling entity;
  - (e) Name of laboratory that analyzed the sample(s); and
  - (f) All test report records for tetrahydrocannabinol for agricultural hemp seed, as reported by the laboratory.

### **603-048-0600**

#### **Sampling and Testing for Tetrahydrocannabinol**

- (1) A registered grower must ensure that the grower's entire crop is timely sampled and tested according to these rules. At the discretion of the grower, industrial hemp grown in a contiguous field or growing area may be sampled and tested as a separate harvest lot consistent with these rules. The grower must ensure that each harvest lot is timely sampled and tested.
- (2) A registered grower and agricultural hemp seed producer producing agricultural hemp seed must arrange for and ensure the sampling of a harvest lot no more than four (4) weeks prior to harvest for the purpose of ensuring that the harvest lot contains an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.
- (a) All sampling under these rules must be performed by the department, an entity contracted with the department to provide sampling services, or a laboratory.
- (b) Sampling performed by the grower, other person with an interest in the testing outcome, or otherwise not performed by the department, department-contracted entity, or a laboratory, is insufficient to meet the requirement for testing under this rule.
- (3) Sampling of a harvest lot must produce samples that are representative the harvest lot.
- (a) No more than one sample shall be taken per plant, the plant randomly chosen throughout the harvest lot's growing area;
- (b) Samples shall be obtained from flowering tops when flowering tops are present; and
- (c) Samples shall be cut to a length of about 20 cm and stored in a paper bag.
- (4) Harvest lots shall be tested separately.
- (5) Testing must be performed by a laboratory or by the department as described in subsection (6) of this rule.
- (6) Until such time as laboratories are licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the Oregon Health Authority pursuant to ORS 475B.565, to test for tetrahydrocannabinol concentration of industrial hemp, the department may contract with registered growers who may request sampling and laboratory testing services from the department to ascertain the average tetrahydrocannabinol content of industrial hemp. The fee for each test shall be \$350.

(7) Test results must be reported to the department, and on forms provided by the department, and include for each harvest lot:

- (a) Sample date;
- (b) Sample size by weight;
- (c) Test date;
- (d) Total tetrahydrocannabinol percentage;
- (e) Field/growing location information including GPS coordinates; and
- (f) Registration number.

### **603-048-0650**

#### **Industrial Hemp Inspection and Record Reviews**

(1) The department, as it deems necessary in the enforcement and carrying out its laws may, during normal business hours, inspect premises, machinery, equipment and facilities of registrants and inspect, any crop during any growth phase, and take a representative composite sample for field analysis.

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

- (a) A provision of ORS 571.300 to 571.315;
- (b) A rule adopted under a provision or ORS 571.300 to 571.315; or
- (c) An order issued by the department pursuant to a provision of ORS 571.300 to 571.315 or rule adopted under a provision of ORS 571.300 to 571.315.

### **603-048-0700**

#### **Registration Fees**

(1) The following designated annual permit fees shall be applicable to each described activity under authority of ORS 571.305:

- (a) Industrial hemp grower registration \$500.00;
- (b) Industrial hemp handler registration \$500.00; and
- (c) Agricultural hemp seed producer registration \$25.00.

### **603-048-0800**

#### **Enforcement and Civil Penalty for Industrial Hemp Law Violation**

(1) In addition to any other liability or penalty provided by law, any person who violates any provision of ORS 571.300 to 571.315, a rule adopted pursuant thereto or order issued by the department under ORS 571.300 to 571.315, may be subject to a civil penalty not to exceed \$2,500 per violation.

(2) If a civil penalty is imposed, the department shall issue a written notice to the person being assessed the penalty consistent with ORS Chapter 183. Contested cases will be conducted pursuant to ORS Chapter 183. Each violation may be considered a separate and distinct offense.

(3) Subject to the provisions of ORS chapter 183, the department may revoke the registration of a grower, handler or agricultural hemp seed producer or may refuse to register or renew the registration if a grower, handler or agricultural hemp seed producer violates:

- (a) A provision of ORS 571.300 to 571.315;
- (b) A rule adopted under a provision of ORS 571.300 to 571.315;
- (c) An order issued by the department for violation of a provision of ORS 571.300 to 571.315 or any rule adopted thereunder;
- (d) Any statutory law or department rule related to agricultural activities other than industrial hemp operations.

### **603-048-0900**

#### **Embargo of Crop**

If a harvest lot contains an average tetrahydrocannabinol concentration exceeding 0.3 percent on a dry weight basis, the department may detain, seize or embargo the harvest lot as provided in ORS 561.605 to 561.620 and consistent with these rules.

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

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

(a) If the person in possession of the harvest lot is not the owner, the department shall make a reasonable effort to notify the owner.

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

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

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

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

(3) If it appears that all or part of the harvest lot detained, seized or embargoed may be reconditioned or segregated in such a way as to comply with state laws, the owner or person in possession may cause the harvest lot to be reconditioned or segregated at the owner's or person's own expense after which the department may release the reconditioned industrial hemp.

### **603-048-1000**

#### **Violations and Penalties**

##### Classification of Violations

(1) Violations are flagrant violations classified as follows:

(a) Class 1 violations:

(A) ORS 571.305(1) or OAR 603-048-0100(2);

(B) Providing false information on an application for a registration, or application to



renew a registration;

(C) Falsifying, or failure to keep or provide, information and records as required by the department;

(D) Growing or handling hemp with an average Tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry weight basis;

(E) Failing to provide the department with laboratory test results that verify compliance with 0.3 percent tetrahydrocannabinol threshold before handling or transfer.

(F) Repeat violations of Class 2 or Class 3 violations.

(b) Class 2 violations are any violations in which the person acted in a negligent manner:

(A) Violation of any other rule, regulation or requirement as specified in OAR 603-048.

(c) Class 3 violations are negligent violations of:

(A) OAR 603-048-0100 to 603-048-0700;

(B) Providing false information on an application for a registration, or application to renew a registration;

(C) Falsifying or failure to keep or provide, information and records as required by the department;

(D) Growing or handling hemp with an average Tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry weight basis

(2) Civil Penalty amounts for each classification:

(a) Class 1 violation, \$2,500;

(b) Class 2 violation, \$1000;

(c) Class 3 violation, \$500.

Stat. Auth.: ORS 569.445, 571.300 - 571.315 & 633.511 - 633.996 Stats. Implemented:

ORS 571.300 - 571.315 Hist.: DOA 3-2015, f. & cert. ef. 1-29-15