

SUBCHAPTER 24. OKLAHOMA INDUSTRIAL HEMP PROGRAM

35:30-24-1. Purpose

The rules of this subchapter establish the licensing requirements and regulation of the Oklahoma Industrial Hemp Program pursuant to the Oklahoma Agricultural Code, 2 O.S. § 3-401 et seq. The licensing requirements and regulation of the Oklahoma Industrial Hemp Program shall be administered by the Department and shall conform to the Administrative Procedures Act, 75 O.S. § 250 et seq.; to the Oklahoma Agricultural Code, 2 O.S. § 1-1 et seq.; and to the procedural rules promulgated by the State Board of Agriculture in Title 35 of the Oklahoma Administrative Code.

35:30-24-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Acceptable Hemp THC Level" means when a laboratory tests a sample, it shall report the delta-9 tetrahydrocannabinol content concentration level on a dry weight basis and the measurement of uncertainty. The acceptable hemp THC level, for the purpose of compliance with the requirements of the state hemp plan, is when the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less.

"Building" means any single standing structure with walls and a roof but shall not include separate structures connected by corridors or breezeways.

"Cannabis" means the plant that, depending upon its THC concentration level, is further defined as either "hemp" or "marijuana". Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species and Cannabis indica and Cannabis ruderalis are subspecies thereof. Cannabis refers to any form of the plant where the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined. The term "Cannabis" is important in describing regulations that apply to plant production, sampling, or handling prior to determining the plant's THC content.

"Contiguous field" means any contiguous tract of land used for the cultivation of industrial hemp and may include contiguous tracts of land occasionally intersected by roads, streams, or other natural features but shall not include a tract or tracts of land intersected by property owned by a third party or gaps in the cultivation of industrial hemp exceeding one quarter of a mile.

"Controlled Substances Act (CSA)" means the federal statutes, codified at 21 U.S.C. 801-971, establishing federal U.S. drug policy under which the manufacture, importation, exportation, possession, use, and distribution of certain substances is regulated. Because cannabis containing THC concentration levels of higher than 0.3 percent is deemed to be marijuana, a schedule I controlled substance, its regulation falls under the authorities of the CSA. The requirements of the CSA are relied upon for the disposal of cannabis that contains THC concentrations above 0.3 percent.

"Cultivation" means the act of planting, growing, or harvesting industrial hemp and any related agricultural activities.

"Cultivation site" means the contiguous field, building, storage area, or processing area in which one or more varieties of industrial hemp may be lawfully cultivated, stored, or processed.

"Decarboxylated" means the completion of the chemical reaction that converts THC acid (THCA) into delta-9-THC, the intoxicating component of cannabis. The decarboxylated

value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THCA. This term, commonly used in scientific references to laboratory procedures, is the precursor to the term "post-decarboxylation," a term used in the 2018 Farm Bill's mandate over cannabis testing methodologies to identify THC concentration levels.

"Delta-9 tetrahydrocannabinol", "Delta-9 THC" or "THC" means the primary psychoactive component of cannabis. Hemp production shall be verified as having THC concentration levels of 0.3 percent or less on a dry weight basis.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, its employees, officers, and divisions.

"Growing area" means the portion of a contiguous field or building in which a single variety of industrial hemp is planted, grown, and harvested.

"Handling" means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. Handling includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person.

"Industrial hemp" means the plant, *Cannabis sativa* L., and any part of the plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.

"Key participants" means a person or persons who have a direct or indirect financial interest in an entity producing hemp, such as an owner or a partner in a partnership. Executive level corporate employees, including chief executive officer, chief operating officer, and chief financial officer shall be considered Key Participants. Management level positions such as farm, field, and shift managers shall not be considered Key participants.

"License" means authorization by the Department for any person to grow and cultivate industrial hemp on a registered land area as part of the Oklahoma Industrial Hemp Program.

"Licensee" means a person who holds a valid Industrial Hemp License to grow industrial hemp under the Oklahoma Industrial Hemp Program.

"Postdecarboxylation" means testing methodologies for THC concentration levels in hemp, where the total potential delta-9-tetrahydrocannabinol content, derived from the sum of the THC and THCA content, is determined and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, known as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. The result of this test calculates total potential THC. The postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THCA intact, and requires a conversion calculation of that THCA to calculate total potential THC.

"Processing" means converting industrial hemp into a marketable form, including the production of all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers.

"Processing area" means any physical location in which entire harvested plants are altered by any manner of mechanical, chemical, or other processing techniques. The processing area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Produce" refers to the propagation of cannabis to produce hemp.

"Storage area" means any physical location in which harvested plants or plant parts are stored. The storage area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Subcontractor" means a person or business entity that has contracted with an institutional licensee and provides supplies, labor, land, or expertise related to the institutional licensee's participation in the Oklahoma Industrial Hemp Program.

"USDA" means the United States Department of Agriculture.

35:30-24-3. Application

(a) Any person, eighteen (18) years of age or older, or business entity may participate in the Oklahoma Industrial Hemp Program by filing an application with the Department for a license:

(1) Not less than thirty (30) days prior to the planting or cultivation, handling, or processing of any industrial hemp crop; or

(2) No later than December 1 if a subsequent license is required to harvest industrial hemp crops planted before December 31 but scheduled for harvest after December 31.

(b) An applicant shall submit a separate application, pay separate application and inspection fees, and obtain a separate license for each cultivation site.

(c) The application shall be on a form provided by the Department and shall, at a minimum, contain the following information:

(1) The name and address of the applicant;

(2) EIN number, if the applicant is a business entity, along with names and email addresses of key participants;

(3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;

(4) If the applicant intends to utilize subcontractors, the correct legal name of the subcontractors along with all aliases or trade names of the subcontractors;

(5) If the applicant intends to utilize subcontractors, the address for the subcontractors' primary business locations and any satellite business offices located in Oklahoma;

(6) If the applicant intends to utilize subcontractors, the contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;

(7) Proof of ownership for the cultivation site and the following information if the cultivation site is not wholly owned by the applicant:

(A) The name, address, and contact information for all persons or entities having any ownership interest in the cultivation site;

(B) An original signed, dated, and notarized letter of acknowledgement from each person having any ownership interest in the cultivation site indicating approval for the cultivation of industrial hemp at the cultivation site; and

(C) If applicable, a copy of the property lease for the entire duration of the license;

(8) If the application identifies a contiguous field as the cultivation site:

(A) A legal description (Section, Township, Range) of the contiguous field;

- (B) The global positioning location coordinates at the approximate center of the contiguous field; and
 - (C) An annotated map or aerial photograph with sufficient detail and clarity to define the boundaries and dimensions of the contiguous field in acres, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the contiguous field along with a description of the variety of industrial hemp corresponding to each growing area;
- (9) If the application identifies a building as the cultivation site:
- (A) The physical address of the building;
 - (B) The global positioning location coordinates of the building; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the boundaries and dimensions of the building and growing area in square feet, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the building along with a description of the variety of industrial hemp corresponding to each growing area;
- (10) A description of any areas used to store or process plants or plant parts, including but not limited to:
- (A) The physical address or location of any storage areas or processing areas;
 - (B) The global positioning location coordinates of any storage areas or processing areas; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the location, boundaries and dimensions of any storage areas or processing areas in square feet;
- (11) A schedule identifying the intended dates of planting and intended dates of harvesting any industrial hemp crop or crops;
- (12) A statement of intended use and disposition for the industrial hemp harvested from the cultivation site or any plant parts thereof;
- (13) A notarized and sworn statement from an official or employee of the applicant and from an official or employee of any associated subcontractor that only industrial hemp seed will be planted at the cultivation site; and
- (14) Acknowledgement and agreement with the following terms and conditions:
- (A) Any information provided by the applicant or subcontractors shall be subject to public disclosure under the Open Records Act;
 - (B) Any information provided by the applicant or subcontractors may be released by the Department to law enforcement agencies without notice to the applicant or its subcontractors;
 - (C) The applicant and subcontractors shall fully cooperate with the Department, grant the Department physical access to any part of the cultivation site and allow the Department to conduct inspection and sampling; and
 - (D) The applicant and subcontractors shall submit all required reports by the dates specified by the Department.
- (15) Current criminal history reports for all key participants dated within sixty (60) days prior to the application submission date. A license application shall not be considered complete without all required criminal history reports.

- (d) The application for a processor/ handlers license shall be on a form provided by the Department and shall, at a minimum, contain the following information:
- (1) The name and address of the applicant;
 - (2) EIN number, if the applicant is a business entity, along with the names and email addresses of key participants; and
 - (3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the processing or handling of industrial hemp.
 - (4) Current criminal history reports for all key participants dated within sixty (60) days prior to the application submission date. A license application shall not be considered complete without all required criminal history reports.
- (e) Each applicant and subcontractor shall fully cooperate with the Department, grant the Department physical access to any part of a cultivation site, and allow the Department to conduct inspection and sampling.
- (f) Incomplete applications shall not be processed by the Department and any associated application fees shall be retained by the Department.
- (g) Applications that are denied by the Department may be resubmitted within twelve (12) months of the original filing. The Department may waive application fees for resubmitted applications.

35:30-24-4. Grounds for denial of application

- (a) The Department may consider a number of factors when deciding to grant or deny a license including, but not limited to, the location of the cultivation site; the criminal history of the applicant, subcontractor, or employees thereof; and prior administrative actions taken by the Department against the applicant, subcontractors, or employees thereof.
- (b) The Department's denial of a license may be contested in the manner provided by this subchapter.

35:30-24-5. License

- (a) A separate license shall be required for each cultivation site operated by a licensee.
- (b) All licenses expire on December 31 of the year in which the license was issued. Any industrial hemp that is not harvested on or before December 31 shall be declared for inclusion in a subsequent license or destroyed by the licensee.
- (c) Every license issued by the Department shall remain the property of the Department. Possession of a license does not confer any property right or exemption from criminal liability under the Uniform Controlled Dangerous Substances Act to the licensee, subcontractor, or officials or employees thereof that is not expressly described in this subchapter.
- (d) The Department may restrict, limit, or impose conditions on any license that are not similarly imposed on other licensees or cultivation sites.
- (e) Licenses shall not be assigned, transferred, pledged, or otherwise disposed of, alienated, or encumbered.
- (f) Unless the context expressly indicates otherwise, a subcontractor's compliance with the Oklahoma Industrial Hemp Program and the rules of this subchapter shall be sufficient to satisfy the obligations of the licensee to comply with the Oklahoma Industrial Hemp Program and the rules of this subchapter.
- (g) All applications for outdoor cultivation sites shall be submitted on or before July 1.

35:30-24-5.1. Land use restrictions

- (a) A licensee shall not grow, handle, process, or store industrial hemp in any structure that is used for residential purposes.
- (b) A licensee shall not grow, handle, process, or store industrial hemp in any outdoor field or site that is located within one thousand (1,000) feet of a school, daycare, or similar public area frequented by children as determined by the Department.

35:30-24-5.2. Restrictions on sale, transfer, and storage

- (a) A licensee shall not sell or transfer or permit the sale or transfer of living industrial hemp plants, viable plant parts, or seeds to any person in the state who does not hold an industrial hemp license issued by the Department.
- (b) Licensees may transfer up to one (1) pound of industrial hemp plants or plant parts per transfer to testing laboratories, both within and outside the state for the purpose of measuring THC, CBD, or other phytocannabinoid profile levels. It is the responsibility of the licensee to ensure compliance with the laws of other states.
- (c) A licensee shall not store live industrial hemp plants or propagating stock at any location that has not been approved by the Department on that licensee's application.
- (d) Storage of hemp shall be locked and secured.

35:30-24-5.3. Establishing records with USDA Farm Service Agency

Licensees shall report industrial hemp crop acreage or square footage to the USDA Farm Service Agency and shall provide, at a minimum, the following information:

- (1) Street address and, to the extent practicable, geospatial location for each lot, greenhouse, or indoor growing structure where industrial hemp will be produced. If an applicant operates in more than one location, information shall be provided for all production sites;
- (2) Acreage or square footage for each lot, greenhouse, or indoor growing structure dedicated to the production of industrial hemp;
- (3) License number;
- (4) Total acreage or square footage of industrial hemp planted, harvested, and destroyed; and
- (5) Any changes to the information provided shall be reported within thirty (30) days to USDA Farm Service Agency.

35:30-24-6. Continuing obligation to provide information

- (a) Every licensee shall have a continuing obligation to provide current information to the Department. The licensee shall provide updated information if there is any material change to the information provided in the application within ten (10) days of the material change unless otherwise specified herein, including but not limited to, changes in personnel or contact information.
- (b) The licensee shall file an amendment to the licensee's application not less than thirty (30) days prior to making any alteration to boundaries, dimensions, or growing areas of a cultivation site or a change in the variety of industrial hemp cultivated.

(c) The licensee shall immediately notify the Department of any change to the planting and harvesting schedule exceeding five (5) days from the planting and harvesting schedule listed in the application.

(d) The employment of a new subcontractor or replacement of an existing subcontractor associated with a license for a particular cultivation site shall require the submission of a new application and the payment of new application and inspection fees by the licensee.

35:30-24-6.1. Transportation

Upon the request of the Department or any authorized law enforcement officer, any person transporting industrial hemp shall produce the following documents for inspection:

- (1) Copy of current hemp grower's license;
- (2) Current approved certificate of analysis for the harvested hemp crop; and
- (3) Processor/Handlers license number, name, address, and contact information.

35:30-24-7. Fees

(a) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable application fee at the rate of Five Hundred Dollars (\$500.00).

(b) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable site inspection fee calculated at the rate of Five Dollars (\$5.00) per acre on a contiguous field or Thirty-Three Cents (\$0.33) per square foot in a building.

(c) An hourly inspection rate consisting of Thirty-Five Dollars (\$35.00) per hour per inspector for actual time devoted to the inspection of a cultivation site shall be charged following routine or unannounced inspections. The calculation of the hourly inspection rate shall include the inspectors' travel time from the inspectors' duty station to the cultivation site, the time devoted to inspection of the cultivation site, and the inspectors' travel time returning from the cultivation to the inspectors' duty station.

(d) Application amendments or notifications of material change to the information provided in an application shall not require the payment of additional application fees but may, at the discretion of the Department, require additional inspections and the payment of additional site inspection fees and fees assessed at the hourly inspection rate at the same rate charged for a new application.

(e) Each new, subsequent, or renewed application for a license to process or handle industrial hemp shall require the payment of a nonrefundable application fee as follows:

- (1) One Thousand Dollars (\$1,000.00) for annual sales less than and including Fifty Thousand Dollars (\$50,000.00);
- (2) Two Thousand Five Hundred Dollars (\$2,500.00) for annual sales less than and including Two Hundred Fifty Thousand Dollars (\$250,000.00) but more than Fifty Thousand Dollars (\$50,000.00); and
- (3) Five Thousand Dollars (\$5,000.00) for annual sales greater than Two Hundred Fifty Thousand Dollars (\$250,000.00).

35:30-24-8. Hemp seed

Any person who sells hemp seed shall:

- (1) Include a statement on the label which offers a copy of the current Certificate of Analysis and shall provide a copy of the current Certificate of Analysis upon request; and

- (2) Comply with the provisions of the Oklahoma Seed law and rules.

35:30-24-9. Harvest reports

(a) Not less than thirty (30) days prior to harvest, the licensee shall file a harvest report on a form provided by the Department and shall, at a minimum, contain the following information:

- (1) The name of the licensee and any associated subcontractors;
- (2) The location of the cultivation site or parts thereof wherever situated;
- (3) A description of each variety of industrial hemp growing at the cultivation site;
- (4) The expected date or dates of harvest for each variety of industrial hemp growing at the cultivation site;
- (5) The expected yield for each variety of industrial hemp planted at the cultivation site along with a description of the growing area in which each variety was planted sufficient to calculate the growing area in acres for outdoor cultivation or square feet for indoor cultivation;
- (6) A description of the intended use and disposition of the industrial hemp product, including but not limited to:
 - (A) Whether the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department to identify the price for a specific quantity of industrial hemp;
 - (B) Whether individual plant parts rather than the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department to identify the price for a specific quantity of plant parts along with a description of the plant parts sold or transferred;
 - (C) A general description of any mechanical, chemical, or other processing techniques applied to the whole plant before sale or transfer to a third party;
 - (D) The name and contact information of the person or business entity to which the whole plant or plant parts will be sold or transferred; and
 - (E) Whether the whole plant or any part thereof will be destroyed after harvest;
- (7) A description of fertilizers, pesticides, or other chemicals applied to each variety of industrial hemp planted at the cultivation site;
- (8) A description of irrigation or water management practices applied to each variety of industrial hemp planted at the cultivation site;
- (9) A description of tillage or ground preparation practices applied to each variety of industrial hemp planted at the cultivation site; and
- (10) A description of the environmental impacts and viability of each variety of industrial hemp planted along with any supporting documentation.

(b) On or before December 1, the licensee shall supplement the harvest report and declare the actual yield for each variety of industrial hemp planted at the cultivation site and any material change to the information supplied in the harvest report.

35:30-24-10. Records

(a) The licensee shall retain the following records for no less than three (3) years from the date the record is obtained or generated:

- (1) All records relating to information supplied in the application for a license;
- (2) All records relating to the use and disposition of industrial hemp harvested or any plant parts thereof;

- (3) All records relating to the storage or processing of industrial hemp or any plant parts thereof; and
 - (4) All records relating to the destruction of industrial hemp harvested or any plant parts thereof, including but not limited to, any affidavits, notifications, and electronic records required by this subchapter.
- (b) The processor/handler licensee shall retain the following records for three (3) years from the date the record is obtained or generated:
- (1) License number of the grower;
 - (2) Copy of the Certificate of Analysis; and
 - (3) Amount of hemp purchased from grower.
- (c) The licensee shall produce or allow inspection of records at the request of the Department.
- (d) The licensee's obligation to retain and produce records shall be satisfied if the subcontractor retains or produces records.

35:30-24-11. Inspection and testing

- (a) The Department shall ~~develop~~ utilize an evidence gathering methodology approved by the United States Department of Agriculture for the inspection of cultivation sites and the collection of industrial hemp test samples.
- (b) Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) shall be conducted and reported by a laboratory registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13.
- (c) Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) shall be conducted in accordance with USDA's current Testing Guidelines for Identifying Delta-9 Tetrahydrocannabinol (THC) Concentration in Hemp. Testing shall meet the following standards:
- (1) Analytical testing of samples for delta-9 tetrahydrocannabinol-concentration shall use post-decarboxylation or other similarly reliable methods;
 - (2) Testing methodology shall account for the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test results shall reflect the total available THC derived from the sum of the THC and THCA content;
 - (3) Total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on dry weight basis;
 - (4) A measurement of uncertainty shall be estimated and reported with the lab results. The laboratory shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty; and
 - (5) Quantitative determination of THC levels measured using liquid chromatography with ultraviolet detection (LC-UV) or mass spectral detection if required by matrix interference (LC/MS/MS) shall be the accepted analytical technique to avoid the risk of incomplete decarboxylation, therefore, removing the need for any post-decarboxylation.
- (d) The Department shall inspect and take samples from any cultivation site and mature Cannabis sativa L. plants located thereon, as follows:
- (1) Within thirty (30) days prior to the anticipated harvest of cannabis plants, a sample from the flower material shall be collected to determine the total delta-9 tetrahydrocannabinol concentration;

(2) The Department shall send notification of routine inspections to the licensee and subcontractor, if applicable, describing the date, time, scope, and process of routine testing. The licensee, subcontractor, or representative shall be present during routine inspections and grant unrestricted access to the Department;

(3) The Department may conduct unannounced inspections and collect samples from any cultivation site during regular business hours without advance notice; and

(4) A producer shall not harvest the cannabis plants prior to collection of samples.

(e) Industrial hemp test samples collected by the Department during routine or unannounced inspections shall be tested to verify that the delta-9 tetrahydrocannabinol concentration of industrial hemp does not exceed 0.3% on dry weight basis.

(f) Industrial pre-harvest hemp sampling shall be conducted according to the Department standard field operating procedures.

(g) The licensee shall pay the hourly inspection fees and laboratory analysis costs for any routine and unannounced inspections within thirty (30) days after receiving an invoice from the Department.

(h) The Department shall waive all hourly inspection fees and laboratory analysis costs for an unannounced inspection if no violations or inconsistencies are identified by the Department.

35:30-24-12. Violations

(a) The Department may deny, suspend, or revoke a license or fine a licensee upon a finding by the Department ~~that~~ that the licensee has violated the provisions of the Oklahoma Industrial Hemp Program and the rules of this subchapter.

(b) Violations committed by subcontractors or officials and employees thereof shall be considered violations of the licensee.

(c) The fine for violating the provisions of the Oklahoma Industrial Hemp Program and the rules of this subchapter shall not exceed Ten Thousand Dollars (\$10,000.00) per violation per day or occurrence.

(d) A violation of the provisions of the Oklahoma Industrial Hemp Program and the rules of this subchapter shall be subject to enforcement in accordance with Title 2 O.S. §§ 3-401 *et seq.*

(e) A violation of the provisions of the Oklahoma Industrial Hemp Program and the rules of this subchapter may result in civil action.

(f) If the Department determines that a licensee has negligently violated the Oklahoma Industrial Hemp Program and the rules of this subchapter, the Department may issue a corrective action plan to the licensee.

(1) A corrective action plan shall include, but not be limited to:

(A) A reasonable date by which the licensee shall correct the negligent violation, which may include destruction of hemp crops in accordance with the rules of this subchapter;

(B) A requirement that the licensee shall periodically report to the Department on the compliance status of the licensee with the corrective action plan for a period of not less than two (2) years after the violation; and

(C) Any reasonable steps the Department determines necessary to address each negligent violation.

(2) A licensee shall not have committed a negligent violation if the licensee has made reasonable efforts to grow hemp and the cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration of more than 1.0 percent on a dry weight basis.

- (3) The Department shall monitor and conduct inspections as necessary to determine if the corrective action plan has been implemented as required.
- (g) If the Department determines that a licensee has violated the Oklahoma Industrial Hemp Program and rules of this subchapter with a culpable mental state greater than negligence, the Department shall immediately report the licensee to the United States Attorney General and the Oklahoma Attorney General and the violations shall be subject to enforcement in accordance with applicable law.
- (h) Violations of the Oklahoma Industrial Hemp Program and the rules of this subchapter shall include, but not be limited to, the following conduct:
- (1) Providing false, misleading, or incorrect information or otherwise engaging in fraud or deception to secure or retain a license;
 - (2) Failure to timely, accurately, and truthfully complete and submit any application, report, or request for information from the Department;
 - (3) Failure to retain records required by this subchapter or produce such records at the request of the Department;
 - (4) Failure to be present or send a representative for a routine inspection;
 - (5) Interference with the inspection process, including, but not limited to, refusal to grant unrestricted access to a cultivation site, impeding the sampling of plants, or refusal or failure to fully cooperate with the Department's inspections;
 - (6) Failure to timely pay any fee or invoice issued by the Department;
 - (7) Planting, growing, harvesting, storing, or processing the plant, *Cannabis sativa* L., in locations other than the cultivation site described in the application for license or amendments thereto;
 - (8) Commingling hemp plant material from one lot with hemp plant material from another lot;
 - (9) Refusal or failure to comply with orders of the Department or the rules of this subchapter requiring the destruction of hemp, *Cannabis sativa* L. plants, with a total delta-9 tetrahydrocannabinol concentration of exceeding three-tenths of one percent (0.3%) on a dry weight basis, or any plant parts thereof;
 - (10) Handling, processing, or selling non-compliant hemp which enters the stream of commerce;
 - (11) Failure to disclose different varieties of *Cannabis sativa* L. plants in a single growing area;
 - (12) Failure to follow transportation rules as provided within this subchapter; and
 - (13) Processing or handling hemp grown without a license.

35:30-24-13. Destruction

- (a) The licensee shall destroy all Cannabis sativa L. plants or plant parts if required by the rules of this subchapter or by order of the Department.
- (b) Destruction of plants shall be conducted pursuant to the provisions of subsection (e) of this section unless the Department provides the licensee written authorization for an alternate method of destruction.
- (c) The licensee shall document the destruction of Cannabis sativa L. plants or plant parts in a corrective action plan, as follows:
 - (1) The licensee shall submit a notification of intended destruction, including the time and date of destruction, to the Department not less than five (5) days prior to the date that the licensee intends to undertake the destruction of the Cannabis sativa L. plants or plant parts. Destruction shall only occur in the presence of a Department inspector or representative;
 - (2) The licensee shall make and retain a date-stamped electronic video recording the collection, ignition, and incineration of the Cannabis sativa L. plants or plant parts. The video recording shall be retained as a record relating to the destruction of industrial hemp for not less than three (3) years. The date stamp need not be displayed on the video recording but shall, at a minimum, appear in the electronic file name. The electronic video recording shall consist of sufficient duration and detail to verify that the destruction occurred and was complete; and
 - (3) An officer or employee of the licensee or subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp shall submit an affidavit to the Department affirming the destruction not more than ten (10) days following the destruction.
- (d) Destruction by incineration shall be conducted safely and shall be conducted in a manner consistent with the requirements for prescribed burning at 2 O.S. §16-28.2. The licensee shall delay the destruction required by this subchapter or by order of the Department until the risk of starting a wildfire is minimal.
- (e) If a producer has produced cannabis exceeding the acceptable hemp THC level, the material shall be disposed of in accordance with USDA AMS guidelines or the CSA and DEA regulations, as the material constitutes marijuana, a schedule I controlled substance under the CSA. When material is destroyed pursuant to CSA and DEA regulations, it shall be collected for destruction by a person authorized under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly authorized Federal, State, or local law enforcement officer.

35:30-24-14. Hearings and contests

- (a) All administrative actions brought by the Department seeking the imposition of a penalty for the violation of this subchapter and all contests brought by a licensee or subcontractor shall be considered individual proceedings and shall comply with the Administrative Procedures Act, 75 O.S. § 250 et seq., and the rules of the Department.
- (b) The Department shall grant subcontractors legal standing to participate in individual proceedings if the subcontractor is authorized to do so by the licensee that is the subject of the individual proceeding.
- (c) The Department shall initiate an individual proceeding by serving a notice of violation on the licensee and any associated subcontractor listed in the Department's records for the cultivation site in question. An individual proceeding initiated by the Department shall be

required for the Department to suspend or revoke a license or impose a fine. The Department shall not be required to initiate an individual proceeding for the denial of an application for a license or to enforce the rules of this subchapter, including but not limited to, ordering the destruction of Cannabis sativa L. plants as specified herein.

(d) A licensee or authorized subcontractor may initiate an individual proceeding contesting the denial of an application, conditions or limitations placed on a license, or order of destruction by filing a petition with the Department. The petition shall state with particularity the factual grounds, arguments, and citation of legal authorities for the contest.

(e) All individual proceedings shall be heard by an administrative law judge. All evidence and legal arguments shall be offered to the administrative law judge consistent with the regular practices and rules of the Department. The findings and recommendation of the administrative law judge shall be presented to the State Board of Agriculture for a final decision. No new evidence or arguments shall be presented to the State Board of Agriculture.

35:30-24-15. Unlicensed growers

(a) Any person found growing hemp without a license shall be required to destroy all Cannabis sativa L. plants and plant parts.

(b) Destruction of plants by the grower shall be conducted pursuant to the provisions of this act unless the Department provides written authorization for an alternate method of destruction.

(c) If an unlicensed grower fails to destroy Cannabis sativa L. plants as required, the Department shall destroy the plants and pursue legal action against the grower, if necessary, to recover expenses incurred in destruction of the plants.