

**WARM SPRINGS CANNABIS REGULATORY
COMMISSION REGULATIONS**

HEMP PRODUCTION

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GENERAL REQUIREMENTS APPLICABLE TO ALL HEMP LICENSEES

744-0000. **Applicability.**

- (1) A person may not engage in any hemp activity, including but not limiting to the production of any hemp plants, unless pursuant to a license from the Cannabis Commission or as otherwise permitted under these regulations, except as otherwise permitted under the Warm Springs Tribal Code.
- (2) Nothing in these regulations exempts a licensee or licensee representative from complying with any other applicable tribal laws, except as expressly provided in these regulations.

744-0001. **Definitions.**

For the purposes of these regulations, unless otherwise specified, the following definitions apply:

- (1) **“Acceptable hemp THC level”** means a delta-9 THC content concentration level on a dry weight basis that satisfies the following criteria. When a laboratory tests a sample, the laboratory must report the delta-9 THC content concentration level on a dry weight basis and the measurement of uncertainty. The acceptable hemp THC level is when the application of the measurement of uncertainty to the reported delta-9 THC content concentration level on a dry weight basis produces a distribution or range that includes 0.3% or less. For example, if the reported delta-9 THC content concentration level on a dry weight basis is 0.35% and the measurement of uncertainty is +/-0.06%, the measured delta-9 THC content concentration level on a dry weight basis for this sample ranges from 0.29% to 0.41%. Because 0.3% is within the distribution or range, the sample is within the acceptable hemp THC level.
- (2) **“Adulterated”** means to make hemp impure by adding foreign or inferior ingredients or substances. Hemp may be considered to be adulterated if:
 - (a) It bears or contains any poisonous or deleterious substance in a quantity rendering the hemp injurious to health, including but not limited to tobacco or nicotine;
 - (b) It bears or contains any added poisonous or deleterious substance exceeding a safe tolerance if such tolerance has been established;
 - (c) It consists in whole or in part of any filthy, putrid, or decomposed substance, or otherwise is unfit for human consumption;
 - (d) It is processed, prepared, packaged, or is held under improper time-temperature conditions or under other conditions increasing the probability of contamination with excessive microorganisms or physical contaminants;

- (e) It is processed, prepared, packaged, or held under insanitary conditions increasing the probability of contamination or cross-contamination;
 - (f) It is held or packaged in containers composed, in whole or in part, of any poisonous or deleterious substance rendering the contents potentially injurious to health;
 - (g) Any substance has been substituted wholly or in part therefor;
 - (h) Damage or inferiority has been concealed in any manner; or
 - (i) Any substance has been added thereto or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.
- (3) “**Business day**” means any day from Monday through Friday, excluding legal holidays.
 - (4) “**Cannabinoid**” means any of the chemical compounds that are the active constituents of the plant Cannabis sativa L.
 - (5) “**Cannabis Commission**” means the Warm Springs Cannabis Regulatory Commission established in Warm Springs Tribal Code Chapter 743 and authorized to adopt and enforce these regulations pursuant to Warm Springs Tribal Code Chapter 744.
 - (6) “**CBD**” means cannabidiol, Chemical Abstracts Service Number 13956-29-1.
 - (7) “**CBDA**” means cannabidiolic acid, Chemical Abstracts Service Number 1244-58-2.
 - (8) “**Chain of custody procedures**” means procedures employed by laboratory personnel using a chain of custody form to record the possession of samples from the time of sampling through the retention time specified by the Cannabis Commission.
 - (9) “**Chain of custody form**” means a form completed by laboratory personnel that documents the collection, transport, and receipt of samples by the laboratory.
 - (10) “**Compliance transaction**” means a single covert, on-site visit in which a Cannabis Commission authorized representative poses as an authorized representative of a licensee or a consumer and attempts to purchase or purchases hemp from a licensee, or attempts to sell or sells hemp to a licensee.
 - (11) “**Container**” means a sealed, hard or soft-bodied receptacle in which hemp is placed prior to being sold to a consumer.

- (12) “**Consumer**” means a person who purchases, acquires, owns, holds or uses hemp other than for the purpose of resale.
- (13) “**Conviction**” means any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal, pardoned, or expunged. For purposes of these regulations, a conviction is expunged when the conviction is removed from the individual’s criminal history record and there are no legal disabilities or restrictions associated with the expunged conviction, other than the fact that the conviction may be used for sentencing purposes for subsequent convictions. In addition, where an individual is allowed to withdraw an original plea of guilty or nolo contendere and enter a plea of not guilty and the case is subsequently dismissed, the individual is no longer considered to have a conviction for purposes of these regulations.
- (14) “**Culpable mental state greater than negligence**” means, with respect to an act or omission, that the act or omission was done intentionally, knowingly, willfully, or recklessly.
- (15) “**Date of harvest**” means the date the mature hemp plants in a harvest lot were cut, picked or removed from the soil or other growing media. If the harvest occurred on more than one day, the “date of harvest” is the day the last mature hemp plant in the harvest lot was cut, picked or removed from the soil or other growing media.
- (16) “**Decarboxylated**” means that the chemical reaction that converts THC-acid (THC-A) into delta-9 THC has been completed. The decarboxylated value is also calculated using a conversion formula that sums delta-9 THC and 87.7% of THC-acid.
- (17) “**Decarboxylation**” means the removal or elimination of carboxyl group from a molecule or organic compound.
- (18) “**Delta-9 THC**” is the principal psychoactive constituent (the principal cannabinoid) of cannabis, Chemical Abstracts Service Number 1972-08-3.
- (19) “**Executive Director**” means the Executive Director of the Cannabis Commission and any member of the Executive Director’s staff, who will have the duties or authorities of the Executive Director as the Executive Director or Cannabis Commission will delegate to that individual.
- (20) “**Field duplicate sample**” means two samples taken in an identical manner from and representative of the same hemp being sampled.
- (21) “**Geospatial location**” means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.

- (22) “**Harvest lot**” means a specifically identified quantity of hemp plants that are uniform in strain, produced utilizing the same growing practices, harvested at the same time at the same location and cured under uniform conditions, if applicable.
- (23) “**Harvest lot identifier**” means a sequence of alphanumeric characters assigned by a licensee to identify a harvest lot, which is unique with respect to the licensee assigning the harvest lot identifier.
- (24) “**Hemp**” means the plant *Cannabis sativa* L. and any part of that 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 THC concentration of not more than 0.3 percent on a dry weight basis.
- (25) “**Hemp activity**” means the cultivation, processing, or testing of hemp, as those terms are defined in Warm Springs Tribal Code Chapter 744.
- (26) “**Hemp plant**” means the plant *Cannabis sativa* L., whether growing or not, with a delta-9 THC concentration of not more than 0.3 percent on a dry weight basis.
- (27) “**Hemp site**” means any land or facility on or in which one or more persons produce hemp on Tribal Land pursuant to a license and includes the following areas:
- (a) All public and private enclosed areas at the hemp site that are used in the business operated at the hemp site, including offices, kitchens, rest rooms, and storerooms; and
 - (b) All areas outside a building that the Cannabis Commission has specifically licensed for hemp production.
- (28) “**Individual**” means a natural person.
- (29) “**Indoor production**” means hemp production in any manner:
- (a) Utilizing artificial lighting on mature hemp plants; or
 - (b) Other than outdoor production.
- (30) “**Laboratory**” means a laboratory that is accredited under Oregon Revised Statutes sections 438.605 to 438.620 to conduct tests on hemp and that is registered with the United States Drug Enforcement Administration, or that is otherwise permitted to conduct tests on hemp pursuant to subtitle G of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

- (31) “**License**” means a license issued by the Cannabis Commission under Warm Springs Tribal Code Chapter 744. “License” also includes a license, permit, or registration issued in another jurisdiction, provided that the Cannabis Commission has recognized the license, permit, or registration as authorizing a person to produce hemp on Tribal Land pursuant to Cannabis Commission regulations.
- (32) “**Licensee**” means a person that holds a license issued under Warm Springs Tribal Code Chapter 744. “Licensee” also includes a person that holds a license, permit, or registration issued in another jurisdiction, provided that the Cannabis Commission has recognized the license, permit, or registration as authorizing the person to produce hemp on Tribal Land pursuant to Cannabis Commission regulations.
- (33) “**Licensee representative**” means, with respect to a licensee, a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation or other entity. A “licensee representative” does not include non-executive managers such as farm, field, or shift managers.
- (34) “**Material change**” means any change that would require a substantive revision to a licensee’s standard operating procedures for hemp production in which the licensee engages.
- (35) “**Measurement of uncertainty**” or “**MU**” means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.
- (36) “**Minor**” means any individual under 21 years of age.
- (37) “**Outdoor production**” means hemp production:
- (a) In an expanse of open or cleared ground; or
 - (b) In a greenhouse, hoop house, or similar non-rigid structure that does not utilize any artificial lighting on hemp plants, including but not limited to electrical lighting sources.
- (38) “**Person**” means any individual, corporation, association, firm, partnership, limited liability company, or joint stock company.
- (39) “**Plan Violation**” means a violation of any provision of Warm Springs Tribal Code Chapter 744 or Cannabis Commission regulations that violates or otherwise fails to comply with the terms and conditions of the Tribe’s plan pursuant to subtitle G of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), as the Tribe’s plan may be amended from time to time.

- (40) “**Produce**” or “**production**” mean to grow hemp plants for market, or for cultivation for market, in the United States. For purposes of these regulations, the terms “produce hemp” and “hemp production” refer only to the production of hemp plants.
- (41) “**Representative sample**” means a sample obtained according to a sampling procedure designed to ensure that the different parts of a lot or the different properties of a lot are proportionately represented.
- (42) “**Reservation**” means the Warm Springs Reservation of Oregon.
- (43) “**Reverse distributor**” means a person who is registered with the DEA in accordance with 21 C.F.R. § 1317.15, as it may be amended from time to time, to dispose of marijuana under the federal Controlled Substances Act.
- (44) “**Sample**” means an amount of hemp plants collected by laboratory personnel from a licensee and provided to a laboratory for testing.
- (45) “**Sterilization**” means the removal of all microorganisms and other pathogens from hemp by treating it with approved chemicals or subjecting it to high heat.
- (46) “**Test**” or “**testing**” means conducting a laboratory analysis of hemp plants as provided in these regulations.
- (47) “**Test sample**” means anything collected from a licensee that is provided to a laboratory for testing, including but not limited to hemp plants, soil, growing medium, or water.
- (48) “**These regulations**” means the rules and regulations contained in sections 744-0000 to 744-0036.
- (49) “**Tribe**” means the Confederated Tribes of the Warm Springs Reservation of Oregon.
- (50) “**THC**” means tetrahydrocannabinol and has the same Chemical Abstracts Service Number as delta-9 THC.
- (51) “**THCA**” means tetrahydrocannabinolic acid, Chemical Abstracts Service Number 2397885-0.
- (52) “**TNI**” means The NELAC (National Environmental Laboratory Accreditation Conference) Institute, a voluntary organization of state and federal environmental officials and interest groups purposed primarily to establish mutually acceptable standards for accrediting environmental laboratories.

- (53) “**TNI Standards**” means the adopted 2009 TNI Standards (© 2009 The NELAC Institute), which describe the elements of laboratory accreditation developed and established by the consensus principles of TNI and that meet the approval requirements of TNI procedures and policies.
- (54) “**Tribal Land**” means all land within the boundaries of the Reservation and all land held by the United States of America in trust for the Tribe outside the boundaries of the Reservation.

744-0002. Hemp Activities Other than Production

No person may engage in any hemp activity unless that person is licensed to produce hemp by the Cannabis Commission in accordance with these regulations, regardless of whether the licensee engages in hemp production or in any other hemp activity.

744-0003. Fees.

- (1) At the time of an initial license application, an applicant must pay a \$1000 non-refundable application fee.
- (2) At the time of an initial permit application, an applicant must pay a \$250 non-refundable application fee.
- (3) If the Executive Director approves an application and grants a license, the applicant must, prior to issuance of the license, pay a license fee according to the license fee schedule as adopted by resolution of the Cannabis Commission.
- (4) Each year, a licensee must pay a license fee according to the licensee fee schedule as adopted by resolution of the Cannabis Commission.
- (5) The Cannabis Commission will charge the following fees:
 - (a) Criminal background checks: \$50 per individual.
 - (b) Transfer of location of hemp site review: \$1,000 per license;
 - (c) Modification of license other than to transfer the location of hemp site: \$500;
 - (d) Packaging preapproval: \$100;
 - (e) Labeling preapproval: \$100; and
 - (f) Any other review requiring the approval of the Executive Director or the Cannabis Commission as identified in these regulations: \$100.

744-0004. Withdrawal of Application.

An applicant may withdraw an application that is submitted to the Cannabis Commission at any time prior to the Executive Director acting on the application, unless the Cannabis Commission has determined that the applicant submitted materially false or misleading information, in which case the Executive Director shall refuse to accept the withdrawal and shall issue a notice of proposed denial in accordance with section 744-0010.

744-0005. Communication with Cannabis Commission.

- (1) If a person is required to or elects to submit anything in writing to the Cannabis Commission, unless there is a more specific rule that states otherwise, the person may submit the writing to the Cannabis Commission via:
 - (a) Mail;
 - (b) In-person delivery;
 - (c) Facsimile; or
 - (d) E-mail.
- (2) If a written notification must be submitted by a particular deadline, it must be received, regardless of the method used to submit the writing, by 5:00 p.m. Pacific Time.

744-0006. License Application Process.

- (1) A person may submit an application to the Cannabis Commission, on a form prescribed by the Cannabis Commission, for a license to produce hemp, along with the application fee specified in section 744-0003.
- (2) In addition to submitting the license application form, the following must be submitted:
 - (a) Proof that the applicant is a wholly-owned tribal entity.
 - (b) Contact information for the applicant, including the applicant's full name, business address or principal business location address, telephone number, and email address (if available). For an applicant that is an entity, the applicant will also submit the full name, title, and email address (if available) of each licensee representative.
 - (c) Certification that the applicant and its licensee representatives, as applicable, have not been subject to conviction for a felony related to a controlled substance under Tribal, State, or Federal law at any time during the preceding ten years.

- (d)** Authorization for the Executive Director to conduct a background check of the applicant and any licensee representatives of the applicant who are individuals, as applicable, and the following information and documentation for the applicant and each licensee representative of the applicant who is an individual, as applicable:

 - (A)** A copy of a driver’s license or other government-issued identification card;
 - (B)** The applicable background check fee as specified in section 744-0003;
 - (C)** A criminal background check request form, prescribed by the Cannabis Commission, that includes but is not limited to:

 - (i)** First, middle, and last name;
 - (ii)** Any aliases, whether oral or written;
 - (iii)** Date of birth;
 - (iv)** Place of birth;
 - (v)** Citizenship;
 - (vi)** Gender;
 - (vii)** Driver’s license information;
 - (viii)** Currently and for the previous five years: Business and employment positions held, ownership interests in those businesses, business and residence addresses, business and residence telephone numbers, and driver’s license numbers;
 - (ix)** A description of any existing and previous business relationships relating to hemp, marijuana items, or controlled substances, including ownership interests in those businesses;
 - (x)** The name and address of any licensing or regulatory agency with which the individual has filed an application for a license or permit related to hemp or marijuana items, whether or not such license or permit was granted;
 - (xi)** For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition, if any; and

- (xii) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within 10 years of the date of the application, the name and address of the court involved and the date and disposition, if any; and
 - (D) Fingerprints in accordance with the instructions provided by the Cannabis Commission.
 - (e) The Cannabis Commission may request that an applicant or a licensee representative who is an individual, as applicable, disclose his or her Social Security Number if notice is provided that:
 - (A) Indicates the disclosure of the Social Security Number is voluntary; and
 - (B) Indicates that the Cannabis Commission requests the Social Security Number for the purpose of positively identifying the person during the criminal records check process.
 - (f) A legal description of the hemp site to be licensed, including, to the extent practicable, its geospatial location, a general site plan for the hemp site, which does not need to be to scale, and documentation that the hemp site satisfies any requirements imposed by Warm Springs Tribal Code Chapter 744 and these regulations.
 - (g) Documentation granting possession of the hemp site proposed for licensure.
 - (h) An operating plan that demonstrates, at a minimum, how the applicant's proposed hemp site and business will produce hemp consistent with the requirements of Warm Springs Tribal Code Chapter 744 and these regulations. The operating plan must include a description of the operation, including growing media, a description of equipment to be used in the production, and whether production will be indoor, outdoor, or both.
 - (i) A report describing the applicant's electrical and water usage, on a form prescribed by the Cannabis Commission, for the previous 12 months, if applicable, and an estimation of the applicant's electrical and water usage for the next 12 months, taking into account all portions of the premises and expected requirements of the operation.
- (3) In addition to submitting the application form and the items described in subsection (2) of this regulation, the Cannabis Commission may require the applicant to submit any additional information if there is a reason to believe that the information is needed to determine the merits of the license application.
 - (4) The Executive Director must review an application to determine if it is complete. An application will be considered incomplete if an application form is not

complete, the full application fee has not been paid, or some or all of the information required under subsections (2) or (3) of this regulation is not submitted.

- (5) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Executive Director within ten days of the date the notice of incomplete application was mailed to the applicant.

744-0007. Application Review.

- (1) Once the Executive Director has determined that an application is complete, the Executive Director must review the application to determine compliance with Warm Springs Tribal Code Chapter 744 and these regulations.
- (2) The Executive Director may, in the Executive Director's discretion, prior to acting on an application, verify any information submitted by the applicant.

744-0008. Approval of License Application and Issuance of License.

- (1) If, after the application review and inspection, the Executive Director determines that an applicant is in compliance with Warm Springs Tribal Code Chapter 744 and these regulations, the Executive Director must notify the applicant in writing that the application has been approved, and after payment by the applicant of the applicable license fee, provide the applicant with proof of licensure that includes a unique license number, the effective date of the license, and a description of the hemp site for which the license was issued.
- (2) Each license number assigned by the Executive Director will begin with the tribal code assigned to the Tribe by the United States Bureau of Indian Affairs, followed immediately by an underscore, and will end with a unique numerical identifier in accordance with the sequence in which the license number was assigned, beginning with "0001." For example, subject to any changes in the tribal code assigned to the Tribe by the United States Bureau of Indian Affairs, the first license number assigned by the Executive Director will be P09145_0001, the second license number assigned by the Executive Director will be P09145_0002, and so forth.
- (3) A licensee:
 - (a) May not produce hemp until on or after the effective date of the license unless pursuant to an existing valid license;
 - (b) Must display proof of licensure in a prominent place on the hemp site; and
 - (c) May not use the Cannabis Commission name or logo on any signs at the hemp site, on the licensee's website, or in any advertising or social media, except to the extent that information is contained on the proof of licensure.

- (4) Licensure is only valid for the hemp site indicated on the license and is only issued to the person listed on the application or subsequently approved by the Executive Director as the licensee.
- (5) A license may not be transferred.

744-0009. Data Collection and Sharing.

- (1) The Executive Director will compile and maintain a database in real time containing the following information with respect to each licensee:
 - (a) Contact information for each licensee, as set forth in section 744-0006(2)(b);
 - (b) A legal description of each hemp site, including, to the extent practicable, its geospatial location; and
 - (c) The status and license number of each license.
- (2) The Executive Director will maintain records of information contained in the database established pursuant to subsection (1) of this regulation for a period of not less than three calendar years following the entry of such information into the database.
- (3) The Executive Director will submit any information, including any updates to information, contained in the database established pursuant to subsection (1) of this regulation to the United States Secretary of Agriculture, or the designee of the Secretary, within 30 days following the entry of such information into the database and in a format that is compatible with any applicable information sharing system used by the United States Secretary of Agriculture, or the designee of the Secretary, for that purpose. All submitted information shall include the period covered by the report. For any updated information, the Executive Director will also include the previously reported information. Notwithstanding anything to the contrary otherwise in this section, the Executive Director will deliver any reports regarding disposal by the first business day of each month following the month in which the Executive Director received notification of such disposal.
- (4) The Executive Director will, in accordance with any applicable regulations of the United States Department of Agriculture or the United States Farm Service Agency, report hemp crop acreage for each licensee to the United States Farm Service Agency, and will also report, at a minimum, the following information for each licensee:
 - (a) Street address and, to the extent practicable, geospatial location for each lot or greenhouse where hemp will be produced;

- (b) Acreage dedicated to hemp production, or greenhouse or indoor square footage dedicated to hemp production; and
- (c) License number
- (d) The total acreage of hemp planted, harvested and, if applicable, disposed.

744-0010. Denial of Application.

- (1) The Executive Director must deny an application if:
 - (a) The applicant fails to certify that the applicant and its licensee representatives, as applicable, have not been subject to a conviction for a felony related to a controlled substance under Tribal, State, or Federal law at any time during the preceding ten years;
 - (b) The applicant or a licensee representative of the applicant, as applicable, has been subject to a conviction for a felony relating to a controlled substance under Tribal, State, or Federal law at any time during the preceding 10-year period;
 - (c) The proposed hemp site is located in an area that is zoned exclusively for residential use; or
 - (d) The applicant is not a wholly-owned tribal entity.
 - (e) The applicant submitted materially false information.
- (2) With the exception of a decision to deny an application as incomplete, a decision of the Executive Director to deny an application may be appealed to the full Cannabis Commission as provided in section 744.540 of the Warm Springs Tribal Code.

744-0011. Notification of Changes and Modification of License.

- (1) An applicant or licensee must notify the Cannabis Commission in writing within 10 days of any of the following, as applicable:
 - (a) A change in any contact information for anyone listed in an application or license or a change in any licensee representative listed in an application or license;
 - (b) A disciplinary proceeding or licensing enforcement action by another governmental entity against a licensee or licensee representative, as applicable;
 - (c) The filing of bankruptcy; or

- (d) The applicant, licensee, or a licensee representative of the licensee, as applicable, becomes subject to a conviction for a felony related to a controlled substance under Tribal, State, or Federal law.
- (2) On any change in any licensee representative listed in an application or license, the licensee must submit to the Cannabis Commission the information and documentation required by section 744-0006(2)(d)-(e), including the applicable background check fee as specified in section 744-0003.
 - (3) Any licensee may request to modify the terms of the licensee's license by submitting to the Executive Director an application to modify license on a form to be prepared by the Executive Director, along with the modification fee specified in section 744-0003. The application will clearly identify any changes to the parameters of the licensee's license that the licensee is seeking, as well as any other information that the Cannabis Commission concludes is relevant. The Executive Director must review the modification application and other information submitted to the Executive Director, and will approve the changes if the changes would not have resulted in a denial of the initial application under section 744-0010.
 - (4) If a licensee is seeking to change the location of a hemp site, the licensee must submit a new license application form and the fee specified in section 744-0003.
 - (5) Changing, Altering, or Modifying Hemp Sites.
 - (a) A licensee may not make any physical changes to the hemp site that materially or substantially alter the hemp site or the usage of the hemp site from the plans originally approved by the Executive Director without the Executive Director's prior written approval.
 - (b) A licensee who intends to make any material or substantial changes to the hemp site must submit a modification application and fee as provided in subsection (3) of this regulation.
 - (c) If the Executive Director denies the change, the licensee may not make the proposed changes. If the licensee makes the proposed changes, the licensee must surrender the license or the Executive Director will suspend or cancel the license.
 - (d) For purposes of this regulation a material or substantial change requiring approval includes, but is not limited to, any increase or decrease in the total physical size or capacity of the hemp site.

744-0012. Annual Fee.

- (1) Each year, a licensee must pay to the Cannabis Commission the fee required in section 744-0003.

- (2) If a licensee fails to pay the annual fee on time with the Cannabis Commission, the Executive Director may suspend the license until the licensee pays the fee.

744-0013. Financial and Business Records.

In addition to any other recordkeeping requirements in these regulations, a licensee must have and maintain records that clearly reflect all financial transactions and the licensee's financial condition. The following records must be kept and maintained for a three-year period and must be made available for inspection if requested by the Executive Director:

- (1) Purchase invoices and supporting documents for items and services purchased for use in production, including from whom the items were purchased and the date of purchase;
- (2) Bank statements for any accounts relating to the licensee;
- (3) Accounting and tax records related to the licensee;
- (4) Documentation of all financial transactions related to the licensee, including contracts and agreements for services performed or received that relate to the licensee; and
- (5) A daily log of all employees, contractors, and licensee representatives who perform work on the hemp site.

744-0014. Hemp Site Restrictions and Requirements

- (1) A hemp site may not be located in an area that is zoned exclusively for residential use.
- (2) A hemp site other than a hemp site or that portion of a hemp site on which a licensee engages exclusively in outdoor production must be enclosed on all sides by permanent walls and doors.
- (3) A licensee may not sublet any portion of a hemp site.

744-0015. Standards for Cannabis Commission to Operate a Licensed Business as a Trustee, a Receiver, a Personal Representative, or a Secured Party.

- (1) The Executive Director may grant temporary authority to operate a licensed business to a trustee, the receiver of an insolvent or bankrupt licensed business, or a person holding a security interest in the business for a reasonable period of time to allow orderly disposition of the business.
 - (a) The trustee or receiver must provide the Executive Director with the following information:

- (A) Proof that the person is the legal trustee or receiver for the licensee; and
 - (B) A written request for authority to operate as a trustee or receiver, listing the address and telephone number of the trustee or receiver.
- (b) The secured party must provide the Executive Director with the following information:
- (A) Proof of a security interest in the licensed business;
 - (B) Proof of the licensee’s default on the secured debt;
 - (C) Proof of legal access to the real property; and
 - (D) A written request for authority to operate as a secured party listing the secured party’s address and telephone number.
- (2) The Executive Director may cancel or refuse to issue or extend authority for the trustee, receiver, or secured party to operate:
- (a) If the trustee, receiver, or secured party does not propose to operate the licensee’s business immediately or does not begin to operate the business immediately on receiving the temporary authority;
 - (b) For any of the reasons that the Cannabis Commission may cancel or refuse to issue a license;
 - (c) If the trustee, receiver, or secured party operates the business in violation of Warm Springs Tribal Code Chapter 744, or these regulations; or
 - (d) If a reasonable time for disposition of the business has elapsed.
- (3) No person described in subsection (1) of this regulation may operate the licensee’s business until a certificate of authority has been issued under this regulation.
- (4) A certificate of authority under this regulation is initially issued for a 60-day period and may be extended as reasonably necessary to allow for the disposition of the business.

744-0016. Closure of Business.

- (1) The Cannabis Commission may issue an order providing for the manner and conditions under which:
- (a) Hemp left by an insolvent or bankrupt licensee, or subject to a security interest, may be foreclosed, sold under execution, or otherwise disposed.

- (b) The business of an insolvent or bankrupt licensee may be operated for a reasonable period following the insolvency or bankruptcy.
- (2) A secured party may continue to operate a licensee's business for a reasonable period after default on the indebtedness by the debtor.
- (3) If a license is canceled, the Cannabis Commission must address in its order the manner and conditions under which hemp held by the licensee may be transferred or sold.

SECURITY

744-0017. Security Requirements

- (1) A licensee is responsible for the security of all hemp on the hemp site, including providing adequate safeguards against theft or diversion of hemp and records that are required to be kept.
- (2) The licensee must ensure that commercial grade, non-residential door locks are installed on every external door of a hemp site where hemp is present.
- (3) During all hours when the licensee is not operating, a licensee must ensure that all entrances to and exits from a hemp site are securely locked and any keys or key codes to the enclosed area remain in the possession of the licensee, licensee representatives, or other authorized personnel.

HEALTH AND SAFETY

744-0018. Safety Inspections

- (1) All licensees may be subject to inspection of hemp sites as required by the Cannabis Commission to determine compliance with applicable health and safety laws.
- (2) A licensee must contact any utility provider to ensure that the licensee complies with any applicable ordinance or utility requirements such as water use, discharge into the sewer system, or electrical use.

744-0019. General Sanitary Requirements

- (1) A licensee must:
 - (a) Prohibit any individual working on a hemp site who has or appears to have a communicable disease, open or draining skin lesion infected with *Staphylococcus aureus* or *Streptococcus pyogenes*, or any illness accompanied by diarrhea or vomiting for whom there is a reasonable possibility of contact with hemp from having contact with hemp until the condition is corrected;

- (b) Require all persons who work in direct contact with hemp to conform to hygienic practices while on duty, including but not limited to:
 - (A) Maintaining adequate personal cleanliness; and
 - (B) Washing hands thoroughly in an adequate hand-washing area before starting work, prior to having contact with hemp and at any other time when the hands may have become soiled or contaminated;
 - (c) Provide hand-washing facilities adequate and convenient, furnished with running water at a suitable temperature and provided with effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying device;
 - (d) Properly remove all litter and waste from the hemp site and maintain the operating systems for waste disposal in an adequate manner so that they do not constitute a source of contamination in areas where hemp is exposed;
 - (e) Provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and
 - (f) Hold hemp that can support pathogenic microorganism growth or toxic formation in a manner that prevents the growth of these pathogenic microorganism or formation toxins.
- (2) For purposes of this regulation “communicable disease” includes but is not limited to: diphtheria, measles, Salmonella enterica serotype Typhi infection, shigellosis, Shiga-toxigenic Escherichia coli (STEC) infection, hepatitis A, and tuberculosis.

744-0020. Operating Procedures.

A licensee must:

- (1) Establish written standard operating procedures for production of hemp plants, which at a minimum must include when, and the manner in which, all pesticides or other chemicals are to be applied during the production process; and
- (2) Maintain a copy of all standard operating procedures on the hemp site; and
- (3) Document any material change that is made to its standard operating procedures, revise the standard operating procedures accordingly, and maintain on the hemp site records detailing the material change.

744-0021. Pesticides, Fertilizers, and Agricultural Chemicals.

- (1) Plan and Procedure for Use of Pesticides, Fertilizers, and Agricultural Chemicals.**

 - (a)** A licensee may not use any pesticide, fertilizer, agricultural amendment, agricultural mineral or lime product unless the Executive Director has approved the licensee’s proposed use of such product.
 - (b)** If a licensee desires to use any pesticide, fertilizer, agricultural amendment, agricultural mineral or lime product, the licensee must submit to the Cannabis Commission a plan for the licensee’s use of such product, which must identify each specific product that the licensee intends to use and the manner in which the licensee proposes to use that product. The Executive Director will review the licensee’s proposal and determine whether to permit the licensee to use the identified product in the manner proposed by the licensee.
- (2)** A licensee may not treat or otherwise adulterate any hemp plant with any chemical, biologically active drug, plant, substance (including nicotine), or other compound that has the effect or intent of altering the hemp plant’s color, appearance, weight or smell.
- (3)** In addition to other records required by these regulations, a licensee must maintain, at all times and on the hemp site:

 - (a)** The material safety data sheet for all pesticides, fertilizers or other agricultural chemicals used by the licensee in production of any hemp plants;
 - (b)** The original label or a copy thereof for all pesticides, fertilizers or other agricultural chemicals used by the licensee in production of any hemp plants; and
 - (c)** A log of all pesticides, fertilizers or other agricultural chemicals used by the licensee in production of any hemp plants. The log must include:

 - (A)** The date and approximate time of application;
 - (B)** The person who supplied the product;
 - (C)** The trade name and the strength of the product;
 - (D)** The amount or concentration (pounds or gallons per acre of active ingredient or concentration per approximately 100 gallons);
 - (E)** The names of the individuals who applied the product; and

- (F) Identification of the lot or hemp plant to which the product was applied, or if applied to all plants on the hemp site a statement to that effect.
- (4) A licensee may maintain the records required under this regulation in electronic or written form. If electronic, a licensee will maintain a backup system or sufficient data storage so that records are retained for no less than two years after harvest of any hemp on which documented products were used. If written, a licensee will ensure that the records are legible and complete, will keep them in a safe and secure location, and will retain the records for no less than two years after harvest of any hemp on which documented products were used.
- (5) A licensee must make the records required under this regulation immediately available during any hemp site inspection by the Executive Director. If the Executive Director requests copies of the records at any time other than during a hemp site inspection, a licensee will produce the records on request.

744-0022. Harvest Lot Segregation.

- (1) A licensee must, within 45 days of harvesting a harvest lot, physically segregate the harvest lot from other harvest lots and place the harvest lot in a receptacle or multiple receptacles.
- (2) A licensee may not combine harvest lots that are of a different strain, were produced using different growing practices, or were harvested at a different time.

744-0023. Recordkeeping.

- (1) A licensee must maintain records required under this regulation for not less than 3 years after the total disposition of each harvest lot, as identified by harvest lot identifier.
- (2) A licensee must maintain a system of recordkeeping that identifies the harvest lot(s), as identified by the harvest lot identifier(s), of all hemp plants produced by a licensee.
- (3) If the Cannabis Commission requires a licensee to submit or produce documents to the Cannabis Commission that the licensee believes constitute trade secret, the licensee must mark each document “confidential” or “trade secret.”

744-0024. Transport Requirements.

When transporting hemp, licensees must ensure a copy of the licensee’s license and a copy of the pre-harvest test results that correspond to the hemp in transit, as identified by harvest lot identifier(s), accompanies the hemp.

TESTING HEMP

744-0025. Pre-Harvest Sampling and Testing.

- (1) Required Sampling and Testing:
 - (a) A licensee must ensure that all hemp plants produced by the licensee are timely sampled and tested according to this regulation.
 - (b) Harvest lots must be sampled and tested separately and may not be combined. At the discretion of the licensee, hemp plants produced in a contiguous field or growing area may be subdivided into separate harvest lots for sampling and testing consistent with this regulation. Sampling must be conducted, and testing must be reported, using the harvest lot identifier described in section 744-0023 of these regulations.
 - (c) A licensee must arrange for and ensure the sampling of a harvest lot no more than fifteen (15) days prior to harvest for the purpose of ensuring that the harvest lot does not exceed the acceptable hemp THC level. A licensee may not harvest any hemp plant prior to sampling the harvest lot in accordance with these regulations.
- (2) To be sufficient to meet required THC testing under these rules:
 - (a) All sampling and testing must be performed by a laboratory defined in section 744-0001(31) of these regulations.
 - (b) A licensee must ensure that a laboratory retains all documentation of sampling and testing for at least three years and that such documentation is provided to the Commission upon request.
 - (c) A licensee may only use a laboratory that complies with sample or matrix spike recovery requirements and Relative Percent Difference requirements as described in Exhibit B.
 - (d) The laboratory must report the THC content of the harvest lot.
- (3) To request sampling and testing, prior to sampling, a licensee must submit to the laboratory a completed sampling request form provided by the Commission that includes:
 - (a) A written sampling request for THC analysis for each harvest lot, as identified by the harvest lot identifier(s), for which the licensee is requesting sampling and testing and the total number of harvest lots to be sampled and tested;
 - (b) A description of the location of the production area of each harvest lot, as identified by the harvest lot identifier(s), including, to the extent

practicable, the geospatial location, or otherwise the address, of the harvest lot(s); and

- (c) A written description and visual depiction of each harvest lot to be sampled and tested such that the production area for each harvest lot is apparent from a visual inspection of the premises and easily discernible from other harvest lots.
- (4) To be sufficient to meet the requirement for sampling under these rules, sampling of a harvest lot must be conducted:
- (a) In the presence of the licensee or an authorized representative of the licensee;
 - (b) In accordance with the Commission’s Sampling Protocol prescribed in Exhibit A and incorporated by reference into these regulations;
 - (c) Using a method of sampling that is sufficient at a confidence level of 95 percent that no more than one percent (1%) of the plants in the harvest lot would exceed the acceptable hemp THC level, and using a method that ensures that a representative sample is collected that represents a homogenous composition of the harvest lot;
 - (d) Such that representatives of the sampling agency are provided with complete and unrestricted access during business hours to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the production, handling, and storage of all hemp and other cannabis plants, and all locations listed in the license as part of the hemp site; and
 - (e) Such that a sufficient sample size is taken and retained for analysis of all requested tests, any requested retest, and any quality control performed by the laboratory for these tests.
- (5) To be sufficient to meet the required THC testing under these rules a licensee must ensure that:
- (a) Testing of a harvest lot is done by the laboratory according to the Commission’s Testing Protocol prescribed in Exhibit B and incorporated by reference into these regulations, and using a procedure that is able to accurately identify whether the sample contains a delta-9 THC content concentration level that exceeds the acceptable hemp THC level. The procedure must include a validated testing methodology that uses postdecarboxylation or other similarly reliable methods. The testing methodology must also consider the potential conversion of delta-9 THC acid in hemp into THC and the test result must measure total available THC derived from the sum of the THC and THC-A content. Testing methodologies meeting the requirements of this section include, but are

not limited to, gas or liquid chromatography with detection. The total THC concentration level will be determined and reported on a dry weight basis.

- (b)** Testing of a harvest lot is done by the laboratory using quality assurance that ensures the validity and reliability of test results. Analytical method selection, validation, and verification must ensure that the testing method used is appropriate (fit for purpose), and that the laboratory can successfully perform the testing. The demonstration of testing validity must ensure consistent, accurate analytical performance. Method performance specifications must ensure analytical tests are sufficiently sensitive for purposes of any applicable detectability requirements.
- (c)** All test results are reported by the laboratory electronically to the Cannabis Commission and the United States Secretary of Agriculture, or the designee of the Secretary, using forms provided by the Cannabis Commission, and include for each sample tested:

 - (A)** Licensee’s name and license number;
 - (B)** Licensee’s business address;
 - (C)** Laboratory’s name and registration number with the United States Drug Enforcement Administration;
 - (D)** Sample date;
 - (E)** Sample size by weight;
 - (F)** Testing date and date of report;
 - (G)** Delta-9 THC content concentration level on a dry weight basis;
 - (H)** Measurement of uncertainty;
 - (I)** Clear identification of the harvest lot by harvest lot identifier that corresponds to the sample and the location of the corresponding harvest lot’s production area; and
 - (J)** Copy of the licensee’s sampling request form required in subsection (3); and
 - (K)** Identification of any retest and the test result.
- (d)** If a sample fails testing, a licensee must ensure that:

 - (A)** The laboratory sends the failed test report electronically to the Cannabis Commission using the forms provided by the Cannabis Commission within 24 hours of the failed test report.

- (B) The laboratory sends failed test reports to the licensee who requested the testing using the forms provided by the Cannabis Commission within 24 hours of the failed test report.
- (C) The licensee must comply with section 744-0028.
- (6) A sample fails testing if the test report indicates that the sample contains higher than the acceptable hemp THC level. If a sample from a harvest lot fails required THC testing under these rules the harvest lot fails required THC testing.
- (7) If the test report indicates that the sample contains a delta-9 THC concentration level at or below the acceptable hemp THC level, and the harvest lot was sampled and tested in compliance with these rules, the harvest lot passes testing required by these rules.
- (8) Invalid Sampling or Testing:
 - (a) It is the licensee’s obligation to demonstrate each harvest lot was sampled and tested in accordance with these rules and passes THC testing required by these rules.
 - (b) A sample that does not meet all of the requirements and standards of these rules is invalid. The harvest lot corresponding to an invalid sample fails to satisfy the required THC testing under these rules.
- (9) In addition to the testing required by this section the Commission may inspect any hemp and take a representative sample for testing for THC content. The Commission may detain, seize, embargo, and dispose of any hemp that fails THC testing as described in subsection (6) of this regulation.

744-0026. Labeling, Storage, and Security of Pre-Tested Hemp.

- (1) Following samples being taken from a harvest lot, a licensee must:
 - (a) Label the harvest lot with the following information:
 - (A) The laboratory doing the samples;
 - (B) The date the samples were taken;
 - (C) The harvest lot number for the samples;
 - (D) The licensee’s license number; and
 - (E) In bold, capital letters, no smaller than 12 point font, “PRODUCT NOT TESTED”.
 - (b) Store and secure the harvest lot in a manner that prevents the product from being tampered with or transferred prior to test results being reported.

- (2) A harvest lot may be stored in more than one receptacle as long as the labeling requirements are met.

744-0027. [Reserved].

744-0028. Failed Test Samples.

- (1) If a sample from a harvest lot fails testing, the harvest lot must be destroyed or disposed of in accordance with this regulation.
- (2) A licensee must ensure that a reverse distributor destroys or disposes of all hemp from any harvest lot that fails testing in accordance with reverse distributor regulations of the United States Drug Enforcement Administration set forth at 21 C.F.R. § 1317.15, as it may be amended from time to time.
- (3) The Executive Director will promptly notify the Administrator of the Agriculture Marketing Service, or the designee of the Administrator, by certified mail or electronically of any occurrence of failed testing and attach the records demonstrating the appropriate destruction or disposal of all of those plants and materials in the harvest lot from which the representative samples were taken.
- (4) If a licensee fails to comply with any provision of these regulations that requires destruction or disposal of a harvest lot, the Cannabis Commission may detain, seize, embargo, or dispose of the lot.
- (5) A licensee must document and maintain for not less than three years records of all destruction or disposal of hemp pursuant to this regulation.

744-0029. Audit Testing or Compliance Testing.

- (1) The Executive Director may require a licensee to have samples from a harvest lot submitted to a laboratory for testing in order to determine whether the licensee is in compliance with these regulations, at the licensee's expense.
- (2) Audit testing must comply with section 744-0025 and any applicable licensee or laboratory accreditation rules. The Executive Director must conduct at least one (1) random audit test in every six-month period to verify that hemp plants produced by a licensee do not exceed acceptable hemp THC levels.

LABELING

744-0030. Hemp Plant Labeling Requirements.

Prior to transferring a hemp plant to a consumer or to another person for ultimate transfer to a consumer, a licensee must ensure that a tag or label is affixed to the plant or plant container that has the following information:

- (1) The transferring licensee's business or trade name and licensee number; and
- (2) Name of the strain.

WASTE MANAGEMENT

744-0031. Waste Management.

- (1) A licensee must:
 - (a) Store, manage and dispose of solid and liquid wastes generated during hemp production, which is referred to in this regulation as hemp waste, in accordance with Federal Resource Conservation and Recovery Act and as may otherwise be required by the Cannabis Commission or the Tribal Sanitarian if disposed into the tribal landfill; and
 - (b) Store hemp waste in a secured waste receptacle in the possession of and under the control of the licensee.
- (2) A licensee may dispose of hemp waste by any one or more of the following methods:
 - (a) Disposal at a solid waste site and disposal facility;
 - (b) Deposit at a compost facility; or
 - (c) Composting on-site at hemp site.
- (3) A licensee must maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of any hemp.

INVESTIGATION AND ENFORCEMENT

744-0032. Prohibited Conduct.

- (1) **Hemp Production.**
 - (a) A person may not produce hemp, except as permitted by these regulations. Intentionally violating this subsection is a Category I violation. Negligently violating this subsection is a Category III violation.
 - (b) A licensee may not transfer hemp that has not been tested as required by these regulations or that is from a harvest lot that has failed a test, except to a laboratory or a reverse distributor. Violation of this subsection is a Category I violation.

- (c) A licensee may not transfer hemp that is not packaged and labeled as required in these regulations to a consumer or another person for ultimate transfer to a consumer. Violation of this subsection is a Category III violation.
- (2) **Corrective Action Plan Compliance.**
 - (a) A person must comply with the terms and conditions of a corrective action plan ordered under section 744-0036. Violation of this subsection is a Category III violation.
- (3) **False Statements and Failure to Disclose.**
 - (a) A licensee or licensee representative may not make a false statement or representation or fail to disclose any information that the licensee or licensee representative is required to disclose to the Cannabis Commission or law enforcement in order to induce or prevent action or investigation by the Cannabis Commission or law enforcement. Violation of this subsection is a Category II violation.
 - (b) If the Cannabis Commission finds that the false statement or representation or failure to disclose was intentional, the Cannabis Commission may charge the violation as a Category I violation.
- (4) **Failure to Fully and Transparently Account for All Hemp and Financial Transactions.**
 - (a) A licensee may not fail to fully, transparently, and accurately maintain all records required by these regulations, including records that reflect all financial transactions of the licensee, and account for and track all hemp as required by these regulations.
 - (b) With the exception of any activity that amounts to an intentional misrepresentation of or intentional failure to disclose any information that a licensee is required to track and disclose, which is a Category I violation, a violation of this subsection is a Category III violation.
- (5) **Access to Hemp Sites and Records by the Cannabis Commission.** A licensee or licensee representative may not:
 - (a) During regular business hours for the hemp site, refuse to admit or fail to promptly admit the Executive Director or a law enforcement officer who identifies him or herself and who enters or wants to enter a hemp site to conduct an inspection of the hemp site or the licensee's papers, books, and other records to ensure compliance with Warm Springs Tribal Code Chapter 744 or these regulations;

- (b) Outside of regular business hours or when the premises appear closed, refuse to admit or fail to promptly admit the Executive Director or a law enforcement officer who identifies him or herself and requests entry on the basis that there is a reason to believe a violation of Warm Springs Tribal Code Chapter 744 or these regulations is occurring; or
 - (c) Once the Executive Director or a law enforcement officer is on the hemp site in accordance with subsection (a) or (b), ask that person to leave until after that person has had an opportunity to conduct an inspection to ensure compliance with Warm Springs Tribal Code Chapter 744 affecting the hemp site, or these regulations.
 - (d) Violation of this section is a Category II violation.
- (6) **Evidence.** A licensee or licensee representative may not:
- (a) Intentionally destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so. Violation of this subsection is a Category I violation.
 - (b) Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so, in any manner other than intentional. Violation of this subsection is a Category II violation.
 - (c) Refuse to give, or fail to promptly give, the Executive Director or law enforcement officer evidence when lawfully requested to do so. Violation of this subsection is a Category II violation.
- (7) **Hemp Misrepresentations.**
- (a) A person may not misrepresent any hemp to any other person, including by:
 - (A) Misrepresenting the contents of hemp;
 - (B) Misrepresenting the testing results of hemp;
 - (C) Misrepresenting the potency of hemp; or
 - (D) Making representations or claims that hemp has curative or therapeutic effects.
 - (b) A licensee may not treat or otherwise adulterate any hemp plant with any chemical, biologically active drug, plant, substance (including nicotine), or other compound that has the effect or intent of altering the hemp plant's color, appearance, weight or smell in violation of section 744-0021.
 - (c) An intentional violation of this section is a Category I violation.

- (d) Violation of this section in any manner other than intentional is a Category II violation.
- (8) Supply of Adulterated Hemp.**
- (a) A licensee may not fail to satisfy any of the requirements relating to the use of pesticides, fertilizers, and agricultural chemicals as provided in section 744-0021.
 - (b) A licensee may not transfer adulterated hemp, except to a laboratory for purposes of testing or a reverse distributor for purposes of destruction or disposal.
 - (c) Violation of this section is a Category I violation.
- (9) Security of Hemp Site.** A licensee may not fail to satisfy the security requirements of section 744-0017. Violation of this regulation is a Category III violation.
- (10) Permitting Disorderly or Unlawful Conduct.** A licensee or licensee representative may not permit disorderly activity or activity that is unlawful under applicable law on the licensed premises or in areas adjacent to or outside the licensed premises under the control of the licensee.
- (a) If the prohibited activity under this section results in death or serious physical injury, or involves unlawful use or attempted use of a deadly weapon against another person, or results in a sexual offense such as rape, an unnatural sex act, or sexual abuse, the violation is a Category I violation.
 - (b) If the prohibited activity under this section involves use of a dangerous weapon against another person with intent to cause death or serious physical injury, it is a Category II violation.
 - (c) As used in this section:
 - (A) “**Disorderly activities**” means activities that harass, threaten or physically harm oneself or another person.
 - (B) “**Unlawful activity**” means activities that violate the laws of the Tribe, including but not limited to any activity that violates a tribal criminal statute.
- (11) Any other violation.** A person may not fail to comply with any other requirement of these regulations or Warm Springs Tribal Code Chapter 744.

744-0033. Inspections.

- (1) The Executive Director may conduct:
 - (a) A complaint inspection at any time following the receipt of a complaint that alleges a person is in violation of Warm Springs Tribal Code Chapter 744 or these regulations;
 - (b) An inspection at any time if it believes, for any reason, that a person is in violation of Warm Springs Tribal Code Chapter 744 or these regulations;
or
 - (c) Compliance transactions in order to determine whether a person is complying with Warm Springs Tribal Code Chapter 744 or these regulations.
- (2) The Executive Director must conduct, at a minimum, annual inspections of a random sample of hemp sites to verify that hemp plants are produced in compliance with subtitle G of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.). Nothing in this regulation limits the power of the Executive Director to conduct more frequent or targeted investigations or investigations for any other purposes at any time.
- (3) A person must cooperate with the Executive Director during an inspection.
- (4) If a person fails to permit the Executive Director to conduct an inspection, then the Executive Director may seek an investigative subpoena from the Cannabis Commission to inspect the premises and gather books, payrolls, accounts, papers, documents or records.

744-0034. Suspension or Revocation.

- (1) The Executive Director or Cannabis Commission may suspend or revoke a license or impose a fine on a licensee in accordance with Warm Springs Tribal Code 744.540 to 744.570 and section 744-0036 of these regulations.
- (2) The Executive Director or Cannabis Commission will provide notice of the suspension, revocation, or fine in accordance with Warm Springs Tribal Code sections 744.540 to 744.570.
- (3) The Executive Director or Cannabis Commission may order cessation of hemp production, impose a fine, or take any other enforcement action with respect to a licensee representative in accordance with Warm Springs Tribal Code 744.540 to 744.570 and section 744-0036 of these regulations.
- (4) The Executive Director or Cannabis Commission will provide notice of the order, fine, or other action in accordance with Warm Springs Tribal Code 744.540 to 744.570.

- (5) The Executive Director or Cannabis Commission may order compliance with a corrective action plan in accordance with Warm Springs Tribal Code 744.540 to 744.570 and section 744-0036 of these regulations.
- (6) The Executive Director or Cannabis Commission will provide notice of the corrective action plan in accordance with Warm Springs Tribal Code 744.540 to 744.570.

744-0035. Suspended Licenses: Posting of Suspension Notice Sign, Activities Allowed During Suspension.

- (1) Before 7:00 a.m. on the date a license suspension goes into effect, and until the suspension is completed, the Executive Director must ensure that a suspension notice sign is posted on each outside entrance or door to the hemp site.
- (2) The suspension notice sign must be posted in a way that allows any person entering the hemp site to read it. Licensees must use the suspension notice sign provided by the Executive Director. The sign will state that the license has been suspended by order of the Cannabis Commission due to violations of applicable Tribal law.
- (3) During the period of license suspension, the licensee is responsible for ensuring:
 - (a) Compliance with all applicable laws and rules; and
 - (b) That the suspension notice sign is not removed, altered, or covered.
- (4) A licensee or licensee representative may not allow the any hemp production on the hemp site during the period of time that the license is under suspension.
- (5) Sanction:
 - (a) A violation of subsection (4) of this regulation is a Category I violation.
 - (b) A violation of subsections (2) or (3)(b) of this regulation is a Category IV violation.

744-0036. Suspension, Cancellation, Civil Penalties, Sanction Schedule.

- (1) The Executive Director or Cannabis Commission may impose a civil penalty not to exceed \$5,000 under sections 744.540 through 744.570 of the Warm Springs Tribal Code. Civil penalties will be calculated by multiplying:
 - (a) The number of days in a suspension, if suspension could be or is being imposed, by \$165 for licensees; or

- (b) The number of days for which cessation of hemp production by the licensee representative is ordered, if cessation of hemp production is or could be ordered, by \$25 for licensee representatives or other persons.
- (2) Violation Categories:
 - (a) The Cannabis Commission has the following violation categories:
 - (A) Category I — Violations that make a licensee ineligible for a license;
 - (B) Category II — Violations that create a present threat to public health or safety;
 - (C) Category III — Violations that create a potential threat to public health or safety;
 - (D) Category IV — Violations that create a climate conducive to abuses associated with the cultivation or processing of hemp;
 - (E) Category V — Violations inconsistent with the orderly regulation of the cultivation or processing of hemp.
 - (F) For violations of Warm Springs Tribal Code Chapter 744 or these regulations for which no category is specified, the Executive Director or Cannabis Commission may impose sanctions that the Executive Director or Cannabis Commission determines are reasonable under the circumstances.
 - (b) A proposed sanction schedule for the first and subsequent violations within a two-year period within each violation category is listed in Table 3 and Table 4, which are incorporated by reference.
 - (c) If the Cannabis Commission finds aggravating or mitigating circumstances, it may assess a greater or lesser sanction from the proposed sanctions listed in Table 3 and Table 4. Mitigating and aggravating circumstances include but are not limited to:
 - (A) Good faith efforts by a licensee or licensee representative to prevent a violation;
 - (B) Extraordinary cooperation from the licensee or licensee representative during the violation investigation that shows the licensee or licensee representative accepts responsibility;
 - (C) A prior warning about compliance problems;
 - (D) Repeated failure to comply with laws;

- (E) Efforts to conceal a violation;
 - (F) The violation involved more than one transaction or licensee representative;
 - (G) The violation involved an individual under the age of 18; or
 - (H) The violation resulted in injury or death.
- (d) The Cannabis Commission may always increase or decrease a sanction to prevent inequity or to take account of particular circumstances in the case.
- (3) The Cannabis Commission increases sanctions based on successive violations in the same category within a two-year period. For example, if a licensee, or licensee representative who has committed one Category III violation and one Category IV violation within the past two years commits another Category III violation, the Cannabis Commission assesses the sanction at the second level for the pending Category III violation. Numerous violations within the two-year period, regardless of the type, may indicate such a disregard for the law or failure to control the premises so as to warrant cancellation of the license.
- (4) If the Executive Director or the Cannabis Commission determines that a person has negligently committed a Plan Violation, the Executive Director will, in addition to any other penalties or sanctions imposed under Warm Springs Tribal Code Chapter 744 or these regulations, order that the person comply with a corrective action plan. Notwithstanding any other provision of these regulations, a licensee does not commit a negligent violation under this regulation on account of a test result that exceeds the acceptable hemp THC level if the licensee makes reasonable efforts to produce hemp and the cannabis that has failed testing does not have a delta-9 THC content concentration of more than 0.5 percent on a dry weight basis.
- (a) The Executive Director will incorporate a corrective action plan into a written order that will include a plan established by the Executive Director to correct the negligent violation, including a reasonable date by which the person will correct the negligent violation, a requirement that the person will periodically report to the Executive Director on the compliance of the person with the Tribe's plan pursuant to subtitle G of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) for a period of two calendar years following the date of the order, and a requirement that the Executive Director will conduct an inspection to determine if the corrective action plan has been implemented.
 - (b) A corrective action plan will incorporate any other penalties or sanctions imposed under Warm Springs Tribal Code Chapter 744 with respect to the Plan Violation and may include any other terms the Executive Director finds reasonably necessary to correct the negligent violation. A corrective action plan may specify the sanctions that will be imposed on failure to

comply with the corrective action plan, including suspension or cancellation of a license or an automatic extension of the corrective action plan to include additional provisions or apply for a longer duration.

- (5) Notwithstanding subsection (4) above, if a person has negligently committed a Plan Violation three times in any five-year period, as determined by the Executive Director or the Cannabis Commission, the Executive Director will suspend the person’s license, if a licensee, for a period of five years beginning on the date of the third such Plan Violation, and the person will be ineligible for a period of five years beginning on the date of the third such Plan Violation to produce any hemp plants.
- (6) If a person has committed a Plan Violation with a culpable mental state greater than negligence, as determined by the Executive Director or the Cannabis Commission, the Executive Director will immediately report the person to the Attorney General of the United States, or the designee of the Attorney General of the United States, and the chief law enforcement officer of the Tribe.

Cannabis Commission Sanctions for Licensees

Table 3							
Category	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th
I	Revoke						
II	30 days	Cancel					
III	10 days or \$1650	30 days or \$4950	30 days	Cancel			
IV	7 days or \$1155	10 days or \$1650	20 days or \$3300	30 days	Cancel		
V	3 days or \$495	7 days or \$1155	10 days or \$1650	20 days or \$3300	30 days	Cancel	

Cannabis Commission Sanctions for Licensee Representatives

Table 4							
Category	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th
I	Revoke						
II	30 days	Cancel					
III	10 days or \$250	30 days or \$750	30 days	Cancel			
IV	7 days or \$175	10 days or \$250	20 days or \$500	30 days	Cancel		
V	3 days or \$75	7 days or \$175	10 days or \$250	20 days or \$500	30 days	Cancel	

Exhibit A: Sampling Protocol

Industrial Hemp Pre-Harvest Testing

To be sufficient to meet the requirement for pre-harvest THC sampling and testing under Warm Springs Hemp Production Regulations, section 744-0025, all sampling must be conducted as described in this Protocol.

A. General Sampling Requirements

1. Sampling may only be performed by a laboratory defined in section 744-0001(31) of the regulations.
2. All sampling must be performed by personnel employed by a Laboratory and in accordance with Regulations section 744-0025 and this Protocol. All sampling must be performed by laboratory personnel who have completed sampling training with the Oregon Department of Agriculture.
3. Laboratory must follow chain of custody procedures consistent with TNI EL Standard VIM2 5.7 and 5.8 and be documented to record the collection, transport, and receipt of samples by the laboratory. Laboratory must maintain records for each harvest lot as identified by harvest lot identifier, as described in section 744-0023 of the regulations.
4. Sampling must produce a representative sample of the harvest lot.
5. Laboratory must avoid contamination of the non-sampled material with sample containers that are free of analytes of interest and appropriate for the analyses requested.
6. Laboratory shall only sample plants with flowers. If no flowering plants are present, the Laboratory shall reschedule the sampling for a later date when flowering plants are present.
7. Laboratory must obtain a sufficient sample size to provide sufficient material to conduct all requested tests, any requested retest, and any quality control performed by the testing laboratory.

B. Initiating a Sampling Request

1. The Laboratory must receive a complete Industrial Hemp Sampling and Testing Request Form prior to sampling. The Laboratory must receive a new and separate “Harvest Lot Sampling Request Description” for each “Harvest Lot” to be sampled.
2. Laboratory must complete the Industrial Hemp On-Site Sampling Form. Laboratory must complete a new and separate “Harvest Lot On-Site Sampling Description” for each Harvest Lot to be sampled.
3. A “Harvest Lot” means a specifically identified quantity of hemp plants that are uniform in strain, produced utilizing the same growing practices, harvested at the same time at the same location and cured under uniform conditions, if applicable. It does not include a quantity of industrial hemp comprised of industrial hemp grown in noncontiguous fields or noncontiguous growing areas.

4. Prior to beginning the sampling procedure, the Laboratory shall survey the site to identify the conditions to determine the appropriate sampling procedure as described in this Protocol.

C. Survey and sample collection - Normal Field Conditions

1. The sample pattern must ensure that all parts of the field are adequately and proportionately represented in the plants inspected and sampled.
2. The sampler must use a sawtooth pattern when sampling the field. Two (2) sawtooth patterns are provided below. The approved sampler must choose one of the patterns most suitable for the field to be sampled. (Figure 1 and 2). The sampler must sample according to the pattern to the extent possible but may deviate from the pattern as necessary to account for particular field conditions and to ensure that all parts of the field are adequately and proportionately sampled to produce a representative sample.
 - a. A sample shall be obtained from flowering tops and shall be approximately 8 inches in length.² Samplers should avoid sampling dead, diseased, or mechanically injured plants.
 - b. A sample shall consist of no more than one sample per plant, randomly chosen from the harvest lot. Place each sample in a paper bag.
 - c. Since they are a measure of the entire harvest lot, all samples from the harvest lot may be collected into a single bag.
3. Each composite sample should consist of a maximum 30 plant heads of about 8 inches.
4. For small fields or when sampling from a known number of plants, the Hypergeometric Table below should be used.
5. **In no case shall the sample size be less than 4 ounces, which is the minimum amount necessary for laboratory tests and file samples.**

²See note on harvest lots intended for flower production in the General Sampling Requirements.

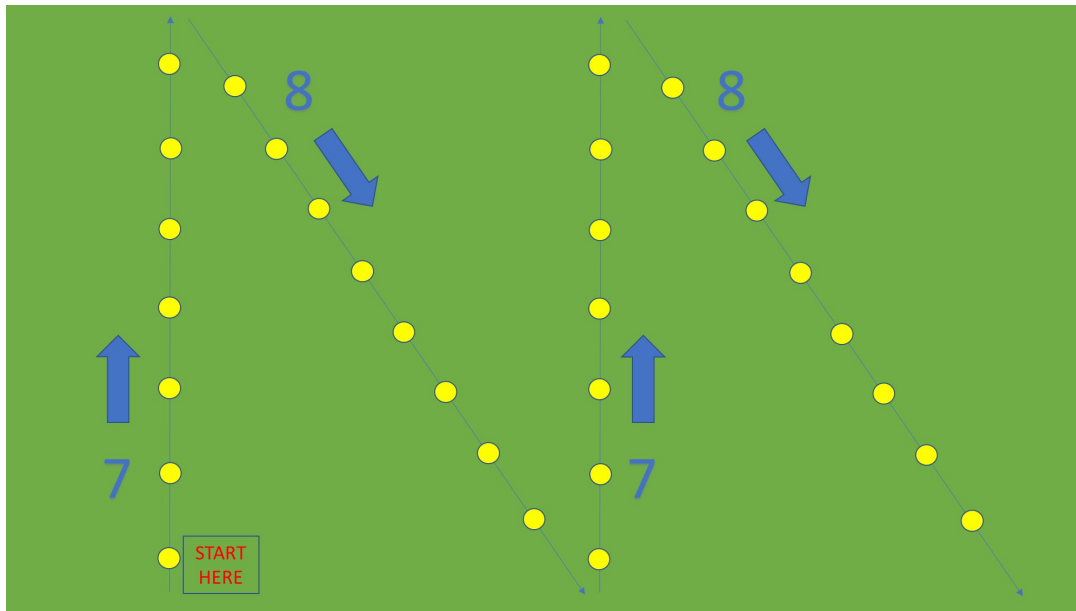


Figure 1. This is a typical sawtooth survey pattern starting in the lower “left” corner of the field. The yellow dots indicate the approximate locations to collect samples.

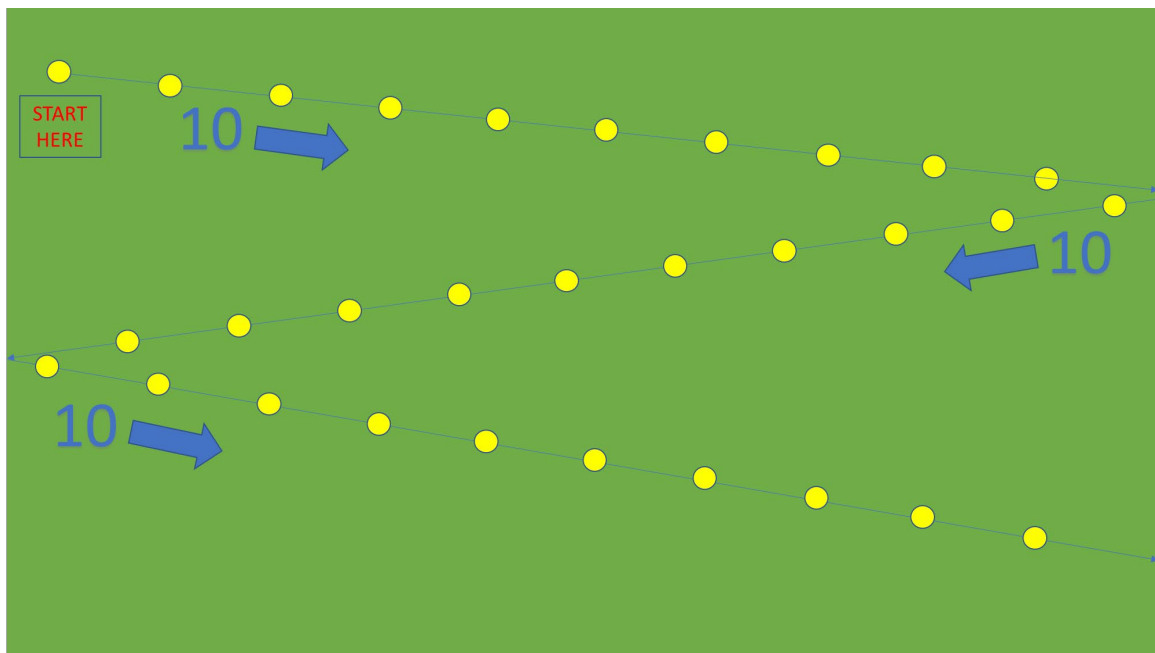


Figure 2. This is another typical sawtooth survey pattern starting in the top “left” corner of the field. The yellow dots indicate the approximate locations to collect samples.

D. Greenhouses and small fields

For greenhouses and small fields, fewer individual plants may be sampled as indicated in the below Hypergeometric Table. **Note: A total composite sample must be at least four ounces.**

Sampler shall employ one of the above sample patterns.

Hypergeometric Table for Random Sampling

Total number of plants:	Randomly select this number of plants to sample:
1-13	Sample all plants
14-15	13
16-17	14
18-19	15
20-22	16
23-25	17
26-28	18
29-32	19
33-38	20
39-44	21
45-53	22
54-65	23
66-82	24
83-108	25
109-157	26
158-271	27
272-885	28
886-200,000	29

E. Reporting and Recordkeeping Requirements

1. The Laboratory shall record data for all samples collected on the appropriate forms for sample collection. All records must clearly identify the harvest lots by harvest lot identifier.
2. The Laboratory shall submit a copy of the following forms for each Harvest Lot with the samples when submitting for testing.
 - a. Industrial Hemp Sampling and Testing Request Form
 - b. Industrial Hemp On-Site Sampling Form
3. The Laboratory shall maintain standard operating procedures (SOP) that accurately reflect current sampling procedures.
 - a. The SOP shall be readily accessible to all pertinent personnel and provided to the Warm Springs Cannabis Commission (Commission) and Oregon Department of Agriculture upon request.
 - b. The SOP shall clearly indicate the effective date of the document, the revision number, and the signature of the approving authority.
 - c. The sampling SOP shall use these protocols as minimum requirements and must include additional detail specific to laboratory procedures. Any changes, including use of a selected option, shall be documented and included on the sampling form. In cases where the published method has been modified or where the referenced method is ambiguous or provides insufficient detail, these changes or clarifications shall be clearly described.
 - d. All documents shall be controlled and retained in accordance with the TNI Environmental Laboratory standard as defined in Oregon Administrative Rules, section 333-007-0310.
4. When procuring the sample, the Laboratory must create a Chain of Custody form with the information set out below. All sampling report forms must be signed by the sampler.

- a. Sampler's name
 - b. Lab License Number
 - c. Field ID/Name and Harvest Lot Identifier
 - d. Sampling Date/Time
 - e. Custody transfer signatures
 - f. Custody Transfer Dates/Times
5. The Laboratory shall provide to the Commission and ODA upon request any and all records associated with the sampling, including SOPs, chain of custody forms, quality checks, etc.

F. Preparation of the Composite Sample

1. The Laboratory shall close the paper bag for collection and seal in a manner to show evidence of tampering. On the sample bag, record Field Name and the harvest lot identifier, date of sampling, sampler's signature, registered business or grower name.
2. The Laboratory must have detailed procedures on maintaining custody and sample integrity during transport. These procedures should take into consideration controlling temperature and other environmental factors.
3. Composite samples must always be identified by labeling or marking the sample container to associate them with the harvest lot from which they originated.
4. The Laboratory must submit the composite sample to the testing laboratory in its entirety.
5. The Laboratory shall submit a copy of all of the following forms with the samples when submitting for testing:
 - a. Industrial Hemp Sampling and Testing Request Form - Completed by grower;
 - b. Industrial Hemp On-Site Sampling Form- Completed by Laboratory

G. Equipment and supplies

1. Forms (including extra sample request forms)
2. Paper bags for samples;
3. Permanent pens for marking on paper sample bags;
4. Pruning shears for collecting foliar samples;
5. Single-use Coveralls;
6. Gloves, disposable;
7. Boots or booties (waterproof recommended);
8. Rain gear (recommended);
9. Boxes for storing sample equipment and samples;
10. Bleach, 10% solution or other acceptable surface disinfectant for cleaning tools or boots between fields;
11. Clipboard;
12. Clicker to count the number of samples collected (optional).

H. Sanitation

1. Park vehicle on pavement or on designated roads within the field.
2. Clean collection tools with an appropriate disinfectant after finishing all sample collections within the field.
3. Dispose of coveralls and gloves in an appropriate receptacle before leaving the field or in a designated receptacle in the vehicle. Ensure that single-use coveralls are appropriately cleaned prior to next use and are not contaminated by used coveralls.

4. Field sampling equipment must be certified clean prior to use by the laboratory.

I. Resampling

1. A Laboratory may resample a Harvest Lot upon receipt of a completed Sampling and Testing Request Form from a grower that indicates the request is for “Remediation Resampling.”
2. A Laboratory shall conduct any such resampling in accordance with all applicable rules and this protocol.

References

USDA APHIS National Seed Health Service. 2001. Reference manual B: Seed health testing and phytosanitary field inspection methods manual. Version dated 2/27/2001, USDA APHIS NSHS, Beltsville, MD, 56 pp.

http://www.aphis.usda.gov/import_export/plants/plant_exports/national_seed_health_system.shtml

Exhibit B: Testing Protocol

Industrial Hemp Pre-Harvest Testing

To be sufficient to meet the requirement for pre-harvest THC sampling and testing under Warm Springs Hemp Production Regulations section 744-0025, testing must be conducted as described in this Protocol.

A. Testing Requirements

1. Testing may only be performed by a laboratory defined in section 744-0001(31) of the regulations.
2. All testing must be performed by personnel employed by a Laboratory and in accordance with Regulation section 744-0025 and this Protocol.
3. The Laboratory must follow chain of custody procedures consistent with TNI EL Standard VIM2 5.7 and 5.8 and be documented to record the collection, transport, and receipt of samples by the Laboratory.
4. Testing must be conducted in compliance with OAR 333-064-0100(3) – (7) except that the Laboratory need not test or report CBD values.
5. Until the Laboratory develops its own criteria, sample or matrix spike recovery must fall between 70-130 percent. The Laboratory must develop its own criteria after obtaining 30 data points and the sample or matrix spike recovery must fall between 70-130 percent or fall within more restrictive acceptance limits. Until the Laboratory develops its own criteria, the Relative Percent Difference, RPD, between duplicates must be $<$ or $=$ to 20%. The Laboratory must develop its own criteria after obtaining 30 data points and the sample/sample duplicate RPD must $<$ or $=$ 20% or fall within more restrictive acceptance limits. The Laboratory shall include at least one sample or matrix spike and one set of duplicates to assess accuracy and precision for each extraction batch.
6. The Laboratory must perform testing under their Quality Management system as defined by their ORELAP accreditation.
7. The Laboratory must perform testing in a manner that avoids contamination of the non-sampled material with sample containers that are free of analytes of interest and appropriate for the analyses requested.
8. The Laboratory's test method and preparation steps shall avoid decarboxylation of (-)-delta 9-trans-Tetrahydrocannabinolic acid (THCA).
9. The Laboratory must determine the percentage of THC in the sample on a dry weight basis.

B. Initiating a Testing Request

1. The Laboratory must receive a complete Industrial Hemp Sampling and Testing Request Form prior to testing. The Laboratory must receive a new and separate "Harvest Lot Sampling Request Description" for each Harvest Lot to be tested.

2. The Laboratory must receive a complete Industrial Hemp On-Site Sampling Form prior to testing. The Laboratory must receive a new and separate “Harvest Lot On-Site Sampling Description” for each Harvest Lot to be tested.
3. A “Harvest Lot” means:
 - a. A quantity of industrial hemp harvested in a distinct timeframe 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.

C. Sample Preparation Requirements

1. The Laboratory shall dry all of the leaf and flower of the sample (not obvious stem and seeds) until brittle in a manner that does not exceed 70°C and maintains the THC level of sample (at temperatures greater than 70°C, decarboxylation of THCA to THC occurs).
2. After drying, the Laboratory shall pulverize and sieve the sample using mesh size 1 mm as described in United Nations Office on Drugs and Crime: Recommended Methods for the Identification and Analysis of Cannabis and Cannabis Products. ISBN 978-92-1-148242-3. The Laboratory shall blend and homogenize the sieved material.
3. The Laboratory shall determine the dry weight of the sieved material.
4. The Laboratory shall divide the sieved, blended and homogenized sample into two portions: the test portion and the retained file sample. The Laboratory shall store the retained file sample in a freezer until needed. The retained file sample must be of sufficient material to conduct any requested retest and any quality control performed by the testing Laboratory.

D. Retesting Requirements

1. The Laboratory shall retest a Harvest Lot upon receipt of a completed Request for Retest from a grower. “Retest” or “Retesting” means the laboratory process of retesting a retained file sample for THC content after the sample failed initial testing for THC content. A retest does not include or permit taking a new sample from the harvest lot.
2. The Laboratory shall forward the retained file sample to another Laboratory or to the Warm Springs Cannabis Commission (the Commission) and ODA upon receipt of a completed Request for Retest from the grower requesting that the sample be forwarded. The Laboratory shall:
 - a. Use packaging appropriate for secure transport.
 - b. Protect the sample from moisture and temperature extremes.
 - c. Include all documentation with the sample.
 - d. Forward the sample by the most expedient, secure, and legal means to ensure that the sample continues to be representative of the harvest lot sampled and the chain of custody is accounted for to protect its integrity.

E. Reporting and Recordkeeping Requirements

1. All documentation of sampling and testing must be retained by the Laboratory for at least three years and be provided to the Commission and the Department upon request.
2. The Laboratory shall make Standard Operating Procedure (SOPs) readily accessible to all pertinent personnel.
3. All documents shall be controlled and retained in accordance with the TNI Environmental Laboratory standard as defined in Oregon Administrative Rules, section 333-007-0310.
4. When testing or forwarding the sample, the Laboratory must create and use a Chain of Custody form with the information set out below. If any of the above information requested is unavailable, indicate "N/A" in the appropriate space. All testing report forms must be signed by the analyst.
 - a. Laboratory name
 - b. Analyst's name
 - c. Lab License Number
 - d. Field ID/Name and Harvest Lot Designation
 - e. Testing Date/Time
 - f. Mass and Location of increment samples
 - g. Final Mass of composite sample
 - h. Custody transfer signatures
 - i. Custody Transfer Dates/Times
5. The Laboratory shall determine the estimated measurement of uncertainty (EMU) of the test for THC concentration of industrial hemp and make available to the Commission and ODA upon request.
6. The Laboratory shall provide to the Commission upon request analytical data and any records associated with test results reported, including SOPs, chain of custody forms, quality checks, EMU determination, etc.
7. The Laboratory shall report percentage of THC in the sample on a dry weight basis to exactly two significant figures.
8. The Laboratory shall report all test results to the Commission using the forms provided by the Commission, and include for each sample tested:
 - a. Grower's name and registration number;
 - b. Sample date;
 - c. Sample size by weight;
 - d. Testing date;
 - e. Total tetrahydrocannabinol percentage to exactly two significant figures;
 - f. The Laboratory's uncertainty level for tetrahydrocannabinol testing of industrial hemp;
 - g. Clear identification of the harvest lot that corresponds to the sample and the location of the corresponding harvest lot;
 - h. Copy of grower's sampling request form required in subsection and
 - i. Copy of the completed sampling form required in subsection
9. The Laboratory shall send any failed test report to the Commission **within 24 hours of the failed test.**
10. The Laboratory shall send completed copies of the Sampling and Request Form and the On-Site Sampling Form corresponding to the Harvest Lot with each test

report.