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HEMP REGULATORY COMMISSION REGULATIONS FOR SAMPLING, THC TESTING, AND POST-TESTING ACTIONS REG-WOS XXXXXX-

I. Definitions

- A.** “delta-9-THC” means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis).
- B.** “Certified seed” means seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of a state, territory, or possession to certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to ensure the genetic purity and identity of the seed certified.
- C.** “Plot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.
- D.** “ppm” means parts per million.
- E.** “Post-Harvest Sample” means a sample taken from the harvested hemp material from a particular plot’s harvest in accordance with the procedures as defined 302 KAR 50:050; the entire plot’s harvest must be in the same form (e.g., intact-plant, flowers, ground materials, etc.), homogenous, and not mixed with non-hemp materials or hemp materials from another plot.
- F.** “Pre-Harvest Sample” means a composite, representative portion from plants in a hemp plot collected in accordance with the procedures as defined in 302 KAR 50:050.
- G.** “Processing” means converting an agricultural commodity into a marketable form.

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1 **H.** “Prohibited Variety” means a variety or strain of cannabis excluded from the
2 Commission Industrial Hemp Research Pilot Program.

3
4 **I.** “Seed source” means the origin of the seed or propagules as determined by the
5 Department.

6
7 **J.** “Variety of Concern” means any variety of hemp in the Department’s program that
8 tests above 3000 ppm or 0.3000% decarboxylated delta-9-THC in one (1) or more Pre-
9 Harvest Samples. A hemp variety designated as a “Variety of Concern” may be subject to
10 restrictions and additional testing.

11
12 **II. Sampling Timeline and Grower Responsibilities**

13
14 **A.** A completed *Harvest/Destruction Report* Form from a grower shall be provided to the
15 Commission at least 15 days prior to the expected harvest date.

16
17 **B.** The Commission’s receipt of a harvest notification triggers a site inspection and
18 sample collection by the Commission.

19
20 **C.** The Commission shall contact the grower to confirm the field’s location and schedule a
21 time for inspection and sample collection prior to harvest.

22
23 **D.** During the inspection, the grower or an authorized representative shall be present at
24 the growing site.

25
26 **E.** The Commission shall be provided with complete and unrestricted access to all
27 industrial hemp and other cannabis plants, whether growing or harvested, and all land,
28 buildings, and other structures used for the cultivation and storage of all industrial hemp and
29 other cannabis plants.

30
31 **F.** The grower shall harvest the crop not more than 15 days following the date of sample
32 collection by the Commission, unless specifically authorized in writing by the Commission.

33
34 **G.** Harvested materials from Varieties of Concern shall not be comingled with other

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1 harvests without express permission from the Commission.
2

3 **H.** Floral materials harvested for phytocannabinoid extraction shall not be moved beyond
4 the processor, nor commingled, nor extracted, until the Commission releases the material.
5

6 **I.** The License Holder shall be notified within 45 days of sampling the status of their
7 testing and eligibility of their harvested materials to move into market research.
8

9 **III. Pre-Harvest Sampling Procedure**
10

11 **A.** All samples become the property of The Commission and are non-returnable.
12

13 **B.** Equipment Used:
14

- 15 1. Inspection Form,
- 16 2. Pruning shears,
- 17 3. Alcohol wipes to clean shears before each sample,
- 18 4. Paper sample bags,
- 19 5. Stapler,
- 20 6. Sharpie marker to write sample ID on bag,
- 21 7. Bucket to transport bagged samples,
- 22 8. *Harvest/Destruction Report* forms, and
- 23 9. Maps.
24

25 **C.** The material selected for Pre-Harvest Sampling will be determined by the Commission,
26 not the grower. Cuttings will be collected to make one representative sample.
27

- 28 1. Clip the top 20 cm of hemp plant's primary stem, including female floral material.
- 29 2. Take cuttings from at least five (5) hemp plants within the plot.
- 30 3. Place the complete sample in a paper bag.
- 31 4. Seal the bag by folding over the top once and stapling the bag shut.
- 32 5. A separate sample must be taken from each non-contiguous plot of a given
33 variety.

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- 1 **6.** A separate sample must be taken for each variety.
- 2 **7.** Samples shall be secured in a paper bag (to allow for air-drying during transport).
- 3 **8.** Label the sample container with a sample ID. The sample ID shall include the
- 4 last four numerical digits of the License number, Date (MMDDYY), and a two-digit
- 5 sequential sample number assigned by the Commission. Example: License# 17-80-
- 6 11G, Sample Date March 30, 2017, Sample 03 Translates to Sample ID: 8011-
- 7 033017-03.
- 8 **9.** The sample shall be transported to the Commission for drying and storage.

9

10 **IV. Handling Procedures of Pre-Harvest Samples**

- 11
- 12 **A.** Samples will be taken to the Commission for drying and storage.
 - 13
 - 14 **B.** Samples should be arranged in a single layer for drying.
 - 15
 - 16 **C.** Drying oven will be used when possible.
 - 17
 - 18 **D.** Samples in the oven will be left in the labeled sample bag.
 - 19
 - 20 **E.** If selected for testing, the entire sample will be sent to the Commission’s testing lab for
 - 21 analysis.

22

23 **V. Post-Harvest Sampling Procedures for Floral Material**

- 24
- 25 **A.** All samples become the property of the Commission and are non-returnable.
 - 26
 - 27 **B.** Equipment Used:
 - 28
 - 29 **1.** Inspection Form,
 - 30 **2.** Pruning shears (if necessary),
 - 31 **3.** Alcohol wipes to clean shears before each sample,
 - 32 **4.** Paper sample bags for solid material,
 - 33 **5.** Plastic sample containers for ground material,

- 1 **6.** Stapler,
- 2 **7.** Sharpie marker to note sample ID on sample container,
- 3 **8.** Bucket to transport samples,
- 4 **9.** *Harvest/Destruction Report* forms,
- 5 **10.** Maps, and
- 6 **11.** Results notification letter.

7

8 **C.** The plot selected for sampling shall be designated by the Pre-Harvest Sample results.
9 The material selected for Post-Harvest Sampling from this plot will be determined by the
10 Commission, not the grower. All Post-Harvest Samples of floral material shall be taken from
11 the designated harvested plot materials in the form (intact-plant, flowers, ground materials,
12 etc.) in which the material will be sent to the processor. The Commission must inventory the
13 entire harvest to determine the form in which it exists, and follow the protocol as appropriate
14 in part 1. 2. or 3. below.

15

16 If, upon inventory, the Commission determines that the entire harvest is not in a homogenous form
17 (intact-plant, flowers, ground materials, etc.), the Commission shall notify the Hemp Program
18 Manager. A License Holder who refuses to complete post-harvest processing preparations waives
19 the right to a post-harvest test and the pre-harvest test results shall stand, and the plot materials shall
20 be ordered destroyed. License Holders are responsible for all post-harvest testing fees.

21

22 **1.** For intact-plant post-harvest samples:

- 23
- 24 **a.** Ensure that the entire harvest is accounted for and in the same form
25 (i.e., intact-plants).
- 26 **b.** Clip the top 20 cm of hemp plant, primary stem, including female
27 floral material.
- 28 **c.** Take cuttings from at least five (5) non-adjacent hemp plants within
29 the harvest's storage/drying area at the discretion of the Commission.
- 30 **d.** Place the complete sample in a paper bag.
- 31 **e.** Seal the paper bag by folding over top once and stapling to keep closed.
- 32 **f.** Complete sampling procedures in part (d) – (f).

1 **2.** For ground plant or ground floral material Post-Harvest Samples:

2
3 **a.** Ensure that the entire harvest is accounted for and in the same form (i.e., all
4 harvested material whether whole plant or floral material only must be ground with no
5 intact plants or whole flowers remaining from that harvest).

6 **b.** Sample material from bag or container.

7 **c.** Sample from a minimum of four locations within the containers from
8 a given harvest.

9 **d.** Place the complete sample in a plastic sample container.

10 **e.** Seal the plastic sample container.

11 **f.** Complete sampling procedures in part (d) – (f).

12
13 **3.** For Post-Harvest Samples in other forms (e.g., trimmed floral material, or
14 floral material and stems, etc.):

15
16 i) Ensure that the entire harvest is accounted for and in the same form
17 (i.e., all harvested material must be uniform).

18 ii) Randomly collect at least one cup of material by volume.

19 iii) Place the complete sample in a paper bag or plastic container and
20 seal the container, as appropriate.

21 iv) Complete sampling procedures in part 4. through 6.

22
23 **4.** A separate sample must be taken for each plot designated for Post-
24 Harvest Sampling.

25
26 **5.** Samples shall be labeled, and prepared for transport to the lab.

27
28 **6.** Label the sample container with a sample ID. The sample ID shall include
29 the last four numerical digits of the License number, Date (MMDDYY), and a two-
30 digit sequential sample number assigned by the Commission.

31
32 Example: License#17-80-11G, March 30, 2017,

33 Sample 03 Translates to Sample ID: 8011-033017-

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7. The sample shall be transported to the Commission for storage.

VI. Handling Procedures of Post-Harvest Samples

A. Samples will be taken to the Commission for storage.

B. The entire sample will be sent to the testing lab for analysis.

VII. Selecting Samples for Testing

A. The Commission reserves the right to test all industrial hemp and other cannabis plants crop produced by any License Holder for THC compliance. The Commission intends to inspect and sample 100% of all industrial hemp and other cannabis plots to be harvested, but not every sample will be tested. The Commission will prioritize testing by using the following criteria.

1. Industrial hemp crops generated from Certified seed will incur pre-harvest testing of at least five percent (5%) of growing plots per variety, per seed source.

2. Industrial hemp crops from planting materials other than Certified seed will incur pre-harvest testing of at least fifty percent (50%) of growing plots per variety, per seed source.

3. 100% of post-harvest samples will be tested.

VII. Testing Procedures

A. Testing shall be completed by the Commission’s testing lab.

B. Quantitative determination of delta-9-THC levels will be measured using gas chromatography with flame ionization detector (GC-FID).

C. Test results shall be reported to License Holders by the Commission.

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VIII. Post-Testing Actions

A. The delta-9-THC content for hemp produced in the Commission Industrial Hemp Research Pilot Program should not exceed the 0.3% delta-9-THC threshold sent by Congress. Additionally, in the interest of furthering research efforts and in recognition of variances due to growing conditions, weather, and varieties, the Commission shall report the details of the test results including an exact measurement in parts per million (ppm). Table 1 (below) provides a summary of the post-testing actions detailed in the following numbered points.

Table 1: Post-Testing Action Summary			
	Material allowed to market	Material not allowed to move – triggers Post-Harvest Sampling and testing or verification of leaf and floral destruction	Material Destroyed
Pre-Harvest Test Results	< 3,999 ppm (1, below)	≥ 4,000 ppm – 9,999 ppm (2, below)	≥ 10,000 ppm (3, below)
	Material Allowed to Market	Material Destroyed	
Post-Harvest Test Results	< 3,000 ppm, compliant (4, below)	< 3,999 ppm (5, below)	≥ 4,000 ppm (6, below)

B. Pre-Harvest Test Results of less than or equal to 3,999 ppm (or 0.3999%) delta-9-THC:

1. The Commission will report results to grower.
2. Material allowed to market.
3. Any variety testing above 3,000 ppm shall become designated as a Variety of Concern.
4. Any marketing of materials testing between 3,001 ppm and 3,999 ppm is at the License Holder’s risk.

C. Pre-Harvest Test Results of greater than 3,999 ppm, but less than 10,000 ppm delta-9-

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1 **THC:**

- 2
- 3 1. The Commission will report results to grower.
 - 4 2. The License Holder is not allowed to transfer an Individual plot's harvest. The
5 harvest must remain segregated from other harvested plots until released in writing by the
6 Commission.
 - 7 3. License Holder is allowed to complete harvest activities, which may include
8 drying, chopping, and/or grinding, in preparation for transfer to a processor.
 - 9 4. If harvesting leaf or floral material from the plot, the grower can elect between (1)
10 a post-harvest sample and retest or (2) complete destruction. License Holders must
11 complete harvest activities, which may include drying, chopping, and/or grinding, on the
12 entire harvest before the material is eligible for post-harvest sample collection.
 - 13 5. If harvesting only grain, seed or fiber from the plot, the Commission shall verify
14 the complete destruction of all leaf and floral material from the plot. The grain or seed
15 must be processed and cannot remain as a viable seed for planting. Bare stalk for fiber
16 that is free of leaf, seed, or floral material is eligible for processing.
 - 17 6. This hemp variety becomes designated as a Variety of Concern and the
18 Commission shall run additional tests on the samples collected from other plots of
19 this variety.
 - 20 7. If more than 50% of Pre-Harvest Samples' test results for a given Variety of
21 Concern are above 3,000 ppm, then this variety may be designated as a Prohibited
22 Variety and excluded from the Commission Industrial Hemp Research Pilot Program.
 - 23 8. If a variety is designated as a Prohibited Variety in the Commission program,
24 the Commission may require the License Holder to surrender without compensation the
25 entire harvest and any unharvested crop, any live plants, and all germplasm of this
26 variety to the Commission for destruction.

27

28 **D. Pre-Harvest Test Results equal to or greater than 10,000 ppm delta-9-THC:**

- 29
- 30 1. The Commission will report results to grower.
 - 31 2. The Commission may report to the Tribal Police and other law enforcement
32 agencies.
 - 33 3. The Commission may collect samples of and test post-harvest material in

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1 the interest of furthering research efforts. However, a post-harvest retest is not
2 required.

3 **4.** The variety may be labeled a Prohibited Variety and excluded from the
4 Commission Industrial Hemp Research Pilot Program.

5 **5.** The Commission may terminate the License and exclude License Holder from
6 future involvement in the Commission program.

7 **6.** The License Holder must surrender without compensation the entire harvest and
8 any unharvested crop of this variety from this plot, to the Commission for destruction.

9
10 **E. Post-Harvest Test Results of less than or equal to 3,000 ppm (or 0.3000%) delta-9-
11 THC:**

12
13 **1.** The Commission will report results to grower.

14 **2.** Compliant material; no action required.

15 **3.** Material allowed to market.
16

17 **F. Post-Harvest Test Results of greater than 3,000 ppm, but less than 3,999 ppm delta-9-
18 THC:**

19
20 **1.** The Commission will report results to grower.

21 **2.** Material allowed to market.

22 **3.** Any marketing of materials testing between 3,001 ppm and 3,999 ppm is at
23 the License Holder's risk.
24

25 **G. Post-Harvest Test Results equal to or greater than 4,000 ppm delta-9-THC:**

26
27 **1.** The Commission will report results to grower.

28 **2.** The Commission may report to Tribal Police and other law enforcement agencies.

29 **3.** The Commission reserves the right to run additional tests on post-harvest
30 samples of that variety from that plot in the interest of furthering research efforts.

31 **4.** Variety may be labeled a Prohibited Variety and excluded from the
32 Commission Industrial Hemp Research Pilot Program.

33 **5.** The Commission may terminate the License and exclude License Holder from

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1 future involvement in the Commission program.

2 **6.** License Holders must surrender without compensation the entire harvest and
3 any unharvested crop, any live plants, and all germplasm of this variety, to the
4 Commission for destruction.

5
6 **H. Varieties determined to be a Prohibited Variety:**

7
8 **1.** The Commission may report to Tribal Police and other law enforcement agencies.

9 **2.** License Holder must surrender without compensation any viable seeds, live
10 plants, stock plants, and all germplasm of this variety, to the Commission for
11 destruction.