

Attachment D

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In Title 3, California Code of Regulations, Division 4, Chapter 8, adopt:

Article 2. Regulations for Industrial Hemp Cultivation

§ 4940 Sampling Timeframe and Pre-Harvest Notification for Industrial Hemp

- (a) Sampling Timeframe.
 - (1) Sampling shall occur no more than 30 days before harvest.
 - (2) Any changes to the harvest date may require additional testing for THC content prior to harvest.
- (b) Sampling Request and Pre-Harvest Report.
 - (1) In order to request sampling, registrants shall submit a pre-harvest report to the commissioner at least 30 days before harvest to initiate the sampling process. The pre-harvest report shall include the:
 - (A) registrant's registration number,
 - (B) name and contact information of the registrant,
 - (C) anticipated harvest date,
 - (D) name of the seed cultivar(s),
 - (E) physical address, Global Positioning System coordinates, general description of the location, and acreage of the crop,
 - (F) Name and contact information of the laboratory to conduct the testing for THC content.
 - (2) The commissioner, or a third-party sampler designated by the commissioner, shall schedule a sampling date within 30 days of the anticipated harvest date.
 - (3) Registrants shall notify the commissioner of any changes to the above information no less than 5 calendar days prior to the scheduled sampling date.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

§ 4941 Sampling Procedures for Testing Industrial Hemp for THC Content

- (a) Collection of Samples.
 - (1) Samples for THC testing shall be collected by the commissioner, or a third-party sampler designated by the commissioner.
 - (2) The commissioner, or designated sampler, shall verify that the sample collection site corresponds to the registered location using GPS coordinates prior to the collection of the samples.
 - (3) The registrant must be present to observe the collection of samples and allow the commissioner, or designated sampler, access to all industrial hemp plants within the registered land area and all areas and facilities used for cultivation.
- (b) Sample Volume and Composition
 - (1) Each primary sample shall include all parts of the plant, including stems, stalks, flowers, leaves, seeds, and buds from:
 - (A) If two or more lateral branches are present, the terminal 18 inches of the top lateral branch and terminal 18 inches of one lateral branch from the lower one-third of the plant. If any branch is less than 18 inches, the whole branch shall be taken.
 - (B) If two lateral branches are not present, the terminal 18 inches from the terminal bud at the top of the plant. If the plant is less than 18 inches tall, the whole plant shall be taken.

- (2) A composite sample shall consist of at least five primary samples from different plants.
 - (3) A separate composite sample shall be taken for:
 - (A) Each cultivar within each contiguous field, and
 - (B) Indoor and outdoor growing areas shall be treated as separate fields.
 - (4) When feasible, the commissioner, or designated sampler, should not collect samples within 10 feet of field edges.
- (c) Handling of Samples.
- (1) All plant material collected for a composite sample shall be placed together in a permeable bag, and kept in a manner not conducive to mold growth.
 - (2) The bag containing the composite sample shall be sealed and labeled in a manner to detect tampering and ensure chain of custody. Sample labels shall be signed by both the registrant and the commissioner or designated sampler.
 - (3) Samples shall be labeled with a unique sample identification number and accompanied by the following documentation:
 - (A) The registrant's proof of registration,
 - (B) The pre-harvest report,
 - (C) Seed certification documentation for the seed cultivar used,
 - (D) The THC testing report for each certified seed cultivar used, and
 - (E) A sample analysis request form with chain of custody information provided by the testing laboratory.
 - (4) Samples shall be delivered to the testing laboratory within 24 hours of collection. The testing laboratory shall document the chain of custody by signing the sample label upon receiving the sample. A copy of the signed chain of custody documentation shall be provided by the testing laboratory to the commissioner or designated sampler.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

§ 4942 Approved Testing Method for Testing Industrial Hemp for THC Content

- (a) Sample Preparation.
- (1) The laboratory shall maintain chain of custody upon receiving the samples.
 - (2) Each composite sample shall be maintained and tested separately for THC content.
 - (3) All parts of the plant included in the composite sample shall be processed and tested as a single sample. No plant parts shall be removed during the sample preparation and testing.
 - (4) All parts of the plant included in the composite sample shall be dried until the weight of the composite sample remains constant after drying intervals. Drying temperature must not exceed 90 degrees Celsius. Dried composite samples shall be milled to a homogenous powder-like consistency and combined before analysis.
- (b) Suitable analytical instrumentation used to determine THC content in industrial hemp includes the following:
- (1) Gas chromatography with flame ionization detector
 - (2) Gas chromatography coupled with mass spectrometry
 - (3) Liquid chromatography coupled with mass spectrometry
 - (4) Liquid chromatography coupled with ultraviolet detector

- (c) Analytical instrumentation used must be able to establish a validated limit of quantification (LOQ) of one-tenth of 1 percent or lower for total THC content.
- (d) Sample Retention.
 - (1) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall retain the sample for a minimum of 30 days from the testing date.
 - (2) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, the laboratory shall retain the sample for a minimum of 60 days from the testing date.
 - (3) If the laboratory test report indicates a percentage content of THC that exceeds 1 percent, the laboratory shall retain the sample for a minimum of 90 days from the testing date.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

§ 4943 Approved Laboratory for Testing Industrial Hemp for THC Content

- (a) Testing of industrial hemp for THC content shall be conducted by a laboratory with International Organization for Standardization (ISO) / International Electrotechnical Commission (IEC) 17025 accreditation using a validated method for total THC analysis.
- (b) The laboratory shall retain, and make available to the commissioner upon request, a copy of the ISO/IEC 17025 certificate of accreditation.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

§ 4944 Notification of Laboratory Test Report

- (a) Laboratories shall provide a laboratory test report to the registrant and commissioner within 10 days of the collection of samples.
 - (1) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the registrant no fewer than 10 original copies with wet signatures and the commissioner one or more copies of the laboratory test report, signed by an employee authorized to sign by the laboratory. The laboratory shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.
 - (2) If the laboratory test report indicates a percentage content of THC that exceeds three-tenths of 1 percent, the laboratory shall provide both the registrant and commissioner one or more copies of the laboratory test report, signed by an employee authorized to sign by the laboratory.
- (b) Laboratories shall issue a laboratory test report for each composite sample. The laboratory test report shall include the:
 - (1) registration number,
 - (2) unique sample identification number,
 - (3) name and contact information of the registrant,
 - (4) name of the sampler,
 - (5) dates of the sample collection and testing,
 - (6) name of the cultivar tested,
 - (7) physical address, Global Positioning System coordinates, general description of the location, and acreage of the field sampled,
 - (8) name of approved analytical instrumentation used and the limit of quantification (LOQ),

- (9) name of the person receiving the sample,
- (10) name of the person testing the sample,
- (11) percentage content of THC, a post-decarboxylation value or a calculated value using a conversion formula of delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid, on a dry weight basis, and words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" or "FAILED AS CALIFORNIA INDUSTRIAL HEMP" at or near the top of page.
 - (A) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear.
 - (B) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

§ 4945 Approved Testing Method for Retesting of Industrial Hemp for THC Content

- (a) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, additional samples for retesting shall be collected in accordance with the sampling procedures outlined in Section 4941 and tested in accordance with the testing procedures outlined in Sections 4942 through 4944.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

§ 4946 Final Disposition for Registered Industrial Hemp Crops

- (a) Registrants may harvest the sampled crop upon receipt of a laboratory test report that indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent.
 - (1) Registrants shall submit a harvest report to the commissioner within 72 hours following the completion of the harvest. The harvest report shall include the:
 - (A) registration number,
 - (B) name and contact information of the registrant,
 - (C) date(s) of harvest,
 - (D) name of the cultivar(s) and unique sample identification number(s),
 - (E) physical address, Global Positioning System coordinates, general description of the location, and acreage of the harvested crop.
 - (2) The commissioner may confirm the harvest of the crop by conducting field inspections.
- (b) Registrants shall destroy a crop that does not comply with the three-tenths of 1 percent THC limit in accordance with the provisions of Section 4950 within the following timeframes:
 - (1) If a laboratory test report indicates a percentage content of THC exceeds 1 percent, the destruction shall begin within 48 hours, and be completed within seven days, after the registrant's receipt of the laboratory test report.
 - (2) If a second laboratory test report indicates a percentage content of THC exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days after the registrant's receipt of

the second laboratory test report.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

Article 3. Abatement and Enforcement

§ 4950 Destruction of Non-Compliant Industrial Hemp Crops

- (a) Any industrial hemp crop that does not meet the requirements of Division 24 of the Food and Agricultural Code and this chapter shall be destroyed in a manner approved by the commissioner:
 - (1) Unless otherwise specified in 4946 (b), any non-compliant industrial hemp crop shall be destroyed as soon as practical, but no later than 45 days after the registrant's receipt of notification of abatement from the commissioner.
- (b) The grower of the industrial hemp crop shall submit a destruction plan to the commissioner at least 24 hours prior to the start of the destruction. The destruction plan shall include the:
 - (1) Registration number, if applicable;
 - (2) Name and contact information of the grower;
 - (3) Anticipated destruction date(s) of the crop to be destroyed;
 - (4) Name of the cultivar(s) and unique sample identification number(s), if applicable;
 - (5) Physical address, Global Positioning System coordinates, general description of the location, and acreage of the crop to be destroyed; and
 - (6) Proposed destruction method.
- (c) The proposed crop destruction method shall be approved by the commissioner prior to the start of the destruction.
- (d) The commissioner shall confirm the destruction of the crop by conducting inspections.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code

§ 4950.1 Voluntary Destruction of Industrial Hemp Crops

- (a) Any industrial hemp grower that wishes to voluntarily destroy a crop shall do so in a manner approved by the commissioner.
- (b) The grower of the industrial hemp crop shall submit a destruction plan to the commissioner at least 24 hours prior to the start of the destruction. The destruction plan shall include the:
 - (1) Registration number, if applicable;
 - (2) Name and contact information of the grower;
 - (3) Anticipated destruction date(s) of the crop to be destroyed;
 - (4) Name of the cultivar(s) and unique sample identification number(s), if applicable;
 - (5) Physical address, Global Positioning System coordinates, general description of the location, and acreage of the crop to be destroyed; and
 - (6) Proposed destruction method.
- (c) The proposed crop destruction method shall be approved by the commissioner prior to the start of the destruction.
- (d) The commissioner shall confirm the destruction of the crop by conducting inspections.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections 81000, 81006, Food and Agricultural Code