

Oregon's Hemp Program

Cassie Peters
LEGAL + CONSULTING, LLC



Legalization of Hemp in Oregon

Oregon Senate Bill 676

Oregon legalized the cultivation, possession, and trade of industrial hemp in 2009 with the passage of Senate Bill 676.

“Industrial hemp production and possession, and commerce in industrial hemp commodities and products, are authorized in this state. Industrial hemp is an agricultural product that is subject to regulation by the State Department of Agriculture.”

However, Oregon Department of Agriculture’s first published set of rules for the state’s hemp program did not go into effect until February 2015, following the passage of the 2014 Farm Bill.

Passage of 2014 Farm Bill

The Agricultural Act of 2014 (“Farm Bill”)

The cultivation of industrial hemp was legalized federally in 2014:

“Notwithstanding the Controlled Substances Act . . . or any other Federal law, an institution of higher education . . . or a State department of agriculture may grow or cultivate industrial hemp,” so long as it is done “for purposes of research conducted under an agricultural pilot program or other agricultural or academic research” and the research is legal under state law.”
7 U.S.C. § 5940(a).

Following the passage of the 2014 Farm Bill, Oregon’s first set of published rules regulating the state’s hemp program were drafted. These rules became effective in February 2015.

Oregon's Hemp Program

The Oregon Department of Agriculture (“ODA”) regulates the production and handling of hemp, including growers and handlers engaged in the production of agricultural hemp seed.

A **hemp grower** is defined as “a person, joint venture or cooperative that produces industrial hemp.” OAR 603-08-0010(9).

A **hemp handler** is defined as “a person, joint venture or cooperative that receives industrial hemp for processing into commodities, products or agricultural hemp seed.” OAR 603-08-0010(11).

Agricultural hemp seed is defined as “Cannabis seed: (a) That is sold to or intended to be sold to registered growers for planting; or (b) That remains in an unprocessed or partially processed condition that is capable of germination.” OAR 603-08-0010(1).

Oregon Hemp Registrations and Transfers

An individual or entity may only produce or process hemp or agricultural hemp seed if registered with the Oregon Department of Agriculture (exception for homegrown plants for personal use).

For transfers and sales within Oregon, a registrant may sell or transfer industrial hemp or agricultural hemp seed to:

- (a) Another ODA hemp registrant; or
- (b) An OLCC licensee registered to process hemp

A registrant may not sell an industrial hemp product that contains more than 0.3 percent total THC to a consumer unless licensed as a retailer by OLCC.

Oregon's Hemp Registration Statistics

Oregon's first hemp registrations were issued in 2015. Since then, the number of registrations and acres in production have grown exponentially.

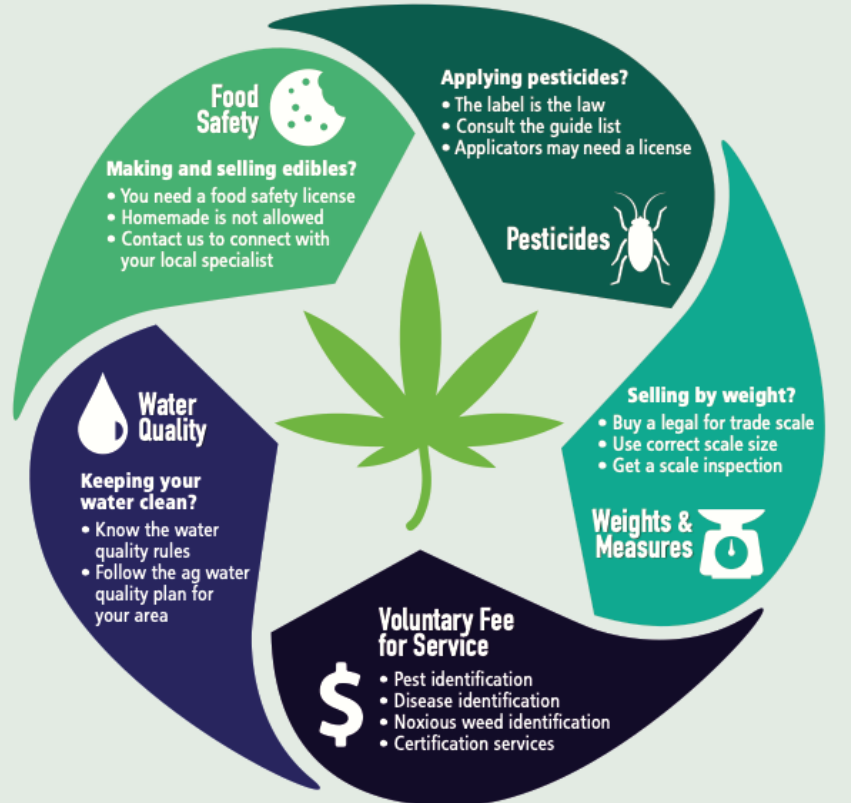
Year	Number of Growers	Number of Handlers	Number of Acres
2015	13	13	105
2016	83	66	1,200
2017	246	189	3,000
2018	584	212	11,754
2019*	1,658	398	55,000

*As of July 8, 2019.

Data courtesy of the Oregon Department of Agriculture.

OREGON CANNABIS

Cultivate your business with the Oregon Department of Agriculture



The Oregon Department of Agriculture (ODA) administers many programs that affect agriculture producers and processors. These programs could apply to your hemp or marijuana business.



More info online: oda.direct/Cannabis
Cannabis Policy Coordinator: 503-986-4565

ODA treats hemp (and non-hemp cannabis) like any other agricultural crop.

Hemp Grower Registration

ODA Grower Registration Application Requires:

- (A) Registrant's name;
- (B) Legal status of registrant;
- (C) If an entity, names of all members, managers, corporate officers, general/limited partners or other individuals/entities with authority to exercise control over the business, incur debt or similar obligations on behalf of the business, or enter into a contract or similar obligations on behalf of the business;
- (D) Contact information for registered contact person;
- (E) Grow site information (for each grow site), including field or greenhouse, size, and location;
- (F) Intended use (flower, hemp seed, fiber, biomass, or other); and
- (G) Map showing boundaries for each growing area

Note: Any information provided to ODA may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant;

Hemp Handler Registration

ODA Grower Registration Application Requires:

- (A) Registrant's name;
- (B) Legal status of registrant;
- (C) If an entity, names of all members, managers, corporate officers, general/limited partners or other individuals/entities with authority to exercise control over the business, incur debt or similar obligations on behalf of the business, or enter into a contract or similar obligations on behalf of the business;
- (D) Contact information for registered contact person;
- (E) Operation site information, including address and all intended uses of processed commodities (extractable oils and compounds, fiber, grain, biomass, seed for propagation, usable hemp tissue, and other); and
- (F) Land Use Compatibility Statement (requires map of property)

Note: Any information provided to ODA may be publicly disclosed and may be provided to law enforcement agencies without notice to the applicant;

Hemp Seed Producer Registration

An ODA Hemp Seed Registration is required for hemp growers who are producing agricultural hemp seed and hemp handlers who are processing industrial hemp into agricultural hemp seed.

Applicants apply for a grower or handler registration at the same time the applicant applies for registration as an agricultural hemp seed producer.

A registered grower may retain agricultural hemp seed without registering as an agricultural hemp seed producer for the purpose of personally propagating industrial hemp in future years.

Registration Fees

2019 Fees

Hemp Grower Registration	\$1,300 (unlimited number of grow sites may be registered)
Hemp Handler Registration	\$1,300
Hemp Seed Registration	\$120 (in addition to grower or handler registration fee)

2020 Fees

Hemp Grower Registration	\$250 per application plus \$500 for each grow site
Hemp Handler Registration	\$1,300
Hemp Seed Registration	\$120 (in addition to grower or handler registration fee)

Registrations are valid January 1 through December 31 and may not be pro-rated.

Pre-Harvest Testing Requirements

Growers must ensure that the grower's entire crop is timely sampled and tested according to ODA rules.

A grower must arrange for and ensure the sampling of a harvest lot no more than twenty-eight (28) calendar days prior to harvest for the purpose of ensuring that the harvest lot does not exceed permissible tetrahydrocannabinol (THC) concentration levels on a dry weight basis. Sampling must be conducted in accordance with ODA's Sampling Protocol for hemp pre-harvest testing.

If a purpose of the harvest lot is to produce flower, the grower must arrange for sampling such that flowers are present at the time of sampling. In this case, only plants with flowers shall be sampled.

Sampling and testing must be performed by ODA or an OLCC-licensed testing lab.

ODA may detain, seize, embargo, and dispose of any harvest lots that fail THC testing (contain an amount of THC greater than the permissible amount)

If a sample fails an initial THC test, a grower may request a retest of the sample within seven (7) calendar days from the date notice of the failed test was sent to the grower.

Testing of Hemp Items and Hemp for Human Consumption

Hemp items and hemp for human consumption must be tested by an OLCC-licensed testing lab prior to sale or transfer.

Hemp flower must be tested for: pesticides, water activity and moisture content, and THC and cannabidiol (CBD) concentration.

Concentrates and extracts intended for use by a person to make a CBD product must be tested for: pesticides and solvents (unless the hemp concentrate is made using only food grade animal fat or food grade plant-based oil, in which case the hemp concentrate may not need to be tested for pesticides).

Concentrates and extracts in finished form must be tested for: pesticides, solvents, and THC and CBD concentration.

Finished cannabinoid hemp products (products in final form and ready for packaging for sale or transfer to a consumer and including all ingredients whether or not the ingredients contain cannabinoids) intended for human consumption, use or ingestion for use buy a consumer must be tested for THC and CBD concentration.

Recordkeeping and Reporting Requirements

Required records must be maintained for no less than three (3) years after the total disposition of each harvest or process lot.

For purposes of identifying industrial hemp and industrial hemp products and commodities for record keeping:

- Growers must assign each harvest lot of industrial hemp produced by the grower a harvest lot identifier
- Handlers must assign a process lot identifier to any industrial hemp commodities or products made by the handler.
- Registrants must assign a unique identifier to all industrial hemp received from outside Oregon.
- Handlers must assign a unique identifier to all industrial hemp commodities or products received from outside Oregon.

Grower Recordkeeping Requirements

A grower must create and maintain records for any receipt or transfer of industrial hemp that includes the following information:

For each harvest lot of industrial hemp received from a person within Oregon or transferred to a person in Oregon:

- (A) The name and address of the person transferring the harvest lot to the grower or receiving the harvest lot from the grower, including the registration number of the person;
- (B) The harvest lot identifier for each harvest lot received or transferred;
- (C) The date of receipt or transfer;
- (D) The amount of industrial hemp received or transferred in pounds;
- (E) All test reports for each harvest lot received or transferred;
- (F) If transferred to an OLCC licensee, the UID number(s) assigned to the harvest lot(s).

Grower Recordkeeping Requirements

A grower must create and maintain records for any receipt or transfer of industrial hemp that includes the following information:

For industrial hemp received from outside of Oregon, or transferred outside of Oregon, to the extent such receipt or transfer is permitted:

- (A) The name and address of the person transferring the industrial hemp to the grower or receiving industrial hemp from the grower;
- (B) The unique identifier for the industrial hemp received;
- (C) The date of receipt;
- (D) The amount of industrial hemp received in pounds; and
- (E) All test reports for industrial hemp received.

Handler Recordkeeping Requirements for Industrial Hemp

A handler must create and maintain records for the receipt or transfer of industrial hemp that includes the following information:

For each harvest lot of industrial hemp received from a person within Oregon or transferred to a person in Oregon:

- (A) The name and address of the person transferring the harvest lot to the handler or receiving the harvest lot from the handler, including the a registration number of the person;
- (B) The harvest lot identifier for each harvest lot received or transferred;
- (C) The date of receipt or transfer;
- (D) The amount of industrial hemp received or transferred in pounds;
- (E) All test reports for each harvest lot received or transferred;
- (F) If transferred to an OLCC licensee, the UID number(s) assigned to the harvest lot(s).

Handler Recordkeeping Requirements for Industrial Hemp

A handler must create and maintain records for the receipt or transfer of industrial hemp that includes the following information:

For industrial hemp received from outside of Oregon or transferred outside of Oregon:

- (A) The name and address of the person transferring the industrial hemp to the handler or receiving industrial hemp from the handler;
- (B) The unique identifier for the industrial hemp received;
- (C) The date of receipt;
- (D) The amount of industrial hemp received in pounds; and
- (E) All test reports for industrial hemp received.

Handler Recordkeeping Requirements for Industrial Hemp Commodities and Products

A handler must create and maintain records for the receipt or transfer of industrial hemp commodities and products that includes the following information:

- (A) The name and address of the person transferring the commodities or products to the handler or receiving the commodities or products from the handler, including the a registration number if the person is registered;
- (B) The process lot identifier or unique identifier for the commodities or products received or transferred;
- (C) The date of receipt or transfer;
- (D) The amount in units or pounds of the commodity or product received or transferred;
- (E) All test reports for the commodities or products received or transferred;
- (F) If transferred to an OLCC licensee, the UID number(s) assigned to commodities or products transferred.

Handler Recordkeeping Requirements for Disposition of Items Received and Transferred

A handler must create and maintain disposition information for all industrial hemp or hemp commodity or product received or transferred that includes the following information:

- (A) Identification of the harvest lot by harvest lot identifier or identification of the industrial hemp by unique identifier;
- (B) Identification of the process lot by process lot identifier or identification of the hemp commodity or product by unique identifier;
- (C) Whether the harvest lot, process lot, industrial hemp or hemp commodity or product was transferred without processing;
- (D) If processed:
 - (a) The process lot identifier;
 - (b) The method of processing;
 - (c) The type of industrial hemp commodity or product created from the industrial hemp or hemp commodity or product; and
 - (d) The amount in units or pounds of the industrial hemp commodity or product created from the industrial hemp or hemp commodity or product

Reporting Requirements

A registrant must immediately report, within 48 hours, the theft or loss of industrial hemp or hemp items to ODA.

An applicant or registrant must report to the ODA in writing within 10 calendar days of the following:

- (a) A disciplinary proceeding or enforcement action by another government entity that may affect the registrant's business;
- (b) Temporary closures of more than 30 days or a permanent closure of a grow site or a handling site.

Changes to the name, address, or telephone number of the registrant within 10 calendar days of the change;

Changes in location of a production area at a grow site or the addition of a production area at a grow site prior to producing at a production area not registered with ODA.

Growers must ensure that all laboratory THC test results for all harvest lots are timely reported to ODA and that any failed test report is immediately reported to ODA as required.

Reporting Requirements

A registrant that proposes to change its business structure or ownership structure must submit a complete Change in Business or Ownership on a form provided by the ODA to ODA, prior to making such a change.

(a) ODA shall approve the change if the change would not result in an initial or renewal application denial or revocation under these rules.

(b) If the registrant proceeds with the change without an approved Change in Business or Ownership form, the registrant must surrender the registration in writing or ODA shall propose to revoke the registration.

(c) ODA may refuse to accept a Change in Business or Ownership form for a change in business structure or financial interest if the registration is expiring in less than 90 calendar days, the registrant is under investigation by ODA, or has been issued a Notice by ODA following an alleged violation and the alleged violation has not been resolved.

(d) If a registrant has a change in ownership that is 51% or greater, a new application and application fees must be submitted.

Reporting Requirements

For purposes of studying the growth, cultivation, and marketing of industrial hemp prior to expiration of the registration year or prior to applying to renew registration, whichever comes first:

Growers shall report to ODA on forms provided by ODA:

- (a) The amount of industrial hemp grown (in acres or square feet);
- (b) The number of pounds harvested; and
- (c) Any other information as specified on the forms by ODA.

Handlers shall report to ODA on forms provided by ODA:

- (a) The type of industrial hemp commodities and products produced;
- (b) The amount of industrial hemp commodities and products produced per type; and
- (c) Any other information as specified on the forms by ODA.

Retail Sale Requirements

A person may not sell an industrial hemp commodity or product to a consumer unless the industrial hemp used to process the commodity or product complied with the laws and regulations for the jurisdiction where the hemp was grown to ensure compliance with the 0.3 percent THC limit.

A person may not sell a hemp item to a consumer unless:

- (a) The hemp item is tested in accordance with OAR 603-048-2300 to 603-048-2500; or
- (b) The person obtains and maintains documentation that any hemp commodity or product used to make the hemp item was tested as required by subsection (3)(a) of this rule and the documentation demonstrates that the hemp item does not contain more than 0.3 percent total THC.

Testing may only be conducted by:

- (a) A laboratory licensed by the Oregon Liquor Control Commission under ORS 475B.560 and accredited by the Oregon Health Authority under ORS 475B.565; or
- (b) A laboratory accredited to the same or more stringent standards as laboratories described in section (3)(a) of this rule if the hemp item was processed outside the state of Oregon.

Practitioner Issues

- Registrations
- Testing
- Packaging and Labeling
- Sales Agreements
- Processing Agreements
- Licensing Agreements
- Cross-Pollination and Right-to-Farm

Questions?

Thank you!

Cassie Peters

LEGAL + CONSULTING, LLC



cassie@cassiepeters.com

541-972-2769