

NOTICE OF PROPOSED CHANGES ON INDUSTRIAL HEMP PROGRAM  
IN THE REGULATIONS OF DEPARTMENT OF NATURAL RESOURCES

The Department of Natural Resources proposes to adopt changes in title 11, chapter 40 of the Alaska Administrative Code, dealing with the Alaska Industrial Hemp Program, including changes related to: the repeal of the pilot program, deadlines, registrations, registration terms, applications, endorsements, renewals, fees, testing, reports, endorsements for hemp products intended for human or animal consumption, and definitions.

1. **11 AAC 40.020. Registration required**, is proposed to delete reference to word "Pilot".
2. **11 AAC 40.040. Original registration term, renewals, and submission dates**, is proposed to change registration term so that it is 12 consecutive months instead of ending in January without regard to when a registration term began.
3. **11 AAC 40.050 Application for new registration**, is proposed to delete reference to the word "Pilot," clarify eligibility requirements regarding prior felony conviction relating to a controlled substance, and add requirement to pay fees from the time of application to any time before the approval of an application.
4. **11 AAC 40.060. Application for renewal of registration**, is proposed to change time to file a renewal application, establish a 90 calendar-day period that a current registration remains valid after the expiration of a registration term following a timely-filed application to renew registration, change time to pay fees for a registration, including more than one class of registration.
5. **11 AAC 40.070. Procedure for action of applications and endorsements**, is proposed to clarify time an applicant has to respond to request from the division, and change the time to approve complete applications.
6. **11 AAC 40.080. Denial of registration application and renewal application**, is proposed to changes the time that the division may deny an application for a renewal registration for being untimely.
7. **11 AAC 40.100. Fee schedule**, is proposed to reduces fees for most applications for registration, endorsements, or permits.
8. **11 AAC 40.210. Authorized seed and popagules**, is proposed to delete reference to the word "Pilot".
9. **11 AAC 40.230. Documentation of sed and propagule source and distribution**,is proposed to delete reference to the word "Pilot" and the federal law authorizing pilot programs.

10. **11 AAC 40.240. Land use restriction**, is proposed to delete reference to the word "Pilot".
11. **11 AAC 40.245. Signage**, is proposed to delete reference to the word "Pilot".
12. **11 AAC 250. Planting reports**, is proposed to change the time to submit a planting report, to no longer require a registered grower to withdraw its registration or submit a planting report that designates the dates the grower intends to plant industrial hemp during the registered year if no planting has occurred before July 31 of a registration year.
13. **11 AAC 40.265. Initial pre-harvest report**, is proposed to clarify the time before a projected harvest to file an initial pre-harvest report.
14. **11 AAC 40.275. Pre-harvest testing**, is proposed to delete the requirement that a registrant pay the cost of testing of samples in addition to the sampling fee.
15. **11 AAC 40.285. Sampling and harvesting of industrial hemp within delta-9-THC limitations**, is proposed to clarify the time for harvesting a tested lot.
16. **11 AAC 40.295. Post-harvest reports**, is proposed to change the time a grower has to submit a post-harvest report and clarify the time to report disposition information.
17. **11 AAC 40.305. Processor registration required**, is proposed to make a conforming change based on the repeal of 11 AAC 40.525
18. **11 AAC 40.320. Testing**, is proposed to delete repetitive language and clarify that any processed hemp intended for human or animal consumption shall be tested in accordance with 11 AAC 40.600 - 11 AAC 40.665.
19. **11 AAC 40.325. Test results**, is proposed to be proposed to be repealed and readopted to clarify that the division will notify a processor of test results of any solvents, heavy metals, microbials, or pesticides found during testing. The intended effect of this repeal is to eliminate requirements related to products with test results greater than 0.3 percent delta-9-THC and requirements related to reconditioning products with test results greater than 1 percent delta-9-THC because other proposed changes in this project would prohibit the sale of those products in the state if they are intended for human or animal consumption.
20. **11 AAC 40.335. Production reports**, is proposed to change the time to submit a production report and to eliminate the requirement that a processor document all recipients of industrial hemp.
21. **11 AAC 40.400. Endorsement**, is proposed to: change endorsement requirement so that it only applies to products offered to a consumer in the state, eliminate endorsements for product lines, create a 12 month period of validity for an endorsement, delete endorsements for product lines, and prohibit the division from endorsing a product that contains delta-9-THC or a non-naturally occurring cannabinoid, including a cannabinoid made from an ingredient extracted from industrial hemp and modified beyond its original form.

APPENDIX B-2: Notice of Proposed Regulations (Non-Newspaper)

22. **11 AAC 40.405. Application for endorsement**, is proposed to: correct a typo, add a conforming reference to endorsement renewals, change "laboratory test results" to "certificate of analysis", change the requirements for an application for an endorsement.
23. **11 AAC 40.415. Hemp product sizing**, is proposed to eliminate a requirement that product sizing be based on delta-9-THC content, which would be prohibited under this project.
24. **11 AAC 40.420. Labeling**, is proposed to delete various labeling requirements.
25. **11 AAC 40.500. Retailer registration required**, is proposed to delete a citation to a section being repealed as part of this project.
26. **11 AAC 40.505. Retailer registration; privileges and prohibited acts**, is proposed to change the requirement to post a placard to a requirement to obtain a registration for each store or location where industrial hemp is sold, and to eliminate the ability of a retailer to apply for a product endorsement where a processor has not.
27. **11 AAC 40.510. Retailer registration application**, is proposed to eliminate the ability to list multiple retail locations in one application for a retail registration and to eliminate the requirement that an application for retail registration include a list of industrial hemp product types intended to be sold.
28. **11 AAC 40.520. Inspection and testing**, is proposed to allow the division to issue a notice of violation and a stop order to a registered retailer for any processed hemp product intended for human or animal consumption if the hemp product contains any delta-9-THC.
29. **11 AAC 40.530. Retailer reports**, is proposed to make retailer reports permissive and change the time to file and the information to include.
30. **11 AAC 40.600. Compliance with 11 AAC 40.6900 - 11 AAC 40.665**, is proposed to be repealed and readopted to eliminate the prohibition against a grower or processor transferring raw industrial hemp in certain circumstances.
31. **11 AAC 40.605. Laboratory testing of hemp and hemp products**, is proposed to update the name of the hemp program.
32. **11 AAC 40.610. Sampling required**, is proposed to delete reference to a processing batch as a satisfactory source of sampling.
33. **11 AAC 40.615. Sample size for a hemp batch**, is proposed to be repealed. The intended effect of this repeal is to eliminate sampling for a processed hemp batch.
34. **11 AAC 40.620. Samples for test batches of pre-packaged hemp products**, is proposed to be repealed. The intended effect of this repeal is to eliminate sampling for a test batch of pre-packaged hemp products.

35. **11 AAC 40.625. Test batch, standards for authorized testing facilities**, is proposed eliminate requirement for sampling of processed industrial hemp.
36. **11 AAC 40.630. Cannabinoid and terpene policy**, is proposed to delete language that requires industrial hemp test results for delta-9-THC to be at or below .3 percent and to eliminate any conditional reporting requirements regarding a terpene analysis.
37. **11 AAC 40.635. Methodology for testing delta-9-THC levels in raw industrial hemp**, is proposed to clarify that raw industrial hemp must be tested for a quantitative determination of "total THC" and defining that term and others within that definition.
38. **11 AAC 40.640. Contaminants**, is proposed to change allowable levels and products to be tested for residual solvents, microbials, mycotoxins, pesticides, and metals and add a new section that imposes a 12 month period of validity for a certificate of analysis.
39. **11 AAC 40.650. Failed test results for hemp products**, is proposed to replace "batch" with "product".
40. **11 AAC 40.655. Retests**, is proposed to replace "batch" with "product" and delete other reference to word "batch".
41. **11 AAC 40.660. Quarantine**, is proposed to delete reference to word "Pilot".
42. **11 AAC 40.710. Transportation**, is proposed to delete reference to "industrial hemp products" and "registered processor".
43. **11 AAC 40.800. Enforcement authority**, is proposed to: clarify the time required before an inspection of records or transfer records, allow the division to declare that certain cannabis is a public nuisance; delete reference to word "Pilot", change language to conform to proposed prohibition of products with delta-9-THC.
44. **11 AAC 40.810. Suspension**, is proposed to clarify the maximum length of a temporary suspension.
45. **11 AAC 40.820. Revocation**, is proposed to delete reference to word "Pilot".
46. **11 AAC 40.910. Definitions**, is proposed to amend the definitions of the Alaska Industrial Hemp Program, "applicant," "cannabinoid," "cannabis," "CBD," "consumer," "delta-9-THC," "industrial hemp product," "hemp product," "prohibited variety," "registered retailer," and "registrant," add and define the terms "certificate of analysis," "not more than 0.3 percent," and delete the term "delta-9-THC- content of not more than 0.3 percent."

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Robert Carter, Division of Agriculture at 5310 South Bodenbug Spur, Palmer Alaska 99645.

APPENDIX B-2: Notice of Proposed Regulations (Non-Newspaper)

Additionally, the Department of Natural Resources will accept comments by facsimile (907-746-1568) and by electronic mail ([industrialhemp@alaska.gov](mailto:industrialhemp@alaska.gov)). Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 4:30 p.m. on July 14, 2023.

You may submit written questions relevant to the proposed action to Robert Carter, Division of Agriculture at 5310 South Bodenbug Spur, Palmer Alaska 99645. The questions must be received at least 10 days before the end of the public comment period. The Department of Natural Resources, Division of Agriculture will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and agency website (<https://plants.alaska.gov/industrialhemp.htm>).

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Robert Carter, Division of Agriculture, by email ([industrialhemp@alaska.gov](mailto:industrialhemp@alaska.gov)) or phone (907-745-4469) not later than 4:30 p.m. on July 3, 2023, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Robert Carter, Division of Agriculture, email ([industrialhemp@alaska.gov](mailto:industrialhemp@alaska.gov)).

After the public comment period ends, the Department of Natural Resources will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

**Statutory authority:** AS 03.05.010; AS 03.05.027; AS 03.05.030; AS 03.05.040; AS 03.05.076.

**Statutes being implemented, interpreted, or made specific:** AS 01.10.060; AS 03.05.010; AS 03.05.027; AS 03.05.030; AS 03.05.040; AS 03.05.076; AS 03.05.078; AS 03.05.079; AS 03.05.100; AS 11.71.040; AS 11.71.050; AS 11.71.060; AS 11.71.900.

**Fiscal information:** The proposed regulation changes are not expected to require an increased appropriation.

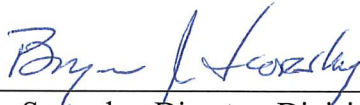
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APPENDIX B-2: Notice of Proposed Regulations (Non-Newspaper)

The Department of Natural Resources, Division of Agriculture keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the division notices of proposed regulation changes. To be added to or removed from the list, send a request to the division at 5310 South Bodenbug Spur, Palmer Alaska 99645 or [industrialhemp@alaska.gov](mailto:industrialhemp@alaska.gov), giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Individuals can also signup to receive automated notifications of all State of Alaska notices, including public notice for regulation changes, by subscribing to the Alaska Online Public Notices System: <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx>.

Date: May 7, 2023

  
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Bryan Scoresby, Director, Division of Agriculture  
Department of Natural Resources