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901:14-1-01 **Definitions.**

- (A) "Abandoned application" means an application for licensure which was returned to the applicant by the department as incomplete and not finalized or corrected by the applicant and returned to the department within thirty days or by the licensure deadline.
- (B) "Controlled substance" has the same meaning as found in section 3719.01 of the Revised Code.
- (C) "Controlling interest" means any person, association, partnership, other entity, or corporation having a financial interest greater than ten per cent, direct or indirect, in the business entity applying for licensure.
- (D) "Cultivate" or "cultivating" means to plant, water, grow, fertilize, till, or harvest a plant or crop. "Cultivating" includes possessing or storing a plant or crop on a premises where the plant or crop was cultivated until transported to the first point of sale.
- (E) "Delta-9 tetrahydrocannabinol" or "THC" means the sum of the percentage by weight of tetrahydrocannabinolic acid multiplied by 0.877 plus the percentage by weight of delta-9 tetrahydrocannabinol.
- (F) "Department" means the Ohio department of agriculture.
- (G) "Director" means the director of the Ohio department of agriculture or their designee.
- (H) "Disqualifying offense" means any felony involving a controlled substance including, but not limited to, violations of:
- (1) Ohio Revised Code 2907.02(A)(1)(a).
 - (2) Ohio Revised Code 2907.05(A)(2).
 - (3) Ohio Revised Code 2923.16(D)(2).
 - (4) Ohio Revised Code 2923.241.
 - (5) Ohio Revised Code chapters 2925, 3719, and 3796.
- (I) "Growing location" means a contiguous land area or single building in which hemp is grown or planned to be grown.
- (J) "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 tetrahydrocannabinol concentration of not more than three-tenths per cent on a dry weight basis.
- (K) "Immediate family" means a licensee's spouse, parents, children, grandparents, siblings, grandchildren, brother-in-law, sister-in-law, daughter-in-law, son-in-law, mother-in-law, father-in-law, step-parents, step-children, step-siblings, or a legal guardian or other person who stands in the place of a parent (in loco parentis).
- (L) "Licensee" or "licensed cultivator" means an individual or business entity possessing a hemp cultivation license issued pursuant to section 928.02 of the Revised Code and the rules of this Chapter.
- (M) "Licensed medical marijuana cultivator" means an entity that has been issued a certificate of operation by the

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Ohio department of commerce to grow, harvest, package, and transport medical marijuana as permitted under Chapter 3796. of the Revised Code.

- (N) "Public park" means a park established by the federal government, state, or a political subdivision of the state including a county, township, municipal corporation, or park district.
- (O) "School" means a child day-care center as defined under section 5104.01 of the Revised Code, a preschool as defined under section 2950.034 of the Revised Code, or a public or nonpublic primary school or secondary school.
- (P) "Strain" means a cannabis strain, which is a group of plants created asexually through clonal propagation.
- (Q) "University" means an institution of higher education as defined in section 3345.12 of the Revised Code and a private nonprofit institution with a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code.
- (R) "Variety" means a subdivision of a kind which is distinct, uniform and stable; "distinct" in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; "uniform" in the sense that variations in essential and distinctive characteristics are describable; and "stable" in the sense that the variety will remain unchanged to a reasonable degree of reliability in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties

901:14-1-02 Cultivation License.

- (A) No person may cultivate hemp without a hemp cultivation license issued by the department.
- (B) Hemp cultivation licenses are valid for three years provided that the licensee is compliant with Chapter 928 of the Revised Code and the rules of this Chapter.
- (C) Hemp cultivation licenses shall be renewed every three years by complying with the rules of this paragraph, including obtaining the required background check(s) as outlined in rule 901:14-1-05 of the Administrative Code.
- (D) The application window shall be November 1st through March 31st.
 - (1) An applicant may seek a variance from the application window by completing a variance request form which can be found on the department's website.
 - (2) The denial of a variance request does not constitute grounds for a chapter 119 administrative hearing.
- (E) The department may only issue a hemp cultivation license if the applicant has:
 - (1) Submitted a complete application as outlined in rule 901:14-1-03 of the Administrative Code;
 - (2) Submitted both the application fee and the annual license fee as outlined in rule 901:14-1-04 of the Administrative Code; and
 - (3) Completed the required background check(s) as outlined in rule 901:14-1-05 of the Administrative Code and the applicant and no individual with a controlling interest in the business entity has, within the last ten years, plead guilty to or been convicted of a disqualify offense.

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- (F) Prior to April 1st during years two and three of the license period, licensees shall complete the annual license update form as described in rule 901:14-1-03 of the Administrative Code and remit the annual license fee to the department if the licensee or controlling interest is not removed from the entity within thirty days.
- (G) Any licensee or person with a controlling interest in the business entity who, during the time of licensure, pleads guilty to or is convicted of a disqualifying offense shall have their license revoked or suspended by the department.
- (H) A cultivation license is valid only for the individual or business entity, and the entities whom possess a controlling interest in the business entity, for which it is issued. A cultivation license may only be transferred or assigned if approved by the department and:
- (1) The licensee notifies the department in writing of the proposed transfer or controlling interest change;
 - (2) The licensee ensures that the background checks as outlined in rule 901:14-1-05 of the Administrative Code have been completed; and
 - (3) The licensee can demonstrate that the licensee will remain in compliance with the rules of this Chapter
- (I) The following are not required to obtain a cultivation license under this Chapter:
- (1) A university who has been specifically authorized by the director to cultivate hemp for research purposes.
 - (2) Any person who is an immediate family member of a licensed cultivator or a subordinate employee of the licensed cultivator so long as these individuals are acting under the instructions and control of the licensed cultivator in the designated growing location. Any actions taken by these individuals shall be the responsibility of the licensed cultivator.

901:14-1-03 Cultivation application.

- (A) A person applying for a hemp cultivation license shall apply on a form provided by the department.
- (B) An applicant shall provide all of the following information to the department:
- (1) If the applicant is an individual:
 - (a) The full legal name of the applicant;
 - (b) The physical address of the applicant;
 - (c) The mailing address of the applicant;
 - (d) The email address of the applicant; and
 - (e) The phone number of the applicant.
 - (2) If the applicant is a business entity:
 - (a) The full name of the business;
 - (b) The mailing address of the business;

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(c) The principal business location in the state of Ohio;

(d) The full name of the individual who is authorized to sign on behalf of the business entity;

(e) The full name, title, and email address of the individual who will be primarily responsible for the hemp operations of the business entity;

(f) The identity of every person, association, partnership, other entity, or corporation having a financial interest greater than ten per cent, direct or indirect, in the business entity applying for licensure;

(g) The information required in paragraph (B)(1) of this rule for each party identified in paragraph (B)(2)(f) of this rule;

(h) Phone number for the business entity; and

(i) Email address for the business entity.

(3) For each growing location:

(a) The global position system coordinates;

(b) The physical address;

(c) Maps for each field, greenhouse, building, or storage facility where hemp will be cultivated or stored; and

(d) Number of outdoor acres, indoor square footage, and number of plants intended to be planted.

(4) Any other information required by the department.

(C) Licensed cultivators shall complete an annual license update form prior to March 31st in years two and three of the license period. The licensee shall provide the following information and remit the annual license fee to the department:

(1) Any information required in paragraphs (B)(1) and (B)(2) of this rule that has changed in the last year.

(2) For each growing location to be used in the upcoming license year:

(a) The global position system coordinates;

(b) The physical address;

(c) Maps for each field, greenhouse, building, or storage facility where hemp will be cultivated or stored; and

(d) Number of outdoor acres, indoor square footage, and number of plants intended to be planted.

(3) Any other information required by the department.

(D) Any incomplete application will be returned to the applicant by the department.

(E) Abandoned applications shall not be reviewed by the department and destroyed.

(F) Failure to complete the annual license update form or pay required fees in a timely or complete manner may

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result in the department taking enforcement action enforcement action as defined in rule 901:14-1-99.

901:14-1-04 **Fees.**

(A) Fee Schedule.

(1) Cultivator.

(a) The application fee shall be \$100 for each license application.

(b) The annual license fee shall be \$500 for each growing location.

(2) Site modification fee.

The site modification fee shall be \$250 for each GPS coordinate location change for each growing location.

(3) Testing.

(a) Pre-Harvest sample fee shall be \$150.

(b) Secondary pre-harvest sample fee shall be \$300.

(c) Post-harvest retest fee shall be \$300.

(B) The fees established in this section shall be nonrefundable.

901:14-1-05 **Background checks.**

(A) All applicants and persons with a controlling interest in the business entity, if applicable, shall submit to a criminal records check completed by the bureau of criminal identification and investigation in accordance with section 928.02 of the Revised Code.

(B) Applicants and persons with a controlling interest submitting a renewal application must comply with paragraph (A) of this rule during the licensing window established in paragraph (D) of rule 901:14-1-02 in the licensure renewal period.

(C) The department shall not grant a license to an applicant unless the applicant and all persons with a controlling interest have not plead guilty to or been convicted of a felony to a disqualifying offense in the ten years prior to applying for a license.

(D) The applicant requesting a criminal records check shall submit with a request to the bureau of criminal identification and investigation: a completed copy of a form prescribed under division (C)(1) of section 109.572 of the Revised Code; a set of fingerprint impressions obtained as described in division (C)(2) of section 109.572 of the Revised Code; the applicant's name and address; the department's name and address; and, a request that the superintendent of the bureau of criminal identification and investigation obtain from the federal bureau of investigation any information it has pertaining to the applicant.

(E) The department shall only accept results of a criminal records check submitted to the department directly from the bureau of criminal identification and investigation.

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(F) The applicant shall bear all costs associated with the criminal records check as determined by the bureau of criminal identification and investigation, the federal bureau of investigation, and by any agency with authority to charge a fee for fingerprint impressions.

(G) If the department does not receive the background check of all required parties by March 31st, the applicant may request an extension waiver of thirty days to complete the background check requirement. Failure to complete by the extension period will result in the department considering the application abandoned.

901:14-1-06 Land Use Restrictions for Licensed Cultivators.

A licensed cultivator shall not:

(A) Plant or grow any cannabis that is not hemp.

(B) Plant or grow hemp on any site not approved by the department.

(C) Plant or grow hemp in or within one hundred feet of any structure that is used for residential purposes.

(D) Handle or store hemp plant material in any structure that is used for residential purposes.

(E) Comingle hemp with other crops unless prior approval is obtained in writing from the department.

(F) Plant or grow hemp in an outdoor growing location of less than one-quarter acre unless prior approval is received in writing from the department.

(G) Plant or grow hemp in an indoor growing location of less than one thousand square feet unless prior approval is received in writing from the department.

(H) Plant or grow hemp in a growing location in a quantity of less than one thousand plants unless prior approval is received in writing from the department.

(I) Plant or grow hemp in any growing location that is located within half a mile of the boundaries of a parcel of real estate, measured from the closest point of the property lines, having situated on it a licensed medical marijuana cultivator. Except that this does not apply to any licensed cultivator who, within the last three years, has legally planted hemp in a location that would otherwise be excluded.

(J) Plant or grow hemp in any growing location that is located within five hundred feet of the boundaries of a parcel of real estate, measured from the plants to the closest point of the property lines, having situated on it a school or public park. Except that this does not apply to research being conducted by a university or the department as approved by the director.

(K) Plant or grow hemp on any property that is not owned or leased by the licensed cultivator.

901:14-1-07 Prohibited varieties.

No licensed cultivator shall use any seed, cutting, clone, or planting from a variety that is on the department's prohibited hemp variety list which may be found by visiting the department's website www.agri.ohio.gov.

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901:14-1-08 **Harvesting.**

- (A) A licensed cultivator shall submit a completed current harvest or destruction report form to the department at least fifteen (15) days prior to the intended harvest date or intended destruction of a failed crop. Upon receipt of a completed harvest or destruction report, the department shall collect a sample prior to harvest.
- (B) The licensed cultivator shall harvest the crop not more than fifteen (15) days following the date of the sample collection by the department, unless specifically authorized in writing by the department. If the licensed cultivator fails to complete harvest within fifteen (15) days, the department may order a secondary pre-harvest sample of the plot, and the licensed cultivator shall be assessed a secondary pre-harvest sample fee per plot in the amount established in rule.
- (C) Harvested plant material shall not be moved beyond the cultivator's storage facility until the department releases the plant material in writing using the hemp release form.
- (D) A licensed cultivator who fails to submit a harvest or destruction report or who does submit a harvest or destruction report and proceeds to harvest a crop prior to a sample being collected by the department without approval by the department may result in the department taking enforcement action as outlined in rule 901:14-1-99 of the Administrative Code. Any plant material that has been harvested and is still in the licensed cultivator's possession shall be embargoed and tested as outlined in rule 901:14-1-10 of the Administrative Code.

901:14-1-09 **Sampling.**

- (A) All hemp plants and licensed cultivators shall be subject to random sampling by the department for compliance with chapter 928 of the Revised Code and the rules of this chapter.
- (B) During the scheduled sample collection, the licensed cultivator or an authorized representative shall be present at the growing location. Representatives of the department shall be provided with complete and unrestricted access to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants; and all locations listed in the license application.
- (C) The department shall take samples from each field, greenhouse, building, or site where hemp has been cultivated by the licensee. The samples shall consist of cuttings from at least five hemp plants within the growing location. A separate set of samples must be taken for each variety. The hemp plants selected for sampling shall be determined by the department and not the licensee. The licensee shall be afforded one testing sample per growing location. All additional samples taken due to the licensed cultivator having multiple fields, greenhouses, buildings, sites, or additional varieties grown on the growing location shall be subject to the fees outlined in rule 901:14-1-04.
- (D) Samples collected by the department may be tested by the department or its designee for compliance with chapter 928 of the Revised Code and the rules of this chapter.
- (E) All samples taken pursuant to the rule shall be provided for testing conducted by the department at no cost to the department. The samples become the property of the department and are non-returnable.

901:14-1-10 **Testing and reporting.**

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- (A) The department's testing laboratory shall be the official regulatory laboratory for compliance with Chapter 928 of the Revised Code and the rules adopted pursuant to it. The department may contract with third-party laboratories to provide testing services on its behalf. As soon as they are available, all test results shall be reported to the license holders by the department. No other testing result shall be considered an official regulatory testing result.
- (B) Samples with a THC level equal to or below 0.3 per cent shall require no further action and the area or harvested plant material from which the sample was obtained shall be released for marketing or further processing as designated on the hemp release form.
- (C) Samples with a THC level greater than 0.3 per cent shall be reported to the licensed cultivator as soon as possible. The license cultivator may request a second sample and be tested of the same field, greenhouse, building, or site where the original sample was taken. The hemp plants selected for sampling shall be determined by the department. If a second sample is not is requested, or the second sample has a THC level greater than 0.3 per cent , the area represented by the sample, or any harvested plant parts from the area represented by the sample shall be subject to the following disposition:
- (1) Bare hemp stalks for fiber that is free of leaf, seed, and floral material may be harvested, processed, and used for fiber or any other lawful purpose; and
- (2) All other plant material shall be destroyed pursuant to rule 901:14-1-11.
- (D) Any plant material that is co-mingled with plant material which have a THC level greater than 0.3 per cent shall be destroyed pursuant to rule 901:14-1-11.

901:14-1-11 Destruction.

- (A) All licensees must submit a destruction report in order to destroy hemp. No destruction may occur unless department personnel are present to witness the destruction unless otherwise notified by the department.
- (B) The department may conduct an inspection to witness the destruction or verification that the crop was destroyed.
- (C) If a growing location was ordered destroyed, abandoned, or otherwise not harvested by the licensee, the department may destroy the crop and invoice the licensee for all costs associated with the destruction.

901:14-1-12 Reporting and records.

- (A) Planting report.
- (1) A planting report for each growing location shall be submitted to the department by July 1st of each year or within fifteen days of planting, including replanting. The cultivator shall utilize the planting report form which can be found on the department's website www.agri.ohio.gov.
- (2) The report shall include the following information:
- (a) Field or greenhouse location identification as identified in the application;
- (b) Number of acres or square footage planted;

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(c) Variety name of the plant;

(d) Primary intended use of the harvest for each planting; and

(e) Any other information required by the department.

(3) A licensed cultivator who does not plant in one of their approved site locations shall submit on or before July 31st of each year stating that hemp has not and shall not be planted at that site for the calendar year.

(4) A licensed cultivator's failure to submit an accurate, complete, and timely report may result in the department taking enforcement action as defined in rule 901:14-1-99 of the Administrative Code.

(B) Production reports.

(1) A licensed cultivator shall submit a completed production report to the department by December 31st of each year. The cultivator shall utilize the production report form which can be found on the department's website www.agri.ohio.gov.

(2) A licensed cultivator's failure to submit an accurate, complete, and timely report may result in the department taking enforcement action as defined in rule 901:14-1-99 of the Administrative Code.

(C) Recordkeeping.

All licensed cultivators shall maintain the following records for a period of three years:

(1) Planting reports;

(2) Harvest reports;

(3) Destruction reports; and

(4) Production reports.

901:14-1-13 **Control of volunteers.**

Licensed cultivators shall be responsible for scouting and monitoring unused fields for volunteer cannabis plants and to destroy those plants for three years past the last date of planting as reported to the department. Failure to control volunteers may result in the department taking enforcement action against the cultivator's license including eradicating these plants and invoicing the licensee for all costs associated with the destruction.

901:14-1-14 **Pesticide and fertilizer use.**

(A) A licensed cultivator who uses a pesticide or fertilizer on hemp shall comply with all licensure and certification requirements of chapters 905 and 921 of the Revised Code, if applicable.

(B) A licensed cultivator shall not use any pesticide in violation of the product label.

(C) A licensed cultivator who uses a pesticide on a site where hemp will be planted shall comply with the longest of any planting restriction interval on the product label prior to planting the hemp.

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(D) The department may perform pesticide testing on a random basis.

(E) Hemp seeds, plants, and materials bearing pesticide residue in violation of the established tolerances found in 40 C.F.R. 180 (2019) shall be subject to forfeiture or destruction without compensation.

901:14-1-15 **Cooperation with law enforcement and other federal agencies.**

(A) The department shall provide information about approved cultivation, handling, and storage site locations to representatives of the United States department of agriculture (USDA), and any federal, state, or local law enforcement agency whose representatives request licensed site information, including GPS coordinates.

(B) Immediately upon request, licensees shall produce a copy of his or her license to a representative of the department or a law enforcement agency.

(C) Immediately upon request, licensees or their agents shall produce a copy of his or her license and a copy of the hemp release form to a representative of the department or a law enforcement agency if they are stopped or otherwise detained in transport.

901:14-1-16 **Clone and seed production.**

(A) All licensed hemp cultivators engaged in the business of producing clones, cuttings, propagules, seed for propagation purposes shall:

(1) Not sell hemp seeds or plants to any person or business entity in the state of Ohio who is not licensed as a cultivator pursuant to Chapter 928 of the Revised Code and this Chapter.

(2) Maintain information on the mother plants including:

(a) Variety;

(b) Strain; and

(c) A valid certificate of analysis on the plant issued within the last calendar year by a laboratory which meets the standards outlined in rule 901:14-2-13 and provides the percentage content by weight for THC.

(3) Verify and maintain records of sales which indicate:

(a) The name and license number of the purchaser;

(b) The variety and strain name(s) of the hemp plant or seeds purchased;

(c) The number of plants or the weight of seed purchased;

(d) The date of the transaction.

(4) The records required by this rule shall be maintained for a period of three years.

(B) For the purposes of this rule, the production of clones, cuttings, propagules, seed for propagation purposes are not required to submit a harvest report as required in rule 901:14-1-08 of the Administrative Code.

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901:14-1-17 **Cultivation research.**

(A) Any private or non-profit entity, that is otherwise not a university, interested in obtaining a cultivation license for research purposes only shall apply for a license in accordance with rules 901:14-1-02 and 901:14-1-03 of the Administrative Code except that these applicants shall utilize the hemp cultivation research application form.

(B) Hemp cultivation research licensees are exempt from compliance from the following rules:

(1) Paragraphs (F), (G), and (H) of OAC 901:14-1-06;

(2) OAC 901:14-1-07;

(3) OAC 901:14-1-08;

(4) OAC 901:14-1-12;

(5) OAC 901:14-1-14; and

(6) OAC 901:14-1-16.

(C) Reporting and records.

(1) All hemp cultivation research licensees shall maintain the following records and documentation of their cultivation research:

(a) Date of planting;

(b) Field, greenhouse, or other growing location;

(c) Number of plants, acres, or square footage planted;

(d) Varietal or plant identification information; and

(e) Destruction records as outlined in rule 901:14-1-11.

(2) The records required in paragraph (C)(1) of this rule shall be maintained for a period of three years and shall be made available to the department upon request.

(D) No hemp plant material, under the control of this license, shall be sold, offered for sale, delivered, bartered, auctioned, given away, or otherwise transferred.

(E) All hemp plant material, under the control of this license, shall be destroyed pursuant to rule 901:14-1-11 at the conclusion of the research.

901:14-1-99 **Enforcement.**

(A) The director shall deny, suspend, or revoke a hemp cultivation license if the licensee or applicant has:

(1) Provided false or misleading information on the hemp cultivation application or renewal application;

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(2) Not complied with the background check requirements as outlined in rule 901:14-1-05 of the Administrative Code;

(3) Plead guilty to or was convicted of a felony relating to a controlled substance within the last ten years;

(4) Negligently violated section 928.04 of the Revised Code or the rules of this chapter three or more times in any five-year period;

(B) The director may suspend, or revoke a hemp cultivation license if the licensee or applicant has failed to comply with Chapter 928 of the Revised Code or the rules of this chapter.

(C) If the director has or proposed to have denied, suspended, or revoked a hemp cultivation license, the party shall be afforded a hearing in accordance with Chapter 119 of the Revised Code.