

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 681. MEDICAL MARIJUANA CONTROL PROGRAM**

SUBCHAPTER 5. COMMERCIAL ESTABLISHMENTS

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310:681-5-8.1. Food Safety Standards for Processors

(a) This Section sets forth the food safety standards that processors must comply with in the preparation, production, manufacturing, processing, handling, packaging, and labeling of edible marijuana products.

(b) Existing law. This Section does not relieve licensed processors of any obligations under existing laws, rules, and regulations, including 63 O.S. § 1-1101 et seq., OAC 310:257, and OAC 310:260, to the extent they are applicable and do not conflict with 63 O.S. § 420A et. seq.

(1) The sale, offer to sell, dispense or release into commerce of any food or confection under a name, label, or brand when the name, label, or brand either precisely or by slang term or popular usage, is the name, label, or brand of marijuana is not prohibited.

(2) Marijuana used in food shall be considered an additive, a component, and/or an edible substance.

(3) Marijuana shall not be considered a deleterious, poisonous, or nonnutritive substance, and the use of marijuana, alone, in food shall not make such food adulterated or misbranded.

(c) Updated law. In the event the Oklahoma Board of Health or the Commissioner of Health amends OAC 310:257 or OAC 310:260, adopts new food safety rules, or incorporates into Oklahoma law updated federal food safety standards, including Title 21 of the Code of Federal Regulations, licensed processors shall comply with such rules to the extent they are applicable and do not conflict with 63 O.S. § 420A et seq. or these rules.

(d) Board Meetings. The Medical Marijuana Industry Expert Board/Food Safety Standards Board shall meet as regularly as it members deem necessary to review Oklahoma food safety laws and these rules and to take action, including amending and/or adding recommended standards to the Oklahoma Board of Health or the Commissioner of Health.

(e) Labeling and Packaging. Labels and packages for food containing marijuana shall comply with all applicable requirements in existing Oklahoma law, rules, and regulations, and any laws incorporated therein by reference, including Title 21, Part 101 of the Code of Federal Regulations, to the extent they do not conflict with 63 O.S. § 420A.

(1) Existing requirements for principal display panels or information panels include:

(A) Name of the food;

(B) Net quantity or weight of contents;

(C) Ingredients list;

(D) Food allergen information;

- (E) Nutrition labeling;
- (F) Total calories and fat calories;
- (G) Total fat, saturated fat, and trans fat;
- (H) Cholesterol;
- (I) Sodium;
- (J) Total carbohydrates;
- (K) Dietary fiber;
- (L) Sugars;
- (M) Protein;
- (N) Vitamins.

(2) In addition, principal display panels or information panels must contain:

- (A) List of cannabis ingredients;
- (B) The batch of marijuana;
- (C) The strain of marijuana (optional); and
- (D) The statement "contains THC," if applicable.

(3) Nutrient content, health, qualified health and structure/function claims must comply with the Food and Drug Administration ("FDA") Food Labeling Guide.

(4) Packaging must contain the statement, "For accidental ingestion call 1-800-222-1222."

(5) All packages and individual product units, including but not limited to those from bulk packaging, must contain the Oklahoma uniform symbol in clear and plain sight. The Oklahoma uniform symbol must be printed at least one-half inch by one-half inch in size in color.

(6) In order to comply with OAC 310:681-7-1(4) and this Section, a label must contain a warning that states, "Women should not use marijuana or medical marijuana products during pregnancy because of the risk of birth defects or while breastfeeding."

(d) **Recommended HACCP.** A Hazard Analysis and Critical Control Plan ("HACCP"), as set forth under Title 21, Part 120 of the Code of Federal Regulations, shall be recognized as a standardized best practice to ensure that food is suitable for human consumption and that food-packaging materials are safe and suitable. Processors are encouraged to adopt a HACCP to help ensure compliance with existing Oklahoma food safety laws, particularly OAC 310:260-3-6.

(e) **Recommended Testing Procedures.** When processors perform testing, whether it be voluntary or required under applicable Oklahoma food safety laws, including where necessary to identify sanitation failures or possible food contamination under OAC 310:260-5-3(a), licensed processors are encouraged to adopt the following testing procedures:

(1) **Allowable Thresholds.** Processors should establish documented thresholds for the presence of biological, chemical, and physical contaminants and these threshold levels should be stated in commonly understood units such as parts per million (PPM or ppm) or colony-forming unit (CFU or cfu).

(2) **Microbiological testing.**

- (A) All products should be tested for aerobic plate count.
- (B) Product test results should validate that less than one colony forming unit (CFU) per gram of tested material is present for E. coli or Salmonella species or the product

shall be rejected.

(C) Products should be tested for the presence of yeast and molds.

(D) Test reports should include method reference.

(3) Solvent and Chemical Residue.

(A) Cannabis concentrates and infused products should be tested for the following solvents to the maximum extent practical:

(i) Acetone < 1 ppm

(ii) Benzene < 0 ppm

(iii) Butanes/ Heptanes/ < 50 ppm

(iv) Hexane < 10 ppm

(v) Polyacrylonitrile (PAN) < 1 ppm

(vi) Polycyclic Aromatic Hydrocarbons (PAHs) < 1 ppm

(vii) Toluene < 1 ppm

(viii) Total Xylenes < 1ppm

(ix) Solvent—extracted products made with Class 3 or other solvents should not exceed 0.5% residual solvent by weight or 50 parts per million (ppm) per one gram of solvent—based product.

(x) The product should test at or below 50 ppm total.

(B) Test reports should provide specific data for all listed and detected solvents.

(C) The test report should list the solvents that were not or could not be tested.

(D) If the test equipment's Limit of Detection (lowest possible detection limit) is above the specified limit for a solvent, the equipment's Limit of Detection amount will be considered sufficient to exceed safe contamination limits.

(4) Metals.

(A) Testing for heavy metals should include but is not limited to lead, arsenic, cadmium and mercury.

(B) Test results should meet the following thresholds:

(i) Lead - max limit < 6 ppm

(ii) Arsenic - max limit < 10 ppm

(iii) Cadmium - max limit < 4.1 ppm

(iv) Mercury - max limit < 2.0 ppm

(C) If the cannabis concentrate used to make an infused product was tested for metals and test results indicate the batch was within established limits, then the infused product should not require additional testing for metals.

(5) Pesticide Residue.

(A) Processors should test all product batches for pesticides; 0.1 ppm or a positive result at the Limit of Detection (equipment's lowest possible detection amount) will be considered to exceed safe residue limits.

(B) Pesticide residue testing should analyze samples for the presence of chlorinated hydrocarbons, organophosphates, carbamates and pyrethroids, neonicotinoids, acaricides, fungicides and bactericides to the maximum extent practical.

(6) Potency and Cannabinoid Profile. Processors should test products for cannabinoid profiles and provide results for levels of THC, THC—A, CBD, CBD—A, CBN and terpenoid profile as applicable to the product specification.

(7) Contaminants and Filth. Processors should inspect all products for contaminants and filth.

(A) Contaminants include any biological or chemical agent, foreign matter, or other substances not intentionally added to products that may compromise food safety or suitability.

(B) Processors should document allowable thresholds for physical contaminants as part of the product test plan. Inspection requirements should be included in the operation's product test plan for third party testing, if applicable.

(C) Inspection records should indicate a continual process of physical inspection has taken place for all batches.

(f) Private Homes; Living or sleeping quarters.

(1) A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting processing operations.

(2) Living or sleeping quarters located on the premises of a processor such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

Definitions to add 310:681-1-4

"Food" has the same meaning as set forth in 63 O.S. § 1-1101 and OAC 310:257-1-3 ("`food' means (1) articles used for food or drink for man, (2) chewing gum, and (3) articles used for components of any such article") and as set forth in OAC 310:250-1-6 ("`food' means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption").

"Information Panel" has the same definition as set forth in 21 CFR (1991) § 101.2 and means that part of the label immediately contiguous and to the right of the principal display panel as observed by an individual facing the principal display panel.

"Label" carries the same definition as set forth in 63 O.S. § 1-1101 and means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this article that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there be any, of the retail package of such article, or is easily legible through the outside container or wrapper.

"Oklahoma Uniform Symbol" means the image, established by the Department and made available to commercial licensees, indicating the package contains marijuana and must be printed at least one-half inch

in size by one-half inch in size in color.

"Principal Display Panel" has the same definition as set forth in 21 CFR (1991) § 101.1 and means the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

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