



To: Registered Organizations, Conditional Licensees and Permitted Laboratories

From: NYS Office of Cannabis Management, Health & Safety Unit

Date: April 26, 2023 (original - 09/06/22; revised - 11/01/22; revised - 12/21/22; revised 03/31/23)

Overview

At the Cannabis Control Board (Board) Meeting on August 15th, the Board voted to approve an emergency regulation to immediately allow the Office of Cannabis Management (OCM) to create an application process to permit cannabis laboratories and approve cannabis sampling firms, as well as provide regulations for the sampling and testing of adult-use cannabis. The emergency regulation, Part 130 of Title 9 of the New York Codes, Rules and Regulations (9 NYCRR Part 130), also transfers the oversight of medical cannabis laboratory testing functions from the New York State Department of Health (DOH) to OCM. All of the laboratories authorized to test medical cannabis under the DOH program, are provisionally permitted to test medical cannabis and adult-use cannabis under OCM. A revised Part 130 of Title 9 NYCRR was adopted in March 2023, and effective on March 22, 2023.

Implementation Timeline:

OCM has established a timeline for registered organizations, adult-use licensees (i.e., conditional cultivators and processors) and permitted laboratories to be able to meet the testing standards outlined in the “Laboratory Testing Limit” document which is available on the OCM website. The document covers the testing of the phytocannabinoid profile in adult-use and medical cannabis products. Additionally, the document outlines the required testing of contaminants in adult-use and medical cannabis products, which includes the following analytes: microorganisms, heavy metals, foreign material, moisture content, water activity, mycotoxins, pesticides, residual solvents, and terpenoids.

The certified medical cannabis testing laboratories transferred from the DOH to OCM must report phytocannabinoid results for bulk flower and retail ready plant forms (e.g. flower, pre-rolls) on a dry weight basis by January 1, 2023. The laboratories must receive approval for moisture content, water activity, and filth and foreign material by January 1, 2023. OCM shared a list of methods to be used for the determination of moisture content on August 4, 2022. These methods must be used for medical and adult-use cannabis flower testing. Additionally, while not required to be tested by a third-party laboratory, if a laboratory tests flower at the bulk stage or intermediate level, they must use a method approved by OCM.

Furthermore, the laboratories currently permitted by OCM for microbiologicals must be able to test for and report results as per the “Laboratory Testing Limit” document by January 1, 2023, which includes:

- Total Viable Aerobic Bacteria Count
- Total Yeast and Mold Count
- Salmonella species
- Shiga toxin-producing E. coli
- Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger, Aspergillus terreus (inhaled products only)

Cannabis laboratories must test for the following analytes for the limits identified in the “Laboratory Testing Limit” document: pesticides, residual solvents, and terpenes. All cannabis laboratories must receive approval from OCM on their methods prior to March 1, 2023, in order to meet this requirement.

If your laboratory was not able to meet this approval deadline, the laboratory must obtain a declaration from its client with respect to using any volatile residual solvent or pesticide. If the client does declare the use of a volatile residual solvent or pesticide, then the cannabis product must be tested for all required residual solvents



or pesticides. Your laboratory may work with other permitted laboratories to satisfy this scope of testing final product.

OCM has chosen to extend the permit to end on March 31, 2024, and extend the permit without a fee. Any laboratory currently permitted will receive a revised permit by March 31, 2023. The expiry date will be changed from March 31, 2023, to March 31, 2024.

In permit year 2024-2025, all permitted laboratories must meet the proficiency testing (PT) requirements in Part 130 of Title 9 in order to remain compliant. OCM will provide a list of PT studies to participate in the near future.

August 15, 2022	Emergency Regulation – Part 130 of Title 9 – Approved by CCB and Filed with the Department of State. Medical marijuana labs that were certified by DOH are automatically provisionally permitted upon filing of the emergency regulation.
August 17, 2022	OCM website for laboratories and sampling firms went live. Application forms were made available to the public.
January 1, 2023	All phytocannabinoid results must be reported on a dry weight basis for bulk flower and retail ready plant forms (flower, pre-roll, etc.). The labs transferred from DOH to OCM must have approved methods for the following: water activity, moisture content, and filth/foreign material. Provisionally permitted labs must be able to test for and report results for microbiological as per the "Laboratory Testing Limit," which is available on the OCM website.
March 1, 2023	Cannabis laboratories must be able to test for all the residual solvents, pesticides, and terpenes listed in "Laboratory Testing Limits" document, which is available on the OCM website.
March 22, 2023	Revised Part 130 of Title 9 adopted.
March 31, 2023	Application window ends for laboratories.
Permit Year 2024-2025	All permitted labs must have participated in two (2) acceptable proficiency test studies in the area(s) of testing for which they are permitted.