

CITY OF DUNDEE
PLANNING COMMISSION AGENDA
City Council Meeting Chambers
620 SW 5th Street
Dundee, OR 97115
P.O. Box 220

MEETING DATE: January 20, 2016
Meeting Time: 7:00pm

- I. Call Meeting to Order.**
- II. Election of 2016 Chairman and Vice-Chairman**
- III. Public Comment**
- IV. Workshop on Recreational Marijuana Code Standards**
- V. Planning Issues from Commission Members**
- VI. Adjournment**

The City Council chambers are accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Melody Osborne, Planning Secretary at 503-538-3922.

Memorandum

TO: Dundee Planning Commission
FROM: Jessica Pelz, AICP, Planner
CC: Rob Daykin, City Administrator
DATE: January 20, 2016
SUBJECT: Development Code Amendments for Marijuana Rules - Workshop

Background

On March 19, 2014, Senate Bill (SB) 1531 was signed into law. SB 1531 gave local governments the ability to impose certain regulations and restrictions on the operation of medical marijuana dispensaries, including the ability to impose a moratorium for a period of time up until May 1, 2015, which Dundee did. Dundee adopted rules regulating medical marijuana dispensaries in April 2015 and now has one operating medical marijuana dispensary.

The Oregon Legislature enacted four bills during the 2015 legislative session related to the Oregon Medical Marijuana Act and Measure 91. House Bill (HB) 3400 was the omnibus bill covering recreational marijuana and modifications to the medical marijuana program. HB 2014 was enacted addressing taxes on the sale of recreational marijuana, SB 460 related to limited retail sales of marijuana from medical marijuana dispensaries, and SB 844 enacted a task force on researching the medical and public health properties of cannabis. In addition, the Oregon Liquor Control Commission adopted temporary Oregon Administrative Rules (OAR) in Chapter 845, Division 25 to govern the recreational marijuana program (final draft dated November 20, 2015), and the Oregon Health Authority adopted temporary OAR Chapter 333, Division 8 for revisions to the medical marijuana program (dated September 22, 2015).

The City now needs to adopt time, place, and manner regulations for medical marijuana growers and processors, and for recreational marijuana producers, processors, wholesalers, and retailers. This is a timely issue as the state will begin issuing licenses for medical marijuana growers and processors in March 2016, and for recreational marijuana growers and processors in April 2016. Licenses for recreational marijuana wholesalers and retailers are expected to be issued starting in July 2016. There are several attachments to this memo with details about the various regulated marijuana activities in Oregon, the similarities and differences between the medical and recreational marijuana programs, and FAQs about recreational marijuana in Oregon.

This is a workshop for the Planning Commission on the new state rules. The Planning Commission will hold a public hearing to consider proposed Development Code amendments and make a recommendation to the City Council on February 17, 2016.

Attachments

1. Oregon's seven regulated marijuana activities
2. Similarities & differences between medical and recreational marijuana programs
3. Recreational marijuana FAQ
4. OAR 845-025
5. OAR 333-008

Medical Marijuana

Medical marijuana is regulated by OAR 330-008, which has rules for dispensaries and growers, but not yet for processors. These sections are excerpts from OAR 330-008, and the full text can be found in Attachment 1.

333-008-0010 Definitions

(9) "Grow site" means a specific location registered by the Authority used by the grower to produce marijuana for medical use by a specific patient.

(11) "Grower" has the same meaning as "person responsible for a marijuana grow site."

(15) "Medical marijuana facility" is a facility, registered by the Authority, under OAR 333-008-1050.

(24) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

333-008-0025 Marijuana Grow Site Registration

(1) A patient may register a marijuana grow site with the Authority. The address of a medical marijuana facility may not be listed by a patient on the application as the location of the marijuana grow site. The Authority will register only one grow site per patient, and will only register grow sites in Oregon.

...

(7) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a registered medical marijuana facility, upon request.

...

(11) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

(12) The Authority may not register a grow site if the location of the grow site is the same location as a medical marijuana facility.

333-008-0080 Permissible Amounts of Medical Marijuana

(1) A patient or the patient's designated primary caregiver may possess up to six mature marijuana plants, 24 ounces of usable marijuana, and a patient and the patient's designated primary caregiver may possess a combined total of up to 18 marijuana seedlings or starts.

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(3) A grower:

(a) May produce marijuana for and provide marijuana to a patient or that person's designated primary caregiver as authorized under ORS 475.300 through 475.346 and these rules;

(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each patient or designated primary caregiver for whom marijuana is being produced;

(c) May possess up to 18 marijuana seedlings or starts for each patient for whom marijuana is being produced.

(4) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

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HB 3400 contains language on medical marijuana processing sites. At this time staff has not identified any OAR language regarding medical marijuana processing sites. The HB does contain guidance that processors may not be in a residentially zoned areas. See recreational marijuana processing further in this memo for more guidance.

QUESTIONS: In which zones should medical marijuana growing and processing operations be permitted and/or conditional uses? Should the city allow both indoor and outdoor production? Should the city adopt rules for

marijuana growers/producers and processors, etc., that are across the board and applicable to both medical and recreational operations?

DISCUSSION: The city may want to consider adopting general rules for growers/producers, processors, etc. that are applicable to both medical and recreational marijuana. The rationale for this would be that the state rules are heavily regulating all types, so if the city regulates the time, place, and manner of a marijuana use, that use would still have to comply with all of the further detailed regulations in the OAR.

Recreational Marijuana

Here is a summary of the draft OAR 845-025 rules for all recreational marijuana licenses and for each type of recreational marijuana category (producers, processors, wholesalers, and retailers). These sections are excerpts from OAR 845-025, and the full text can be found in Attachment [1](#).

General Requirements Applicable to All Marijuana Licenses (excerpted and emphasis added):

845-025-1230 Licensed Premises Restrictions and Requirements

(1) A **licensed premises** may not be located:

- (a) On federal property; or
- (b) At the same physical location or address as a:
 - (A) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon Laws 2015;
 - (B) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or
 - (C) Medical marijuana dispensary registered under ORS 475.314.
 - (D) Liquor licensee licensed under ORS Chapter 471 or as a retail liquor agent appointed by the Commission.

(2) The licensed premises of a **producer** applicant may not be on:

- (a) Public land; or
- (b) The same tax lot or parcel as another producer licensee under common ownership.

(3) The licensed premises of a **retailer** may not be located:

- (a) Within 1,000 feet of:
 - (A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
 - (B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.
- (b) In an area that is zoned exclusively for residential use.

(4) The licensed premises of a **processor** who has an endorsement to process extracts may not be located in an area that is zoned exclusively for residential use.

(5) The licensed premises of a **processor, wholesaler, laboratory and retailer** must be enclosed on all sides by permanent walls and doors.

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(16) A licensee may not sublet any portion of a licensed premises.

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Note: the House Bill also contained language specifying that cities could not require retailers to be more than 1000 feet from each other. This is not yet in the draft rules, but the rules are classified as “temporary” at this point and may change in order to fully implement the legislation.

QUESTIONS/ACTIONS NEEDED: HB 3400 modified the definition for schools to redefine public primary and secondary schools and provide a definition for private and parochial schools. We will need to amend our current definitions to comply with the changed definition of schools. We will also need to add definitions to address these new uses.

These are the definitions from **OAR 845-025**:

(29) "Marijuana processor" means a person who processes marijuana items in this state.

(40) "Processes":

(a) "Processes" means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts;

(b) "Processes" does not include packaging or labeling.

(30) "Marijuana producer" means a person who produces marijuana in this state.

(43) "Produces":

(a) "Produces" means the manufacture, planting, cultivation, growing or harvesting of marijuana.

(b) "Produces" does not include:

(A) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or

(B) The cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana wholesaler or marijuana retailer if the marijuana processor, marijuana wholesaler or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

(31) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.

(32) "Marijuana wholesaler" means a person who purchases marijuana items in this state for resale to a person other than a consumer.

These are Dundee’s current definitions:

17.501.020 Definitions

“Marijuana dispensary” means any facility registered by the state of Oregon and in compliance with all provisions of Oregon law.

“School, career” means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.

“School, college or vocational” means an institution offering post-secondary instruction primarily to adults, usually working toward a diploma, degree, or certificate.

“School, commercial” means a business that provides instruction to children or adults for a fee or other compensation, such as a music school or dancing school, where the instruction is normally beyond basic educational requirements for a high school diploma, post-secondary degree, or equivalent.

“School, elementary or secondary” means an institution offering instruction in the several branches of learning and study, in accordance with the rules and regulations of the State Department of Education, including grades kindergarten through 12.

Proposed definition: "School, elementary or secondary" means a category of uses that includes public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education primarily to minors, and including grades kindergarten through 12.

Recreational Marijuana Producers (Growers) (excerpted and emphasis added):

845-025-1470 Producer Security Requirements

(1) In addition to the security requirements in OAR 845-025-1400 to 845-025-1460, a producer must effectively prevent public access and obscure from public view all areas of marijuana production. A producer may satisfy this requirement by:

- (a) Submitting a security plan as described in OAR 845-025-1400;
- (b) Fully enclosing indoor production on all sides so that no aspect of the production area is visible from the exterior satisfies; or
- (c) Erecting a solid wall or fence on all exposed sides of an outdoor production area that is at least eight (8) feet high.

(2) If a producer chooses to dispose of usable marijuana by any method of composting, as described in OAR 845-025-7750, the producer must prevent public access to the composting area and obscure the area from public view.

845-025-2000 Definitions

As used in OAR 845-025-2000 to 845-025-2080:

- (1) "Canopy" means the surface area utilized to produce mature marijuana plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants including all of the space within the boundaries.
- (2) "Indoor production" means producing marijuana in any manner:
 - (a) Utilizing artificial lighting on mature marijuana plants; or
 - (b) Other than "outdoor production" as that is defined in this rule.
- (3) "Outdoor production" means producing marijuana:
 - (a) In an expanse of open or cleared ground; or
 - (b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.

845-025-2020 Producer Privileges

(1) A producer may only plant, cultivate, grow, harvest and dry marijuana in the manner approved by the Commission and consistent with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015 and these rules.

(2) A producer may engage in indoor or outdoor production of marijuana, or a combination of the two.

(3) A producer may sell or deliver:

- (a) Usable marijuana to the licensed premises of a marijuana processor, wholesaler, retailer, laboratory, or research certificate holder;
- (b) Dried mature marijuana plants that have been entirely removed from any growing medium to the licensed premises of a marijuana processor or research certificate holder; or
- (c) Immature marijuana plants and seeds to the licensed premises of a marijuana producer, wholesaler, retailer or research certificate holder.

(4) A producer may not sell a mature marijuana plant other than as provided in section (3)(b) of this rule.

(5) A producer may provide a sample of usable marijuana to a marijuana wholesaler, retailer or processor licensee for the purpose of the licensee determining whether to purchase the product. The sample product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.

845-025-2030 Licensed Premises of Producer

(1) The licensed premises of a producer authorized to cultivate marijuana indoors includes all public and private enclosed areas used in the business operated at the location and any areas outside of a building that the Commission has licensed.

(2) The licensed premises of a producer authorized to cultivate marijuana outdoors includes the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has the right to occupy.

(3) A producer may not engage in any privileges of the license within a primary residence.

(4) The licensed premises of a producer may not be located at the same physical location or address as a marijuana grow site registered under ORS 475.304 unless the producer is also a person responsible for a marijuana grow site and has been issued a license by the Commission in accordance with section 116, chapter 614, Oregon Laws 2014, and OAR 845-025-1100.

845-025-2040 Production Size Limitations

(1) Cultivation Batches and Cultivate Batch Sizes.

(a) A producer must establish cultivation batches and assign each cultivation batch a unique identification number.

(b) A cultivation batch may not have more than 100 immature plants.

(c) A producer may have an unlimited number of cultivation batches at any one time.

(2) Canopy Size Limits.

(a) Indoor Production.

(A) Tier I: Up to 5,000 square feet.

(B) Tier II: 5,001 to 10,000 square feet.

(b) Outdoor production.

(A) Tier I: Up to 20,000 square feet.

(B) Tier II: 20,001 to 40,000 square feet.

(c) Mixed production. If a producer intends to have a mixture of indoor and outdoor production the Commission will determine the producer's tiers and canopy sizes by applying the ratio in section (4) of this rule.

(d) For purposes of this section, square footage of canopy space is measured starting from the outermost point of the furthest mature flowering plant in a designated growing space and continuing around the outside of all mature flowering plants located within the designated growing space.

(e) A producer may designate multiple grow canopy areas at a licensed premises but those spaces must be separated by a physical boundary such as an interior wall or by at least 10 feet of open space.

(f) If a local government adopts an ordinance that would permit a producer to have a higher canopy size limit than is permitted under this rule, the local government may petition the Commission for an increase in canopy size limits for that jurisdiction. If the Commission grants such a petition, the Commission may amend this rule in addition to considering changes to the license fee schedule.

(g) On an annual basis, the Commission will evaluate market demand for marijuana items, the number of person applying for producer licenses or licensed as producers and whether the availability of marijuana items in this state is commensurate with the market demand. Following this evaluation the Commission may amend this rule as needed.

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845-025-2400 Medical Marijuana Grow Site Opt-In

(1) For purposes of this rule:

(a) "Grower" means a person responsible for a marijuana grow site as that term is defined in OAR 333-008-0010.

(b) "Grow site" has the meaning given that term in OAR 333-008-0010.

(c) "Patient" has the same meaning given that term in OAR 333-008-0010.

(2) A grower may apply for a producer license to produce marijuana at the same location as a grow site only if all growers producing marijuana at that address are listed on the application.

(3) In addition to the requirements of OAR 845-025-1030, the applicants must provide proof that each patient for whom the applicants are producing marijuana at the grow site proposed to be licensed has granted permission for the applicants to apply for a license and sell excess usable marijuana and immature plants to licensees of the Commission.

(4) If the Commission approves the application and issues a producer license, the licensees may not possess more than the amount of usable marijuana or marijuana plants permitted under ORS 475.300 to 475.346 unless the licensed premises ceases to be registered as a grow site with the Oregon Health Authority (OHA).

(5) If the licensed premises ceases to be registered as a grow site with the Oregon Health Authority, the licensee must notify the Commission within 5 days and provide proof that no growers or patients are registered by OHA at the licensed premises.

(6) A licensee licensed under this rule must record in CTS within five days of initial licensure, all mature and immature marijuana plants and usable marijuana on the licensed premises.

(7) A producer, licensed under this rule:

(a) Is subject to these rules with the exception of OAR 845-025-2060;

(b) Must comply with the duties, functions and powers of a grower under ORS 475.300 to 475.346 and any rule adopted thereunder, except that a grower is not subject to OHA's requirements related to the reporting or tracking of mature marijuana plants and usable marijuana;

(c) May sell usable marijuana or immature plants in excess of amounts produced for a patient, to other licensees, in accordance with these rules; and

(d) May, notwithstanding section 6, chapter 614, Oregon Laws 2015, transfer marijuana and usable marijuana to other registrants under ORS 475.300 to 475.346 in accordance with any rules adopted by the OHA.

QUESTIONS: In which zones should recreational marijuana producing operations be permitted and/or conditional uses? Should the city allow both indoor and outdoor production?

DISCUSSION: This could be considered similar to a greenhouse or nursery operation. The state rules include a requirement that any outdoor growing is secured by an 8 feet tall solid fence or wall. The only zone that would currently be allowed in would be the LI zone, which doesn't have fence height limits.

Recreational Marijuana Retailers (excerpted and emphasis added):

845-025-2800 Retailer Privileges

A retailer is the only licensee that is authorized to sell a marijuana item to a consumer 21 years of age or older.

845-025-2820 Retailer Operational Requirements

(1) A retailer may:

- (a) Only receive marijuana items from a producer, wholesaler, processor or laboratory;
- (b) Only sell marijuana items to a consumer from the licensed premises, unless sale is made pursuant to a bona fide order as described in OAR 845-025-2880;
- (c) Only sell up to the following amounts at any one time to a consumer within one day:
 - (A) One ounce of usable marijuana;
 - (B) 16 ounces of a cannabinoid product in solid form;
 - (C) 72 ounces of a cannabinoid product in liquid form;
 - (D) Five grams of cannabinoid extracts or concentrate, whether sold alone or contained in an inhalant delivery system;
 - (E) Four immature marijuana plants; and
 - (F) Ten marijuana seeds;
- (d) Refuse to sell marijuana items to a consumer; and
- (e) Only sell to consumers between the hours of 7:00 a.m. and 10 p.m. local time.

(2) A retailer may not:

- (a) Provide free samples of a marijuana item to a consumer;
- (b) Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts;
- (c) Require a consumer to purchase other products or services as a condition of purchasing a marijuana item or receiving a discount on a marijuana item;
- (d) Sell a marijuana item for less than the cost of acquisition;
- (e) Provide coupons or offer discounts, except that uniform volume discounts are permitted;
- (f) Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day; or
- (g) Sell any product derived from industrial hemp, as that is defined in ORS 571.300, that is intended for human consumption, ingestion, or inhalation, unless it has been tested, labeled and packaged in accordance with these rules.

(3) A retailer's pricing on marijuana items must remain consistent during each day.

(4) Prior to completing the sale of a marijuana item to a consumer, a retailer must verify that the consumer has a valid, unexpired government-issued photo identification and must verify that the consumer is 21 years of age or older by viewing the consumer's:

- (a) Passport;
- (b) Driver license, whether issued in this state or by any other state, as long as the license has a picture of the person;
- (c) Identification card issued under ORS 807.400;
- (d) United States military identification card; or
- (e) Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.

(5) Marijuana items offered for sale by a retailer must be stored in such a manner that the items are only accessible to authorized representatives until such time as the final sale to the consumer is completed.

(6) For purposes of this rule, "coupon" means any coupon, ticket, certificate token or any other material that a person may use to obtain a price reduction or rebate in connection with the acquisition or purchase of a marijuana item.

845-025-2840 Retailer Premises

(1) The licensed premises of a retailer:

- (a) May not be located in an area that is zoned exclusively for residential use.

(b) May not be located within 1,000 feet of:

(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.

(c) Must be enclosed on all sides by permanent walls and doors.

(2) A retailer must post in a prominent place signs at every:

(a) Point of sale that read:

(A) "No Minors Permitted Anywhere on the Premises"; and

(B) "No On-Site Consumption".

(b) Exit from the licensed premises that reads: "Marijuana or Marijuana Infused Products May Not Be Consumed In Public".

(3) A retailer must designate a consumer sales area on the licensed premises where consumers are permitted. The area shall include the portion of the premises where marijuana items are displayed for sale to the consumer and sold and may include other contiguous areas such as a lobby or a restroom. The consumer sales area is the sole area of the licensed premises where consumers are permitted.

(4) All inventory must be stored on the licensed premises.

(5) For purposes of determining the distance between a retailer and a school referenced in subsection (1)(b) of this rule, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the licensed premises of a retailer. If any portion of the licensed premises is within 1,000 feet of a school as described subsection (1)(b) of this rule an applicant will not be licensed.

QUESTIONS: In which zones should recreational marijuana retailers be permitted and/or conditional uses?

DISCUSSION: Dundee currently allows marijuana dispensaries as a permitted use in the C and CBD zones. The new state rules specify operating hours for retail marijuana establishments, where the previous medical marijuana dispensary rules did not.

17.203.250 Marijuana dispensary in a commercial zone.

Marijuana dispensaries are allowed in the C and CBD zones, provided all of the following are met:

A. The dispensary must be registered with the state of Oregon and must meet all provisions of Oregon law.

B. The dispensary must be located at least 1,000 feet from any park or a public or private elementary, secondary, or career school.

Recreational Marijuana Processors (excerpted and emphasis added):

845-025-3210 Endorsements

(1) A marijuana processor may only process and sell cannabinoid products, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity.

Endorsements types are:

(a) Cannabinoid edible processor;

(b) Cannabinoid topical processor;

(c) Cannabinoid concentrate processor; and

(d) Cannabinoid extract processor.

(2) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.

(3) In order to apply for an endorsement an applicant or processor licensee must submit a form prescribed by the Commission that includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates.

(4) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.

(5) An individual processor licensee may hold multiple endorsements.

(6) For the purposes of endorsements any cannabinoid product that is intended to be consumed orally is considered a cannabinoid edible.

(7) If a processor is no longer going to process the product for which the processor is endorsed the processor must notify the Commission in writing and provide the date on which the processing of that product will cease.

(8) The Commission may deny a processor's request for an endorsement if the processor cannot or does not meet the requirements in OAR 845-025-3200 to 845-025-3290 for the endorsement that is requested. If the Commission denies approval the processor has a right to a hearing under the procedures of ORS chapter 183.

845-025-3220 General Processor Requirements

(1) A processor must:

(a) Use equipment, counters and surfaces for processing that are food-grade and do not react adversely with any solvent being used.

(b) Have counters and surface areas that are constructed in a manner that reduce the potential for development of microbials, molds and fungi and that can be easily cleaned.

(c) Maintain the licensed premises in a manner that is free from conditions which may result in contamination and that is suitable to facilitate safe and sanitary operations for product preparation purposes.

(d) Store all marijuana items not in use in a locked area, including products that require refrigeration in accordance with OAR 845-025-1410.

(e) Assign every process lot a unique identification number and enter this information into CTS.

(2) A processor may provide a sample of a cannabinoid product, concentrate or extract to a marijuana wholesaler or retailer for the purpose of the wholesaler or retailer licensee determining whether to purchase the product but the product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.

(3) A processor may not process or sell a marijuana item:

(a) That by its shape and design is likely to appeal to minors, including but not limited to:

(A) Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or

(B) Products in the shape of an animal, vehicle, person or character.

(b) That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items.

845-025-3250 Cannabinoid Edible Processor Requirements

(1) A cannabinoid edible processor may only process in a food establishment licensed by the Oregon Department of Agriculture (ODA) and must comply with the applicable provisions of OAR 603, Division 21, Division 22, Division 24, Division 25, with the exception of OAR 603-025-0020(17) and Division 28.

(2) A cannabinoid edible processor may not:

- (a) Engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant, single-event temporary restaurant, commissary, mobile unit, bed or breakfast, or warehouse licensed under ORS 624;
- (b) Share a food establishment with a person not licensed and endorsed by the Commission as a cannabinoid edible processor;
- (c) Process food intended for commercial sale that does not contain cannabinoids, at the licensed premises; or
- (d) Use a cannabinoid concentrate or extract to process food unless that concentrate or extract was made by a processor licensed by the ODA under ORS 616.706.

(3) A cannabinoid edible processor may share a food establishment with another cannabinoid edible processor if:

(a) The schedule, with specific hours and days that each processor will use the food establishment, is prominently posted at the entrance to the food service establishment and has been approved by the Commission:

(A) The schedule must be submitted to the Commission in writing and will be approved if it demonstrates that use of a shared food establishment by multiple cannabinoid edible processors does not create an increased compliance risk.

(B) A processor licensee may only change the schedule with prior written approval from the Commission.

(b) Each licensee designates a separate area to secure, in accordance with OAR 845-025-1410, any marijuana, cannabinoid products, concentrates or extracts that a licensee stores at the food establishment. If a cannabinoid edible processor does not store marijuana, cannabinoid products, concentrates or extracts at the food establishment those items must be stored on a licensed premises.

(4) A food establishment used by a cannabinoid edible processor is considered a licensed premises and must meet the security and other licensed premises requirements in these rules.

(5) A cannabinoid edible processor is strictly liable for any violation found at a shared food establishment during that processor's scheduled time or within that processor's designated area in the food establishment.

845-025-3260 Cannabinoid Concentrate and Extract Processor Requirements

(1) Cannabinoid Concentrates or Extracts. A processor with a cannabinoid concentrate or extract endorsement:

(a) May not use Class I solvents as those are classified in the Federal Drug Administration Guidance, Table I, published in the Federal Register on December 24, 1997 (62 FR 67377).

(b) Must:

(A) Only use a hydrocarbon-based solvent that is at least 99 percent purity.

(B) Only use a non-hydrocarbon-based solvent that is food-grade.

(C) Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(D) Use only potable water and ice made from potable water in processing.

(E) If making a concentrate or extract that will be used in a cannabinoid edible, be endorsed as a cannabinoid edible processor and comply with OAR 845-025-3250.

(2) Cannabinoid Extracts. A processor with an endorsement to make cannabinoid extracts:

(a) May not use pressurized canned butane.

(b) Must:

(A) Process in a:

(i) Fully enclosed room clearly designated on the current diagram of the licensed premises.

- (ii) Spark proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.
 - (B) Use a commercially manufactured professional grade closed loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted good engineering practices, such as:
 - (i) The American Society of Mechanical Engineers (ASME);
 - (ii) American National Standards Institute (ANSI);
 - (iii) Underwriters Laboratories (UL); or
 - (iv) The American Society for Testing and Materials (ASTM).
 - (C) If using CO₂ in processing, use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch.
 - (D) Have equipment and facilities used in processing approved for use by the local fire code official;
 - (E) Meet any required fire, safety, and building code requirements specified in:
 - (i) Applicable Oregon laws;
 - (ii) National Fire Protection Association (NFPA) standards;
 - (iii) International Building Code (IBC);
 - (iv) International Fire Code (IFC); and
 - (F) Have an emergency eye-wash station in any room in which cannabinoid extract is being processed; and
 - (G) Have all applicable material safety data sheets readily available to personnel working for the processor.
- (3) Cannabinoid Concentrates. A processor with an endorsement to make cannabinoid concentrates:
- (a) May not:
 - (A) Use denatured alcohol.
 - (B) If using carbon dioxide, apply high heat or pressure.
 - (b) Must only use or store dry ice in a well-ventilated room to prevent against the accumulation of dangerous levels of CO₂.
 - (c) May use:
 - (A) A mechanical extraction process;
 - (B) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; or
 - (C) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use heat over 180 degrees or pressure.

845-025-3280 Cannabinoid Topical Processor

A processor with a cannabinoid topical endorsement may not engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant or single-event temporary restaurant licensed under ORS 624.

QUESTIONS: In which zones should recreational marijuana processors be permitted and/or conditional uses?

DISCUSSION: A processor could be considered similar to a “Beverage and Bottling Facility, Winery, Brewery, or Distillery, including Warehousing and Distribution; see also Retail Small-Scale Winery, Brewery, or Distillery”, which is a permitted use in the LI (Industrial) zone, or to “Food Processing, including Canning, Freezing, Drying and Similar Food Processing and Preserving”, which is a permitted use in the LI and A (Agriculture) zones and a conditional use in the EFU zone. Both uses are subject to DMC 17.203.140, which regulates outdoor and unenclosed uses (requires screening and buffering). A processor could also be similar to Small-Scale Manufacturing in the community commercial zone, as defined in DMC17.203.150.

17.203.150 Small-scale manufacturing in the community commercial zone.

A. Purpose. The following standards, which restrict or limit the size of some manufacturing uses, are intended to promote compatibility between small-scale manufacturing in the community commercial (C) zone and adjacent commercial and residential uses. By controlling the form of development, the most objectionable impacts, such as odor, dust, smoke, cinders, fumes, noise, glare, heat, vibration, and others, can be avoided. The standards do not apply to zones where manufacturing uses are permitted outright. A retail small-scale winery, brewery, or distillery is subject to DMC [17.203.060](#) and is not subject to this section.

B. Review Process. Small-scale manufacturing uses, where allowed under DMC [17.202.020](#), shall be reviewed for compliance with the standards of this section pursuant to the site development review process in Chapter [17.402](#) DMC or the conditional use permit process in Chapter [17.404](#) DMC, as applicable.

C. Approval Criteria. In addition to other applicable development standards of this code, the following standards apply to small-scale manufacturing uses:

1. The area involved in the manufacturing of the product and all storage of materials shall not involve more than 5,000 square feet of floor area.

2. The building and site plan shall provide for adequate buffering and/or screening of adjacent residential and commercial uses, except where such uses complement the proposed manufacturing use. For example, where the manufacturing use is a bakery, distillery or brewery, and the adjacent use is a dining or drinking establishment, buffering or screening may not be required.

3. Uses involving carpentry, metal fabrication, machine work, lathing, drilling, welding, hammering, offset printing, and similar noise or odor producing activities, where noise levels beyond the building would routinely exceed 60 dBA, require conditional use permit approval under Chapter [17.404](#) DMC.

4. Uses involving outdoor or unenclosed activities, except as allowed elsewhere by this code, shall require approval of a conditional use permit.

5. Uses that the city planning official determines could be objectionable in relationship to surrounding residential or commercial uses, due to odor, dust, smoke, cinders, fumes, noise, glare, heat, vibration, or similar impacts, shall not be permitted without approval of a conditional use permit; and all such potential adverse impacts shall be mitigated through the project design and specific conditions of approval.

6. All other applicable standards of this code shall be met. All sign requirements of Chapter [17.306](#) DMC shall be met.

Recreational Marijuana Wholesalers (excerpted and emphasis added):

845-025-3500 Wholesale License Privileges; Prohibitions

(1) License Privileges. A wholesale licensee may:

(a) Purchase marijuana items from a producer, processor or wholesale licensee.

(b) Sell, including sale by auction:

(A) Any type of marijuana item to a retail, wholesale or research certificate holder.

(B) Only immature marijuana plants and seeds to a producer licensee.

(C) Only usable marijuana to a processor licensee.

(c) Transport and store marijuana items on behalf of other licensees, pursuant to the requirements of OAR 845-025-7500 to OAR 845-025-7590.

(d) Provide a sample of usable marijuana or a cannabinoid product, concentrate or extract to a marijuana wholesaler, retailer or processor licensee for the purpose of the licensee determining whether to purchase the product. The product may not be consumed on a licensed premises.

Any sample provided to another licensee must be recorded in CTS.

(2) Prohibited Conduct. A wholesale licensee may not:

(a) Receive marijuana items from any source other than a producer, processor or wholesale licensee.

(b) Sell or otherwise transfer a marijuana item to consumers or any entity other than a licensee of the Commission.

(3) For purposes of this rule, “marijuana item” does not include a mature marijuana plant.

QUESTIONS: In which zones should recreational marijuana wholesalers be permitted and/or conditional uses?

DISCUSSION: This could be a similar use to “Freight Terminals, including Loading Docks, Storage, Warehousing, Wholesale Distribution, Cold Storage; except personal storage such as mini-storage warehouses”, which is a permitted use in the LI zone, and is subject to DMC 17.203.140 for any outdoor storage.

Other Things...Marijuana Testing Laboratories

845-025-5000 Laboratory License Privileges

A licensed marijuana testing laboratory may:

(1) Obtain samples of marijuana items from licensees for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490;

(2) Transport and dispose of samples as provided in these rules; and

(3) Perform testing on marijuana items in a manner consistent with the laboratory’s accreditation by the Oregon Health Authority, these rules and OAR 333-007-0300 to 333-007-0490.

QUESTIONS: In which zones should recreational marijuana testing laboratories be permitted and/or conditional uses?

DISCUSSION: This is probably a pretty low impact use that could be appropriate for the industrial zone, and potentially for the commercial zone.

Oregon's Seven Regulated Marijuana Activities

Marijuana Type	Grow	Make Products	Wholesale	Transfer to User
Medical OHA Registration	<p>Marijuana Grow Site: Location for planting, cultivating, growing, trimming, or harvesting marijuana or drying marijuana leaves or flowers Register under ORS 475.304</p>	<p>Marijuana Processing Site: Location for compounding or converting marijuana into medical products, concentrates or extracts Register under section 85 of HB 3400</p>	None	<p>Medical Marijuana Dispensary: Transfer usable marijuana, immature marijuana plants, seed, and medical products, concentrates and extracts to patients and caregivers Register under ORS 475.314</p>
Recreational OLCC License	<p>Producers: Manufacture, plant, cultivate, grow, harvest Obtain license under section 12 of HB 3400</p>	<p>Processors: Process, compound or convert marijuana into products, concentrates or extracts, but does not include packaging or labeling Obtain license under section 14 of HB 3400</p>	<p>Wholesalers: Purchase marijuana items for resale to a person other than a consumer Obtain license under section 15 of HB 3400</p>	<p>Retailers: Sell marijuana items to a consumer Obtain license under section 16 of HB 3400 *Certain employees must obtain an OLCC handlers permit under section 19 of HB 3400</p>

Similarities

11/19/2015

Medical Marijuana (OHA)	Recreational Marijuana (OLCC)
Regulates distribution of marijuana	Regulates distribution of marijuana
Types of operations Marijuana Grow Site Marijuana Processing Site	Types of operations Producers Processors
Applications/Renewals/Fees Application required Approval or denial of an application Fees Annual renewal Registration can be revoked Registered with Secretary of State Criminal background check Site visit by OHA Registration cannot be transferred to another location	Applications/Renewals/Fees Application required Approval or denial of an application Fees Annual renewal License can be revoked Criminal background check Site visits by OLCC
Location Requirements Local government can establish land use controls Proximity requirements to schools	Location Requirements Local government can establish land use controls Proximity requirements to schools
Security Restricted access areas Minors not permitted under 18 Safe for storage	Security Restricted access areas Under 21 not permitted Safe for storage

Medical Marijuana (OHA)	Recreational Marijuana (OLCC)
Alarm Systems	Alarm Systems
Video Surveillance	Video Surveillance
Camera Coverage	Camera Coverage
Video Recording	Video Recording
Testing	Testing
Operation	Operation
Record Keeping	Record Keeping
Packaging & Labeling	Packaging & Labeling
Inspections & Enforcement	Investigation & Enforcement
Violations	Violations
Signs	Signs

Differences

Medical Marijuana (OHA)	Recreational Marijuana (OLCC)
Oregon Health Authority Registration	Oregon Liquor Control Commission License
Serves medical marijuana card holders	Serves general public 21 and older
HB 3400 Medical Marijuana provision changes operative March 1, 2016	
Types of operations	Types of operations
Marijuana Grow Site	Producers
Marijuana Processing Site	Processors
Marijuana Dispensary	Wholesalers
	Retailers
Applications/Renewals/Fees	Applications/Renewals/Fees
Dispensary \$3500 registration fee, \$500 application fee	\$250 non-refundable fee
Dispensary renewal \$3500 registration fee, \$500 application fee	Fee amount Producers \$4750
Registration fee is returned if application incomplete, denied, withdrawn	Fee amount Processors \$4750
Growers - Oregon resident for 1 year if registered before 1/1/15	Fee amount Wholesaler \$4750
Growers - Must be an Oregon resident for 2 years	Fee amount Retailers \$4750
Registration renewal 60 days before expiration	Fee amount Laboratories \$4750
	Renewal fee \$250 non-refundable plus original fee amount
	Handlers permit fee \$100
	Other fees \$50-\$1000
	Late renewal fee \$150
	Must be an Oregon resident for 2 years
	Registration renewal 20 days before expiration

Medical Marijuana (OHA)	Recreational Marijuana (OLCC)
Location Requirements	Location Requirements
Dispensary 1000 feet from school public or private elementary, secondary, career school	Retail 1000 feet from public elementary or secondary school
Dispensary 1000 foot separation between facilities	Retail 1000 feet from private or parochial school
Does not require a Land Use Compatibility Statement	No greater than 1000 foot separation between retailers
MMD can't be on a registered grow site	Land Use Compatibility Statement
Dispensaries in commercial, industrial, mixed use or agricultural land	Can't be on Federal property
Facilities can not be mobile	Can't be at Medical Marijuana grow location
	Can't be at Medical Marijuana processing location
	Can't be at Medical Marijuana dispensary location
	Can't be at a liquor license or retail liquor facility
	Producer can't be on lot or parcel as another Producer
	Producer can't be on public land
	Retail can't be in an area zoned exclusively for residential use
	Wholesaler can't be in an area zoned exclusively for residential use
	Local jurisdiction has prohibited a license type
	Processor with endorsement to extract can't be in an area zoned exclusively for residential use
	Processor, wholesaler, laboratory, retailer must be in an enclosed building
	Can't sell product between 10 PM & 7 AM

Security	Security
Commercial grade door locks	Commercial grade door locks
Locked, secured area	Tour groups permitted for producer and research certificate holder
Restricted access areas	Producers prevent public access and obscure by fully enclosing indoor production or for outdoor production with solid wall or fence 8 feet high
Electronic records encrypted	Restricted access areas
Electronic backup system	
Video recordings & archived records in locked storage	

Medical Marijuana (OHA)	Recreational Marijuana (OLCC)
Alarm Systems	Alarm Systems
Connected to security company	Connected to a security company
Panic buttons	Panic buttons

Video Surveillance	Video Surveillance
Digital	Digital
Digital or network video recorders	Video monitors
Video monitors	Digital archiving devices
Digital archiving devices	Printer
Color printer	Resolution and frame requirements
No resolution and frame requirements	

Camera Coverage	Camera Coverage
In all secure and restricted access areas	Point of sale areas
Point of sales areas	Entry's and Exits (interior and exterior)
Entry's and Exits (interior and exterior)	Limited access areas

Video Recording	Video Recording
24 hours day	24 hours day
No resolution requirements	Resolution requirements
Retention for 30 days	Retention for 30 days
Produce still color photos	Date and timed stamped
Date and timed stamped	

Operation	
Variety of operation requirements	Variety of operation requirements based on the type of license or certificate that is issued

Record Keeping	Record Keeping
Requirements for records to be retained	Cannabis Tracking System through OLCC

Violations	Violations
Variety of violation provisions	Variety of violation provisions

Medical Marijuana (OHA)	Recreational Marijuana (OLCC)
Marijuana Grow Site	Recreational Marijuana Producers
Application	Indoor or outdoor
Residency form	Sell or deliver to processor, wholesaler, retailer, laboratory, research certificate holder
Grow site registration card	Producer outdoors applies to entire lot or parcel
All usable marijuana, plants, seedlings, seeds by a grower are the property of the patient	Can not operate in a primary residence
Grower can produce marijuana for no more than 4 patients (cardholders)	Cultivation batch's not more than 100 immature plants, may have an unlimited number of batch's
Grow sites and dispensary can not be at same location	Canopy size limitations (indoor and outdoor)
Max 6 mature plants for each card holder	Canopy area must be separated by physical boundary such as walls or 10 feet open space
Max 12 mature plants if in an area zoned for residential use	Mixed cultivation indoor/outdoor, limits on canopy size
Max 48 plants if not in an area zoned for residential use	Written operating procedures
Outdoor max 12 lbs usable marijuana per mature plant	Pesticides, fertilizers, soil amendments, growing media are regulated
Indoors max 6 lbs usable marijuana per mature plant	
Medical Marijuana Opt-In	Medical Marijuana Opt-In
N/A	Growers are allowed to apply for a Producer license
	Can not possess more marijuana and plants than allowed under ORS 475.300
Marijuana Dispensary	Marijuana Retailers
Registration	Receive from producer, wholesaler, processor, laboratory
Land use limitations - not in residential, 1000 feet from public elementary, secondary school	Sell 1 oz, 16 oz cannabinoid product in solid form, 72 oz cannabinoid in liquid, 5 grams cannabinoid extracts or concentrate, 4 immature plants, ten marijuana seeds
Can not be at same location as a grow site	Can not provide free samples, sell or giveaway pressurized butane containers, require purchase of other products, provide coupons, sell products from industrial hemp
New school established with 1000 feet dispensary may remain	Consumer health posting requirements
	Delivery to residences
	Tax collection

Medical Marijuana (OHA)	Recreational Marijuana (OLCC)
Marijuana Processing Site	Marijuana Processors
Application & renewal	Edible processor, topical processor, concentrate processor, extract processor
Edibles, concentrates, extracts	Requires an endorsement
Database	Can hold multiple endorsements along with license
Can only transfer to a cardholder, caregiver or dispensary	Can not process products modeled for products marketed to children, products shaped as animal, vehicle, person or character
Land use limitations	Written policies and procedures
	Training
	Edibles processed in facility licensed by ODA
	Extracts processed in enclosed room
	Concentrates - machine and chemical extraction processes
	Topical can not operate in a restaurant including seasonal, intermittent, limited service

Wholesalers	Wholesalers
Does not allow wholesalers	Purchase from producer, processor or wholesaler
	Sell any marijuana item to retail, wholesale, research
	Sell only mature plants and seeds to producer
	Sell only usable marijuana to a processor
	Can not receive from other than producer, processor or wholesaler
	Sell to consumer

Laboratories
Test for producers, processors, wholesalers, retailers
Accredited by Oregon Health Authority
Annual license renewal
Tracking & reporting

Research Certificate
Public & private researchers

Medical Marijuana (OHA)	Recreational Marijuana (OLCC)
Handlers Permit	Handlers Permit
N/A	Permit required for work within a retailers establishment
	Application process
	Education course
	Retake education course every 5 years
	Permit renewal every 5 years

Testing	Testing
At least one lab to do testing	License required
Tests for mold, pesticides, mildew	Harvest and process lots
	Labeling, storage, security requirements

Packaging & Labeling	Packaging & Labeling
Percentage of THC, weight in grams, testing batch number, description of product	Child resistant
Warning label to keep out of reach of children	Not packaged to be attractive to minors
Child resistant	Packaging can be reused
Packaging not attractive to minors	Requires packaging approval

Seed to Sale Tracking	Seed to Sale Tracking
N/A	Cannabis Tracking System (CTS)
	Administrator Account

Transfers to Registered Facility	Transportation & Delivery
Authorization to Transfer form	Transport by licensee or licensee representative
Only patient or designated primary caregiver can transport	Insurance, lockable vehicle, climate controlled
	Transport manifest

Waste Management
Solid waste
Hazardous waste
Wastewater

Medical Marijuana (OHA)	Recreational Marijuana (OLCC)
Advertising	Advertising
N/A	Can not target individuals under 21, including cartoon characters, toys Handbills not allowed Limits television, radio, print media or internet advertising if 30% of audience is under 21 Limits marketing towards location based devices

Inspections/Enforcement	Investigation & Enforcement
Initial inspection with 6 months of application approval	No sale to under age 21
Complain inspections	Must allow OLCC staff access during and after business hours
Inspection can be done at any time	On-site consumption prohibited
Notice of Violation	Import/export into or out of State not allowed
Formal enforcement	Prizes not allowed
Notice of Proposed Revocation	No drive-up window activities
Civil action	Pricing must be at or above licensee's costs
Informal enforcement	State or local government inspections allowed

Moratoriums	Moratoriums
May 1, 2014 to May 1, 2015	N/A

Limited Retail Sales	Limited Retail Sales
Permitted from October 1, 2015 - December 31, 2016 if local jurisdiction does ban activity	N/A

Signs	Signs
Variety of signage requirements	Variety of signage requirements

Tax	Tax
No State tax	State taxes recreational retail and processors

FAQs



Recreational Marijuana in Oregon

RECREATIONAL MARIJUANA IN GENERAL

Q: What is the purpose of legalizing recreational marijuana?

A: As stated in Measure 91, the purpose of the Act is to:

- Eliminate the problems caused by the prohibition and uncontrolled manufacture, delivery, and possession of marijuana within this state;
- Protect the safety, welfare, health, and peace of the people of this state by prioritizing the state's limited law enforcement resources in the most effective, consistent, and rational way;
- Permit persons licensed, controlled, regulated, and taxed by this state to legally manufacture and sell marijuana to persons 21 years of age and older, subject to the provisions of this Act;
- Ensure that the State Department of Agriculture issues industrial hemp licenses and agricultural hemp seed production permits in accordance with existing state law;
- Establish a comprehensive regulatory framework concerning marijuana under existing state law.

Q: What does Measure 91 do?

A: Measure 91 allows Oregonians to grow limited amounts of marijuana on their property and to possess personal limited amounts of recreational marijuana for personal use beginning July 1, 2015 under Oregon law. The measure also gives OLCC authority to tax, license and regulate recreational marijuana grown, sold, or processed for commercial purposes. The OLCC does not regulate the home grow/personal possession provisions of the law. Nor does it regulate the sale of small amounts of recreational marijuana through medical marijuana dispensaries starting October 1. The OLCC will begin accepting applications for growers, wholesalers, processors and retail outlets on January 4, 2016.

Q. When did Measure 91 go into effect?

A. The home grow/personal possession provisions of the measure started on July 1, 2015. Sales of small amounts of recreational marijuana through medical marijuana dispensaries will begin October 1. The OLCC will begin issuing commercial recreational marijuana licenses to growers, wholesalers, processors and retail outlets in 2016.

Q. Who will implement the initiative?

A. The initiative designates the Oregon Liquor Control Commission as the state agency that will regulate the commercial growing and selling of recreational marijuana. It also gives the OLCC

authority to license and regulate commercial recreational marijuana operations. The OLCC has no authority to regulate or enforce the home grow/personal possession provisions of the law.

Q: How can I get a job with OLCC in the new marijuana program?

A: OLCC posts job opportunities on the www.oregonjobs.org website. You can also [sign up for email alerts](#) through our website to receive notices about OLCC job opportunities.

Q: Has Measure 91 been changed from what voters approved?

A: Yes. The 2015 session of the Oregon Legislature made technical changes to Measure 91. It also authorized the sale of small amounts of recreational marijuana through medical marijuana dispensaries starting October 1. The Legislature also changed the way recreational marijuana is taxed. Instead of the OLCC imposing the tax at the grower level, it will now be imposed at the retail level and collected by the Department of Revenue.

Q: Where can I get more information?

A: As updates occur and information is available, we will share that information with you on this website. To keep up to date, [click here](#).

Q: What if I have additional questions?

A: Please send additional questions to marijuana@oregon.gov.

MEDICAL MARIJUANA

Q. What impact does the new recreational marijuana law have on the current Medical Marijuana Program?

A. Beginning in October 2015, medical dispensaries can sell a one quarter ounce of marijuana flower to any adult over the age of 21. This provision sunsets on December 31, 2016. Beginning in 2016 medical marijuana growers may apply for an OLCC license to sell their excess product into the recreational market.

Q. Should I get a new OMMP card or renew my existing Card?

A. Only you as an individual can determine answer that question. The OLCC cannot advise you about how to make that determination.

Q: What is the difference between recreational marijuana and medical marijuana?

A: Medical marijuana is for patients with qualifying medical conditions. Recreational marijuana, whether grown at a residence, obtained free from an acquaintance, or purchased legally is for personal use for adults 21 years of age or older. For more information on medical marijuana see www.mmj.oregon.gov.

PERSONAL USE

Q: When can I smoke/use recreational marijuana?

A: As of July 1, 2015, Oregonians are allowed to grow up to four plants on their property, possess up to eight ounces of usable marijuana in their homes and up to one ounce on their person. Recreational marijuana cannot be sold or smoked in public. For more information go to: www.whatslegaloregon.com

Q: Where and when can I buy marijuana?

A: Limited amounts of recreational marijuana will be available for purchase through medical marijuana dispensaries starting October 1, 2015. Retail stores licensed by the OLCC will open sometime in the second half of 2016.

Q: Where and when can I buy edibles and extracts?

A: Edibles will eventually be available at retail outlets licensed by the OLCC, hopefully at the same time that the stores open in the second half of 2016.

Q: How much marijuana can I have?

A: As of July 1, 2015, recreational marijuana users can possess up to eight ounces of useable marijuana and four plants per residence in Oregon. An individual can carry up to one ounce in public.

Q: What is meant by “useable” marijuana?

A: Useable marijuana refers to dried marijuana flowers or leaves. In other words, marijuana that is ready to smoke.

Q: Can I grow marijuana at home and when?

A: Yes, with limits. As of July 1, 2015, Oregonians can home grow of up to four plants per residence, regardless of how many people live in the residence. Four adults in one residence does not mean 16 plants. The limit is four per residence.

Q: Where can I obtain marijuana seeds or starts after July 1, 2015?

A: The OLCC can provide no guidance on that issue.

Q. Can a landlord tell tenants not to grow recreational marijuana or smoke it rental units?

A. Measure 91 does not affect existing landlord/tenant laws.

Q: What if an employer requires drug testing?

A: Measure 91 does not affect existing employment law. Employers who require drug testing can continue to do so.

Q: Can I smoke marijuana in a bar/restaurant?

A: No. Marijuana cannot be smoked or used in a public place. The OLCC considers any establishment with a state liquor license to be public, including patios or decks set aside for smokers. Allowing marijuana use may put an establishment's liquor license in jeopardy.

Q: What is the definition of a public place?

A: Measure 91 defines a public place as "a place to which the general public has access and includes, but is not limited to, hallways, lobbies, and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and premises used in connection with public passenger transportation."

Q: Who can smoke recreational marijuana? What is the minimum age?

A: As of July 1, 2015, anyone 21 years of age and old and consume recreational marijuana in Oregon. Marijuana use or possession of recreational marijuana by anyone under 21 years of age is illegal. That includes home consumption.

Q: Who will enforce recreational marijuana laws?

A: Enforcement of the home grow/personal possession provisions of Measure 91 will be at the discretion of local jurisdictions, the state police and possibly other law enforcement agencies. The OLCC is responsible for enforcement actions against businesses that the OLCC licenses to grow, process, wholesale and sell recreational marijuana and related products.

Q: How much will recreational marijuana cost?

A: The retail price of recreational marijuana will be determined through a competitive marketplace.

Q: Can Oregon recreational marijuana be taken to the state of Washington where it is also legal?

A: No. Taking marijuana across state lines is a federal offense.

Q: How will children be protected from recreational marijuana and marijuana products?

A: Measure 91 prohibits the sale of recreational marijuana to anyone under the age of 21. The act also gives OLCC authority to regulate or prohibit advertising. In writing the rules necessary to implement the new law, the OLCC may also regulate packages and labels to ensure public safety and prevent appeal to minors.

Q: Can I get a DUII while under the influence of marijuana?

A: Yes. Current laws for DUII have not changed. Driving under the influence of intoxicants (DUII) refers to operating a motor vehicle while intoxicated or drugged, including impairment from the use of marijuana. In addition, Measure 91 requires OLCC to examine, research and present a report to the Legislature on driving under the influence of marijuana. The OLCC will do this in conjunction with the Department of Justice Criminal Investigation Division and Oregon State Police.

Q: Can I lose my job for using marijuana?

A: That depends on who you work for and what your employer says about the use of marijuana by employees. Passage of Measure 91 does not change existing employment law in Oregon.

Q: Where will marijuana stores be located?

A: Marijuana retailers may not be located within 1000 feet of a school. All licensed businesses must be located in an area that is appropriately zoned. Also, local jurisdictions have authority to adopt reasonable regulations regarding the location of marijuana businesses, including regulations requiring that the businesses be located no more than 1000 feet from one another. To keep up to date, [click here](#).

Q. What impact does the new recreational marijuana law have on the current Medical Marijuana Program?

A: Beginning in 2016 medical marijuana growers may apply for an OLCC license to sell their excess product into the recreational market. Beginning in October 2015, medical dispensaries can sell a one quarter ounce of marijuana flower to any adult over the age of 21. This provision sunsets on December 31, 2016.

Q: Who collects the tax on recreational marijuana?

A: Taxes on recreational marijuana will be collected by the Oregon Department of Revenue at the retail level.

Q: How is Washington state's recreational marijuana law different than Oregon's?

A: See [Oregon/Washington/Colorado Comparison](#).

Q: Is it legal to possess or use recreational marijuana on Federal or Tribal land in Oregon?

A: No. It is illegal until either the Federal Government or Tribes take action otherwise.

LICENSING

Q: What licenses will be available?

A: The measure lists four types of recreational marijuana licenses: Producer, Processor, Wholesaler, and Retail. A producer is also known as the grower. A processor is a business that will transform the raw marijuana into another product or extract. Processors are also responsible for packaging and labeling of recreational marijuana. A wholesaler is a business that buys in bulk and sells to resellers rather than to consumers. A retailer is a business that sells directly to consumers. The Oregon Legislature also created a license for the laboratories that test marijuana. The OLCC will issue licenses to labs that are certified by the Oregon Health Authority.

Q: When will the OLCC begin accepting license applications?

A: The OLCC will begin accepting license applications for recreational marijuana on January 4, 2016. It will be an online-only application process.

Q. How will OLCC decide how to grant or deny license applications?

A. Undetermined at this point. The OLCC is in the process of writing the rules necessary to implement Measure 91. The agency has appointed an advisory committee that will write the rules and send its recommendations to the Commission sometime this fall for approval.

Q. If I want to apply for a recreational marijuana license, what should I do now?

A. Be patient. The OLCC won't be accepting applications until January 4, 2016. In the meantime, to keep up to date on process, [click here](#).

Q: How much are the licensing fees?

A: Undetermined at this point. Measure 91 established an annual license fee of \$1,000 plus a non-refundable application fee of \$250 per license application. However, the Oregon Legislature made the determination that license fees need to cover the cost of the recreational marijuana program. That means fees are likely to be higher than what Measure 91 envisioned, but how much higher remains to be seen.

Q: How many licenses can I have?

A: A licensee may hold multiple licenses and multiple license types.

Q: Can an out-of-state resident hold an Oregon recreational marijuana license?

A: Measure 91 does not specifically address this question. However, the issue of residency could be addressed through legislation or by the OLCC through the rule-making process.

Q: Who will be eligible for a marijuana license?

A: Anyone over 21 years of age and older will be eligible for a recreational marijuana license if they meet certain conditions outlined in section 29 of Measure 91. Under those conditions, the OLCC may refuse a license if it believes the applicant:

- Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana, or controlled substances to excess.
- Has made false statements to the commission.
- Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.
- Has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license.
- Has maintained an insanitary establishment.
- Is not of good repute and moral character.
- Did not have a good record of compliance with sections 3 to 70 of this Act or any rule of the commission adopted pursuant thereto.
- Is not the legitimate owner of the business proposed to be licensed, or other persons have ownership interests in the business which have not been disclosed.
- Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

- Is unable to understand the laws of Oregon relating to marijuana or the rules of the commission.

Q: What if my city/county wants to go “dry?”

A: Measure 91 states that local governments may not prohibit licenses in their jurisdiction except with a vote at a general election. Measure 91 allows local governments to adopt reasonable time, place and manner restrictions to regulate public nuisance. The Oregon Legislature created an additional provision that allows certain local governments to opt out of the program depending on how the jurisdiction voted on Measure 91.

Q: What kinds of testing will OLCC require?

A: Undetermined at this point. Under Measure 91, the OLCC has the authority to set testing requirements, but this is a policy question that will be determined during the rule-making process.

RETAIL STORES

Q: When will retail recreational marijuana stores be open?

A: The exact date is up in the air, but the most likely time is during the third quarter of 2016.

Q: Will the OLCC distribute marijuana out of a central warehouse?

A: No. Marijuana will be distributed by those who hold an OLCC recreational marijuana license.

Q: Will there be a quota for how many retail outlets will be allowed?

A: The measure does not specifically address the number of retail outlets allowed. Specifics for licensing retail outlets will be part of the rule-making process that is currently underway.

Q: What will OLCC be doing to get ready for marijuana-related businesses?

A: The OLCC has held listening sessions throughout the state to gain a better understanding of what Oregonians expect in the implementation of Measure 91. In addition to getting legislative approval of the marijuana budget for 2015-17 and preparing to hire staff for the program, the OLCC has also selected a vendor to build the online application process and selecting a second vendor for the traceability (seed-to-sale) system to track recreational marijuana. The OLCC has appointed an advisory committee to help write the rules necessary to implement Measure 91 and several subgroups to address specific issues. The goal is have the rules adopted by October or November of this year, after which the agency will hold seminars around the state to familiarize people with the application process in advance of accepting applications on January 4, 2016.

TAXES

Q: How much are the taxes on recreational marijuana?

A: When recreational marijuana is sold in recreational stores, the taxes will range from 17 to 20 percent. The legislature set the base tax rate at 17 percent, however, they made provisions under certain circumstances for cities and counties to add up to an additional 3 percent tax. The retailer can retain 2 percent of the tax to cover their expenses. The tax will be 25 percent for the limited time that recreational marijuana will be sold in medical dispensaries. Recreational sales in medical dispensaries are slated to start on October 1, 2015, and end on December 31, 2016. The tax will be imposed on sales after January 4, 2016.

Q: How much money will marijuana bring in taxes?

A: The OLCC estimates \$10.7 million in revenue for the 2015-2017 biennium.

Q: Where will the tax money go?

A: Measure 91 provides distribution of revenue after costs to the following:

- 40 percent to Common School Fund
- 20 percent to Mental Health Alcoholism and Drug Services
- 15 percent to State Police
- 10 percent to Cities for enforcement of the measure
- 10 percent to Counties for enforcement of the measure
- 5 percent to Oregon Health Authority for alcohol and drug abuse prevention



► **The Oregon Administrative Rules contain OARs filed through December 15, 2015** ◀

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OREGON LIQUOR CONTROL COMMISSION

DIVISION 25

RECREATIONAL MARIJUANA GENERAL REQUIREMENTS APPLICABLE TO ALL MARIJUANA LICENSEES

845-025-1000

Applicability

- (1) A person may not produce, process, transport, sell, test, or deliver marijuana for commercial recreational use without a license from the Commission or as otherwise authorized under these rules.
- (2) Nothing in these rules exempts a licensee or licensee representative from complying with any other applicable state or local laws.
- (3) Licensure under these rules does not protect a person from possible criminal prosecution under federal law.

Stat. Auth.: Sec 2, Ch 614, OL 2015
 Stats. Implemented: Sec 12, 14, 15, 16, 33, 38, 93, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1015

Definitions

For the purposes of OAR 845-025-1000 to 845-025-8590, unless otherwise specified, the following definitions apply:

- (1) "Adulterated" means to make a marijuana item impure by adding foreign or inferior ingredients or substances. A marijuana item may be considered to be adulterated if:
 - (a) It bears or contains any poisonous or deleterious substance in a quantity rendering the marijuana item injurious to health, including but not limited to tobacco or nicotine;
 - (b) It bears or contains any added poisonous or deleterious substance exceeding a safe tolerance if such tolerance has been established;
 - (c) It consists in whole or in part of any filthy, putrid, or decomposed substance, or otherwise is unfit for human consumption;
 - (d) It is processed, prepared, packaged, or is held under improper time-temperature conditions or under other conditions increasing the probability of contamination with excessive microorganisms or physical contaminants;
 - (e) It is processed, prepared, packaged, or held under insanitary conditions increasing the probability of contamination or cross-contamination;
 - (f) It is held or packaged in containers composed, in whole or in part, of any poisonous or deleterious substance rendering the contents potentially injurious to health;
 - (g) Any substance has been substituted wholly or in part therefor;
 - (h) Damage or inferiority has been concealed in any manner; or
 - (i) Any substance has been added thereto or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.
- (2) "Authority" means the Oregon Health Authority.

- (3) "Business day" means Monday through Friday excluding legal holidays.
- (4) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.
- (5) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:
- (a) A mechanical extraction process;
 - (b) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; or
 - (c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or
- (6) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.
- (7) "Cannabinoid extract" means a substance obtained by separating cannabinoids from marijuana by:
- (a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;
 - (b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or
 - (c) Any other process identified by the Commission, in consultation with the authority, by rule.
- (8) Cannabinoid Product
- (a) "Cannabinoid product" means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers.
- (b) "Cannabinoid product" does not include:
- (A) Usable marijuana by itself;
 - (B) A cannabinoid concentrate by itself;
 - (C) A cannabinoid extract by itself; or
 - (D) Industrial hemp, as defined in ORS 571.300.
- (9) "Cannabis Tracking System" or "CTS" means the system for tracking the transfer of marijuana items and other information as authorized by section 23, chapter 614, Oregon Laws 2015.
- (10) "Compliance transaction" means a single covert, on-site visit in which a Commission authorized representative poses as an authorized representative of a licensee or a consumer and attempts to purchase or purchases a marijuana item from a licensee, or attempts to sell or sells a marijuana item to a licensee.
- (11) "Container" means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed prior to being sold to a consumer.
- (12) "Commission" means the Oregon Liquor Control Commission.
- (13) "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.
- (14) "Date of Harvest" means the date the mature marijuana plants in a harvest lot were cut, picked or removed from the soil or other growing media. If the harvest occurred on more than one day, the "date of harvest" is the day the last mature marijuana plant in the harvest lot was cut, picked or removed from the soil or other growing media.
- (15) "Financial consideration" means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.
- (16) "Financial interest" means having an interest in the business such that the performance of the business causes, or is capable of causing, an individual, or a legal entity with which the individual is affiliated, to benefit or suffer financially, and such interests include but are not limited to:
- (a) Receiving, as an employee or agent, out-of-the-ordinary compensation, either in the form of overcompensation or undercompensation;
 - (b) Lending money, real property or personal property to an applicant or licensee for use in the business at a commercially unreasonable rate;

(c) Giving money, real property or personal property to an applicant or licensee for use in the business; or

(d) Being the spouse or domestic partner of an applicant or licensee. For purposes of this subsection, "domestic partners" includes adults who qualify for a "domestic partnership" as defined under ORS 106.310.

(17) "Harvest lot" means marijuana that is uniform in strain, cultivated utilizing the same growing practices and harvested at the same time.

(18) "Immature marijuana plant" means a marijuana plant that is not flowering.

(19) "Intended for human consumption" means intended for a human to eat, drink, or otherwise put in the mouth but does not mean intended for human inhalation.

(20) "Laboratory" means a laboratory certified by the Authority under ORS 438.605 to 438.620 and authorized to test marijuana items for purposes specified in these rules.

(21) "Licensee" means any person who holds a license issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015.

(22) "License holder" includes:

(a) Each applicant listed on an application that the Commission has approved;

(b) Each individual who meets the qualification described in OAR 845-025-1045 and who the Commission has added to the license under OAR 845-025-1030; or

(c) Each individual who has a financial interest in the licensed business and who the Commission has added to the license under OAR 845-025-1030.

(23) "Licensee representative" means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity.

(24) "Limited access area" means a building, room, or other contiguous area on a licensed premises where a marijuana item is produced, processed, stored, weighed, packaged, labeled, or sold, but does not include a point of sale area on a licensed retailer premises.

(25) "Marijuana":

(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(26) "Marijuana flowers" means the flowers of the plant genus Cannabis within the plant family Cannabaceae.

(27) "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(28) "Marijuana leaves" means the leaves of the plant genus Cannabis within the plant family Cannabaceae.

(29) "Marijuana processor" means a person who processes marijuana items in this state.

(30) "Marijuana producer" means a person who produces marijuana in this state.

(31) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.

(32) "Marijuana wholesaler" means a person who purchases marijuana items in this state for resale to a person other than a consumer.

(33) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana plant.

(34) "Minor" means any person under 21 years of age.

(35) "Non-Toxic" means not causing illness, disability or death to persons who are exposed.

(36) "Permittee" means any person who holds a Marijuana Handlers Permit.

(37) "Person" has the meaning given that term in ORS 174.100.

(38) "Premises" or "licensed premises" includes the following areas of a location licensed under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015:

(a) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;

(b) All areas outside a building that the Commission has specifically licensed for the production, processing, wholesale sale or retail sale of marijuana items; and

(c) For a location that the Commission has specifically licensed for the production of marijuana outside a building, the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has a right to occupy.

(d) "Premises" or "licensed premises" does not include a primary residence.

(39) "Primary Residence" means real property inhabited for the majority of a calendar year by an owner, renter or tenant, including manufactured homes and vehicles used as domiciles.

(40) "Processes":

(a) "Processes" means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts;

(b) "Processes" does not include packaging or labeling.

(41) "Process lot" means:

(a) Any amount of cannabinoid concentrate or extract of the same type and processed at the same time using the same extraction methods, standard operating procedures and batches from the same harvest lot; or

(b) Any amount of cannabinoid products of the same type and processed at the same time using the same ingredients, standard operating procedures and batches from the same harvest lot or process lots of cannabinoid concentrate or extract.

(42) "Producer" means a marijuana producer licensed by the Commission.

(43) "Produces":

(a) "Produces" means the manufacture, planting, cultivation, growing or harvesting of marijuana.

(b) "Produces" does not include:

(A) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or

(B) The cultivation and growing of an immature marijuana plant by a marijuana processor, marijuana wholesaler or marijuana retailer if the marijuana processor, marijuana wholesaler or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

(44) "Propagate" means to grow immature marijuana plants or to breed or produce the seeds of the plant Cannabis family Cannabaceae.

(45) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in connection with public passenger transportation.

(46) "Regulatory specialist" means a full-time employee of the Commission who is authorized to act as an agent of the Commission in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing chapter 471, ORS 474.005 to 474.095 and 474.115, Commission rules and any other statutes the Commission considers related to regulating liquor or marijuana.

(47) "Retailer" means a marijuana retailer licensed by the Commission.

(48) "Safe" means:

(a) A metal receptacle with a locking mechanism capable of storing all marijuana items on a licensed premises that:

(A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or

(B) Weighs more than 750 pounds.

(b) A "vault"; or

(c) A refrigerator or freezer capable of being locked for storing marijuana items that require cold storage that:

(A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or

(B) Weighs more than 750 pounds.

(49) "Shipping Container" means any container or wrapping used solely for the transport of a marijuana items in bulk to a marijuana licensee as permitted in these rules.

(50) "These rules" means OAR 845-025-1000 to 845-025-8590.

(51) "UID" means unique identification.

(52) "Usable Marijuana"

(a) "Usable marijuana" means the dried leaves and flowers of marijuana.

(b) "Usable marijuana" does not include:

(A) The seeds, stalks and roots of marijuana; or

(B) Waste material that is a by-product of producing or processing marijuana.

(53) "Vault" means an enclosed area or room that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.

(54) "Wholesaler" means a marijuana wholesaler licensed by the Commission.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 1, 2, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1030

Application Process

(1) On or after 8:30 a.m. Pacific Time January 4, 2016, a person may submit an application to the Commission, on a form prescribed by the Commission, for a marijuana producer, processor, wholesaler, retail, or laboratory license.

(2) An application for a license and all documentation required in the application instructions and in section (4) of this rule must be submitted electronically, via the Commission's website. The application fee specified in OAR 845-025-1060 must also be paid through the Commission's on-line payment system at the time of application.

(3) An application must include the names and other required information for all individuals who are applicants as described in OAR 845-025-1045 and who are not applicants but who have a "financial interest" in the business, as defined in 845-025-1015.

(4) In addition to submitting the application form the following must be submitted:

(a) For an individual listed as an applicant:

(A) Information or fingerprints for a criminal background check in accordance with OAR 845-025-1080;

(B) An Individual History Form and any information identified in the form that is required to be submitted; and

(C) Proof of residency documented by providing:

(i) Oregon full-year resident tax returns for the last two years; or

(ii) Utility bills, rental receipts, mortgage statements or similar documents that contain the name and address of the applicant dated at least two years prior to the date of application and from the most recent month.

(b) For an individual listed as a person with a financial interest who holds or controls an interest of ten percent or greater in the business proposed to be licensed, or an individual who is a partner, member or corporate officer of a legal entity with a financial interest in the business proposed to be licensed:

(A) Information or fingerprints for a criminal background check in accordance with OAR 845-025-1080;

(B) An Individual History Form and any information identified in the form that is required to be submitted; and

(c) A map or sketch of the premises proposed for licensure, including the defined boundaries of the premises and the location of any primary residence located on the same tax lot or parcel as the licensed premises;

(d) A floor or plot plan sketch of all enclosed areas with clear identification of walls, partitions, counters, windows, all areas of ingress and egress, and all limited access areas;

(e) Proof of lawful possession of the premises proposed for licensure;

(f) An operating plan that demonstrates at a minimum, how the applicant's proposed premises

and business will comply with the applicable laws and rules regarding:

- (A) Security;
 - (B) Employee qualifications and training;
 - (C) Transportation of product;
 - (D) Preventing minors from entering the licensed premises; and
 - (E) Preventing minors from obtaining or attempting to obtain marijuana items.
- (g) For producers:
- (A) The proposed canopy size and tier as described in OAR 845-025-2040 and a designation of the canopy area within the license premises.
 - (B) A report describing the applicant's electrical and water usage, on a form prescribed by the Commission. The report must describe the estimated water usage taking into account all portions of the premises and expected requirements of the operation.
 - (C) A description of the growing operation including growing media, a description of equipment to be used in the production, and whether production will be indoor, outdoor or both.
 - (D) A water right permit or certificate number; a statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or proof from the Oregon Water Resources Department that the water to be used for production is from a source that does not require a water right.
- (h) For processors:
- (A) On a form prescribed by the Commission, the proposed endorsements as described in OAR 845-025-3210.
 - (B) A description of the type of products to be processed, a description of equipment to be used, including any solvents, gases, chemicals or other compounds used to create extracts or concentrates.
- (5) In addition to submitting the application form and the items described in (4) of this rule the Commission may require the following to be submitted:
- (a) For an individual listed as a person with a financial interest, who holds or controls an interest of less than ten percent in the business proposed to be licensed:
 - (A) Information or fingerprints for a criminal background check in accordance with OAR 845-025-1080;
 - (B) An Individual History Form and any information identified in the form that is required to be submitted; and
 - (b) Any additional information if there is a reason to believe that the information is needed to determine the merits of the license application.
- (6) The Commission must review an application to determine if it is complete. An application will be considered incomplete if an application form is not complete, the full application fee has not been paid, or some or all of the additional information required under section (4) of this rule is not submitted.
- (7) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Commission within ten days of the date the incomplete notice was mailed to the applicant. The Commission shall give the applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.
- (8) If, prior to an application being acted upon by the Commission, there is a change with regard to who is an applicant or who is a person with a financial interest in the proposed business, the new applicant or person with a financial interest must submit a form, prescribed by the Commission, that:
- (a) Identifies the individual or person;
 - (b) Describes the individual's or person's financial interest in the business proposed for licensure; and
 - (c) Includes any additional information required by the Commission, including but not limited to information and fingerprints required for a criminal background check.
- (9) Failure to comply with subsection (6) of this rule may result in an application being denied.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sections 7, 8, 11, 12, 14, 15, 16, 93 Ch 614, OL 2015
Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1045

Qualifications of an Applicant

(1) The following are considered applicants for purposes of these rules:

(a) Any individual that has a financial interest in the business for which licensure is sought and who is directly involved in controlling the ordinary course of business for the business that is proposed to be licensed; and

(b) Any legal entity that has a financial interest in the business for which licensure is sought and is directly involved in controlling the ordinary course of business for the business that is proposed to be licensed;

(2) If an applicant is an individual the individual must also:

(a) Be at least 21 years of age; and

(b) Until January 1, 2020, have been a resident of Oregon for at least two consecutive years prior to the date the initial or renewal application was submitted.

(3) If a legal entity is designated as an applicant, the following individuals must also be listed as applicants on an application:

(a) All partners in a limited partnership;

(b) All members of a limited liability company; and

(c) All directors and principal officers of a corporate entity.

(d) Any individual who owns or controls at least 10% of the legal entity.

(4) At least one applicant or the sum of applicants listed on a license application must be a legitimate owner of the business proposed to be licensed or subject to renewal.

(5) An individual or legal entity will not be considered by the Commission to be directly involved in the ordinary course of business for the business proposed to be licensed solely by virtue of:

(a) Being a shareholder, director, member or limited partner;

(b) Being an employee or independent contractor; or

(c) Participating in matters that are not in the ordinary course of business such as amending organizational documents of the business entity, making distributions, changing the entity's corporate structure, or approving transactions outside of the ordinary course of business as specified in the entity's organizational documents.

(6) An applicant will be considered by the Commission to be a legitimate owner of the business if:

(a) The individual applicant or legal entity applicant owns at least 51% of the business proposed to be licensed; or

(b) One or more individual applicants in sum own at least 51% of the business proposed to be licensed.

(7) The following factors, in and of themselves, do not constitute ownership:

(a) Preferential rights to distributions based on return of capital contribution;

(b) Options to purchase an ownership interest that may be exercised in the future;

(c) Convertible promissory notes; or

(d) Security interests in an ownership interest.

(8) For purposes of this rule, "ownership" means direct or indirect ownership of the shares, membership interests, or other ownership interests of the business proposed to be licensed.

(9) The Commission may consider factors other than those listed in this rule when determining whether an individual or legal entity is directly involved in the operation or management of the business proposed to be licensed or licensed, or is a legitimate owner.

(10) An individual listed as an applicant on an initial or renewal application, or identified by the Commission as an applicant must maintain Oregon residency while the business is licensed.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 8, 12, 14, 15, 16, 93 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1060**Fees**

(1) At the time of initial license or certificate application an applicant must pay a \$250 non-refundable application fee.

(2) If the Commission approves an application and grants an annual license, the following fees must be paid, prorated for an initial license that is issued for six months or less:

(a) Producers:

(A) Tier I \$3,750;

(B) Tier II \$5,750.

(b) Processors: \$4,750;

(c) Wholesalers: \$4,750;

(d) Retailers: \$4,750;

(e) Laboratories: \$4,750.

(3) At the time of license or certificate application renewal, an applicant must pay a \$250 non-refundable application fee. If the Commission approves an application and grants a research certificate, the fee shall be \$4,750 for a three-year term.

(4) If the Commission approves a renewal application the renewal license or certificate fees must be paid in the amounts specified in subsections (2) and (3) of this rule.

(5) If the Commission approves an initial or renewal application and grants a marijuana handler permit, the individual must pay a \$100 permit fee.

(6) The Commission shall charge the following fees:

(a) Criminal background checks: \$50 per individual (if the background check is not part of an initial or renewal application).

(b) Change of ownership review: \$1000 per license.

(c) Change in business structure review: \$1000 per license.

(d) Transfer of location of premises review: \$1000 per license.

(e) Packaging preapproval: \$100.

(f) Labeling preapproval: \$100.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sections 2, 12, 14, 15, 16, 20, 93, 102, 104, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1070**Late Renewal Fees**

(1) If the Commission receives a completed license, permit or certificate renewal application less than 20 days before the date the existing license, permit or certificate expires, the Commission will charge a late renewal fee of \$150 for licenses and certificates and \$50 for marijuana handler permits.

(2) If the Commission receives a completed license, permit or certificate renewal application within 30 days after the date the existing license, permit or certificate expires, the Commission will charge a late renewal fee equal to \$300 for licenses and certificates and \$100 for marijuana handler permits.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 2, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1080**Criminal Background Checks**

(1) If an individual is required by the Commission to undergo a criminal background check, the individual must provide to the Commission:

(a) A criminal background check request form, prescribed by the Commission that includes but is not limited to:

- (A) First, middle and last name;
 - (B) Any aliases;
 - (C) Date of birth;
 - (D) Driver's license information; and
 - (E) Address and recent residency information.
- (b) Fingerprints in accordance with the instructions on the Commission's webpage.
- (2) The Commission may request that an applicant disclose his or her Social Security Number if notice is provided that:
- (a) Indicates the disclosure of the Social Security Number is voluntary; and
 - (b) That the Commission requests the Social Security Number solely for the purpose of positively identifying the applicant during the criminal records check process.
- (3) An applicant's criminal history must be evaluated by the Commission in accordance with ORS 670.280 and section 29(2) and (3), chapter 1, Oregon Laws 2015.
- (4) The Commission may conduct a criminal background checks in accordance with this rule every year at the time of application renewal.
- (5) Records concerning criminal background checks must be kept and handled by the Commission in accordance with ORS 181.534(15).

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 10, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1090

Application Review

- (1) Once the Commission has determined that an application is complete it must review the application to determine compliance with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, and these rules.
- (2) The Commission:
- (a) Must, prior to acting on an application, request a land use compatibility statement from the city or county that authorizes land use in the city or county in which the applicant's proposed premises is located or request verification that a land use compatibility statement submitted by an applicant is valid and accurate
 - (b) May, in its discretion, prior to acting on an application:
 - (A) Contact any applicant or individual with a financial interest and request additional documentation or information; and
 - (B) Verify any information submitted by the applicant.
- (3) The Commission must inspect the proposed premises prior to issuing a license.
- (4) If during an inspection the Commission determines the applicant is not in compliance with these rules, the applicant will be provided with a notice of the failed inspection and the requirements that have not been met.
- (a) An applicant that fails an inspection will have 15 calendar days from the date the notice was sent to submit a written response that demonstrates the deficiencies have been corrected.
 - (b) An applicant may request in writing one extension of the 15-day time limit in subsection (a) of this section, not to exceed 30 days.
- (5) If an applicant does not submit a timely plan of correction or if the plan of correction does not correct the deficiencies in a manner that would bring the applicant into compliance, the Commission may deny the application.
- (6) If the plan of correction appears, on its face, to correct the deficiencies, the Commission will schedule another inspection.
- (7) If an applicant fails a second inspection, the Commission may deny the application unless the applicant shows good cause for the Commission to perform additional inspections.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 8, 30, 34, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1100**Approval of Application and Issuance of License**

(1) If, after the application review and inspection, the Commission determines that an applicant is in compliance with sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015 and these rules, the Commission must notify the applicant in writing that the application has been approved and after payment by the applicant of the license fee, provide the applicant with proof of licensure that includes a unique license number, the effective date of the license, date of expiration, and a description of premises for which the license was issued.

(2) A licensee:

(a) May not operate until on or after the effective date of the license.

(b) Must display proof of licensure in a prominent place on the premises.

(c) May not use the Commission name or logo on any signs at the premises, on the business' website, or in any advertising or social media, except to the extent that information is contained on the proof of licensure.

(3) Licensure is only valid for the premises indicated on the license and is only issued to the individuals or entities listed on the application or subsequently approved by the Commission.

(4) A license may not be transferred except as provided in OAR 845-025-1160.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 5, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1115**Denial of Application**

(1) The Commission must deny an initial or renewal application if:

(a) An applicant is under the age of 21 or, until January 1, 2020, has not been a resident or Oregon for at least two years. If the Commission determines that an applicant is a non-resident the Commission will hold that application under review until 30 days after the 2016 Oregon Legislature adjourns.

(b) The applicant's land use compatibility statement shows that the proposed land use is prohibited in the applicable zone.

(c) The proposed licensed premises is located:

(A) On federal property.

(B) At the same physical location or address as a:

(i) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon laws 2015;

(ii) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or

(iii) Medical marijuana dispensary registered under ORS 475.314.

(C) At the same physical location or address as a liquor licensee licensed under ORS chapter 471 or as a retail liquor agent appointed by the Commission.

(d) The proposed licensed premises of a producer applicant is:

(A) On public land; or

(B) On the same tax lot or parcel as another producer licensee under common ownership.

(e) The proposed licensed premises of a processor who has applied for an endorsement to process extracts is located in an area that is zoned exclusively for residential use.

(f) The proposed licensed premises of a retail applicant is located:

(A) Within 1,000 feet of:

(i) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(ii) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.

(B) In an area that is zoned exclusively for residential use.

(g) The proposed licensed premises of a wholesaler applicant is in an area zoned exclusively for residential use.

(h) A city or county has prohibited the license type for which the applicant is applying, in accordance with sections 133 or 134, chapter 614, Oregon Laws 2015.

(2) The Commission may deny an initial or renewal application, unless the applicant shows good cause to overcome the denial criteria, if it has reasonable cause to believe that:

(a) The applicant:

(A) Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana, or controlled substances to excess.

(B) Has made false statements to the Commission.

(C) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(D) Is not of good repute and moral character.

(E) Does not have a good record of compliance with sections 3 to 70, chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules, prior to or after licensure including but not limited to:

(i) The giving away of marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind, in violation of section 49, chapter 614, Oregon Laws 2015;

(ii) Providing marijuana items to an individual without checking that the individual is 21 or older;

(iii) Unlicensed transfer of marijuana items for financial consideration; or

(iv) Violations of local ordinances adopted under section 33, chapter 614, Oregon Laws 2015, pending or adjudicated by the local government that adopted the ordinance.

(F) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

(G) Is unable to understand the laws of this state relating to marijuana or these rules, including but not limited to ORS 475.300 to 475.346 and sections 91 to 99, chapter 614, Oregon Laws 2015. Inability to understand laws and rules of this state related to marijuana may be demonstrated by violations documented by the Oregon Health Authority.

(b) Any individual listed on the application has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license, except as specified in Section 29(3), chapter 1, Oregon Laws 2015.

(c) Any applicant is not the legitimate owner of the business proposed to be licensed, or other persons have an ownership interest in the business have not been disclosed to the Commission.

(3) The Commission may refuse to issue a license to any license applicant or refuse to renew the license of any licensee when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for revocation or suspension of a license if such person were the license applicant or licensee. However, in cases where the financial interest is held by a corporation, only the officers and directors of the corporation, any individual or combination of individuals who own a controlling financial interest in the business shall be considered persons having a financial interest within the meaning of this subsection.

(4) The Commission will not deny an application under subsections (1) (c) (B) of this rule if the applicant surrenders the registration issued by the Authority prior to being issued an OLCC license.

(5) If the Commission denies an application because an applicant submitted false or misleading information to the Commission, the Commission may prohibit the applicant from re-applying for five years.

(6) A notice of denial must be issued in accordance with ORS 183.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 7, 8, 12, 14, 15, 16, 34, 93, 133, 134, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1130

Withdrawal of Application

An applicant may withdraw an initial or renewal application at any time prior to the Commission

acting on the application unless the Commission has determined that the applicant submitted false or misleading information in which case the Commission may refuse to accept the withdrawal and may issue a notice of proposed denial in accordance with OAR 845-025-1115.

Stat. Auth.: Sec 2, Ch 614, OL 2015
 Stats. Implemented: Sec 8, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1145

Communication With Commission

(1) If an applicant or licensee is required to or elects to submit anything in writing to the Commission, unless there is a more specific rule that states otherwise, the applicant or licensee may submit the writing to the Commission via:

- (a) Mail;
- (b) In-person delivery;
- (c) Facsimile; or
- (d) E-mail.

(2) If a written notification must be submitted by a particular deadline it must be received, regardless of the method used to submit the writing, by 5:00 p.m. Pacific Time.

Stat. Auth.: Sec 2, Ch 614, OL 2015
 Stats. Implemented: Sec 2, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1160

Notification of Changes

(1) An applicant or licensee must notify the Commission in writing within 10 calendar days of any of the following:

- (a) A change in any contact information for anyone listed in an application or subsequently identified as an applicant or an individual with a financial interest;
- (b) The arrest or conviction for any misdemeanor or felony of an individual listed in an application or subsequently identified as an applicant, licensee or individual with a financial interest;
- (c) A disciplinary proceeding or licensing enforcement action by another governmental entity that may affect the licensee's business;
- (d) The filing of bankruptcy;
- (e) The closure of bank accounts or credit cards by a financial institution;
- (f) The temporary closure of the business for longer than 30 days; or
- (g) The permanent closure of the business.

(2) A licensee must notify the Commission as soon as reasonably practical and in no case more than 24 hours from the theft of marijuana items or money from the licensed premises.

(3) Changes in Financial Interest or Business Structure. A licensee that proposes to change its corporate structure, ownership structure or change who has a financial interest in the business must submit a form prescribed by the Commission, and any information identified in the form to be submitted, to the Commission, prior to making such a change.

(a) The Commission must review the form and other information submitted under subsection (1) of this rule, and will approve the change if the change would not result in an initial or renewal application denial under OAR 845-025-1115, or serve as the basis of a license suspension or revocation.

(b) If the Commission denies the change but the licensee proceeds with the change the licensee must surrender the license or the Commission will propose to suspend or cancel the license.

(c) The Commission will not accept a form for a change in corporate structure or financial interest if the license is expiring in less than 90 days, the licensee is under investigation by the Commission, or has been issued a Notice by the Commission following an alleged violation and the alleged violation has not been resolved.

(d) If a licensee has a change in ownership that is 51% or greater, a new application must be submitted in accordance with OAR 845-025-1030.

(4) Change of Location. A licensee who wishes to change the location of the licensed premises

must submit an application form and the fee specified in OAR 845-025-1060 but does not need to submit information and fingerprints required for a criminal background check or individual history forms if there are no changes to the individuals listed on the initial application.

(a) A licensee must submit an operating plan as described in OAR 845-025-1030 if the business operations will change at the proposed new location.

(b) The Commission must approve any change of location prior to licensee beginning business operations in the new location.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 5, 7, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1175

Changing, Altering, or Modifying Licensed Premises

(1) A licensee may not make any physical changes to the licensed premises that materially or substantially alter the licensed premises or the usage of the licensed premises from the plans originally approved by the Commission without the Commission's prior written approval.

(2) A licensee who intends to make any material or substantial changes to the licensed premises must submit a form prescribed by the Commission, and submit any information identified in the form to be submitted, to the Commission, prior to making any such changes.

(3) The Commission must review the form and other information submitted under subsection (2) of this rule, and will approve the changes if the changes would not result in an initial or renewal application denial under OAR 845-025-1115.

(4) If the Commission denies the change the licensee must not make the proposed changes. If the licensee makes the proposed changes, the licensee must surrender the license or the Commission will propose to suspend or cancel the license.

(5) For purposes of this rule a material or substantial change requiring approval includes, but is not limited to:

(a) Any increase or decrease in the total physical size or capacity of the licensed premises;

(b) The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress or egress, when such common entryway, doorway or passage alters or changes limited access areas, such as the areas in which cultivation, harvesting, processing, or sale of marijuana items occurs within the licensed premises; or

(c) Any physical change that would require the installation of additional video surveillance cameras or a change in the security system.

(d) Any addition or change of location of a primary residence located on the same tax lot or parcel as a licensed premises.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 12, 14, 15, 16, 93 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1190

License Renewal

Renewal Applications:

(1) Any licensee who files a completed renewal application with the Commission at least 20 days before the date the license expires may continue to operate as if the license were renewed, pending a decision by the Commission;

(2) Any licensee who does not file a completed renewal application at least 20 days before the existing license expires must stop engaging in any licensed activity when the license expires. However:

(a) If the Commission receives a completed license renewal application less than 20 days before the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee in OAR 845-025-1070, issue a letter of authority to operate beyond the expiration of the license, pending a decision by the Commission;

(b) A licensee must not engage in any licensed activity after the license expires. If the Commission receives a completed license renewal application within 30 days after the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee in OAR 845-025-1070, issue a letter of authority to resume operation, pending a decision by the Commission.

(3) The Commission will not renew a license if the Commission receives the renewal application

more than 30 days after the license expires. A person who wants to resume licensed activity in this circumstance:

- (a) Must submit a completed new application, including the documents and information required by the Commission; and
 - (b) Must not engage in any licensed activity unless and until they receive authority to operate from the Commission after submitting the completed new application.
- (4) A person relicensed under section (1)(c) of this rule who engaged in any activity that would require a license while not licensed in violation of section (1)(b)(B) of this rule may be subject to administrative and criminal sanctions.
- (5) A person who engages in any activity that requires a license but is not licensed may be subject to criminal prosecution.
- (6) For purposes of this rule, a completed application:
- (a) Is considered filed when received by the Commission; and
 - (b) Is one that is completely filled out, is signed by all applicants and includes the appropriate fee.

Stat. Auth.: Sections 2, 12, 14, 15, 16, 93, Ch 614, OL 2015
 Stats. Implemented: Sec 7, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1200

Financial and Business Records

In addition to any other recordkeeping requirements in these rules, a marijuana licensee must have and maintain records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained for a three-year period and must be made available for inspection if requested by an employee of the Commission:

- (1) Purchase invoices and supporting documents for items and services purchased for use in the production, processing, research, testing and sale of marijuana items that include from whom the items were purchased and the date of purchase;
- (2) Bank statements for any accounts relating to the licensed business;
- (3) Accounting and tax records related to the licensed business;
- (4) Documentation of all financial transactions related to the licensed business, including contracts and agreements for services performed or received that relate to the licensed business; and
- (5) All employee records, including training.

Stat. Auth.: Sec 2, 12, 14, 15 and 16, Ch 614, OL 2015
 Stats. Implemented: Sec 46, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1215

Standardized Scales

A licensee must use an Oregon Department of Agriculture licensed weighing device of appropriate size and capacity as defined in ORS chapter 618 and OAR 603, Division 27:

- (1) Whenever marijuana items are bought and sold by weight;
- (2) Whenever marijuana items are packaged for sale by weight; and
- (3) Whenever marijuana items are weighed for entry into CTS.

Stat. Auth.: Sec 2, 12, 14, 15 and 16, Ch 614, OL 2015
 Stats. Implemented: Sections 12, 14, 15 and 16, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1230

Licensed Premises Restrictions and Requirements

- (1) A licensed premises may not be located:
 - (a) On federal property; or
 - (b) At the same physical location or address as a:
 - (A) Medical marijuana grow site registered under ORS 475.304, unless the grow site is also licensed under section 116, chapter 614, Oregon Laws 2015;

(B) Medical marijuana processing site registered under section 85, chapter 614, Oregon Laws 2015; or

(C) Medical marijuana dispensary registered under ORS 475.314.

(D) Liquor licensee licensed under ORS Chapter 471 or as a retail liquor agent appointed by the Commission.

(2) The licensed premises of a producer applicant may not be on:

(a) Public land; or

(b) The same tax lot or parcel as another producer licensee under common ownership.

(3) The licensed premises of a retailer may not be located:

(a) Within 1,000 feet of:

(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.

(b) In an area that is zoned exclusively for residential use.

(4) The licensed premises of a processor who has an endorsement to process extracts may not be located in an area that is zoned exclusively for residential use.

(5) The licensed premises of a processor, wholesaler, laboratory and retailer must be enclosed on all sides by permanent walls and doors.

(6) A licensee may not permit:

(a) Any minor on a licensed premises except as described in section (7) and (8) of this rule; or

(b) On-site consumption of a marijuana item, alcohol, or other intoxicant by any individual, except that an employee who has a current registry identification card issued under ORS 475.309 may consume marijuana during his or her work shift on the licensed premises as necessary for his or her medical condition, if the employee is alone, in a closed room and not visible to others outside the room. An employee who consumes a marijuana item as permitted under this subsection may not be intoxicated while on duty.

(7) Notwithstanding section (6)(a) of this rule, a minor, other than a licensee's employee, who has a legitimate business purpose for being on the licensed premises, may be on the premises for a limited period of time in order to accomplish the legitimate business purpose. For example, a minor plumber may be on the premises in order to make a repair.

(8) Notwithstanding section (6)(a) of this rule, a minor who resides on the tax lot or parcel where a marijuana producer is licensed may be present on those portions of a producer's licensed that do not contain usable marijuana or cut and drying marijuana plants.

(9) A licensee must clearly identify all limited access areas in accordance with OAR 845-025-1245.

(10) A licensee must keep a daily log of all employees, contractors and license representatives who perform work on the licensed premises. All employees, contractors and licensee representatives must wear clothing or a badge issued by the licensee that easily identifies the individual as an employee, contractor or licensee representative.

(11) The general public is not permitted in limited access areas on a licensed premises, except for the licensed premises of a retailer and as provided by section (14) of this rule. In addition to licensee representatives, the following individuals are permitted to be present in limited access areas on a licensed premises, subject to the requirements in section (12) of this rule:

(a) Laboratory personnel, if the laboratory is licensed by the Commission;

(b) A contractor, vendor or service provider authorized by a licensee representative to be on the licensed premises;

(c) Another licensee or that licensee's representative;

(d) Up to seven invited guests per week subject to requirements of section (12) of this rule; or

(e) Tour groups as permitted under section (14) of this rule.

(12) Prior to entering a licensed premises all visitors permitted by section (11) of this rule must be documented and issued a visitor identification badge from a licensee representative that must remain visible while on the licensed premises. A visitor badge is not required for government officials. All visitors described in subsection (11) of this rule must be accompanied by a licensee

representative at all times.

(13) A licensee must maintain a log of all visitor activity. The log must contain the first and last name and date of birth of every visitor and the date they visited.

(14) A marijuana producer or research certificate holder may offer tours of the licensed premises, including limited access areas, to the general public if the licensee submits a control plan in writing and the plan is approved by the Commission.

(a) The plan must describe how conduct of the individuals on the tour will be monitored, how access to usable marijuana will be limited, and what steps the licensee will take to ensure that no minors are permitted on the licensed premises.

(b) The Commission may withdraw approval of the control plan if the Commission finds there is poor compliance with the plan. Poor compliance may be indicated by, for example, individuals on the tour not being adequately supervised, an individual on the tour obtaining a marijuana item while on the tour, a minor being part of a tour, or the tours creating a public nuisance.

(15) Nothing in this rule is intended to prevent or prohibit Commission employees or contractors, or other state or local government officials that have jurisdiction over some aspect of the licensed premises or licensee from being on the licensed premises.

(16) A licensee may not sublet any portion of a licensed premises.

(17) A licensed premises may receive marijuana items only from a marijuana producer, marijuana processor, or marijuana wholesaler for whom a premises has been licensed by the Commission.

(18) A licensed wholesaler or retailer who sells or handles food, as that term is defined in ORS 616.695, or cannabinoid edibles must also be licensed by the Oregon Department of Agriculture under ORS 616.706.

Stat. Auth.: Sec 2, 12, 14, 15, 16, Ch 614, OL 2015

Stats. Implemented: Sec 52 and 54, Chapter 1, OL 2015; Sec 14, 15, 16, 25, 35, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1245

Signage

(1) A licensee must post:

(a) At every licensed premises signs that read:

(A) "No Minors Permitted Anywhere on This Premises"; and

(B) "No On-Site Consumption of Marijuana"; and

(b) At all areas of ingress or egress to a limited access area a sign that reads: "Do Not Enter — Limited Access Area — Access Limited to Licensed Personnel and Escorted Visitors."

(2) All signs required by this rule must be:

(a) Legible, not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height;

(b) In English and Spanish; and

(c) Posted in a conspicuous location where the signs can be easily read by individuals on the licenses premises.

Stat. Auth.: Sec 2, 12, 14, 15, 16, Ch 614, OL 2015

Stats. Implemented: Sec 25, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1260

Standards for Authority to Operate a Licensed Business as a Trustee, a Receiver, a Personal Representative or a Secured Party

(1) The Commission may issue a temporary authority to operate a licensed business to a trustee, the receiver of an insolvent or bankrupt licensed business, the personal representative of a deceased licensee, or a person holding a security interest in the business for a reasonable period of time to allow orderly disposition of the business.

(a) The trustee, receiver or personal representative must provide the Commission with the following information:

(A) Proof that the person is the legal trustee, receiver or personal representative for the business; and

(B) A written request for authority to operate as a trustee, receiver or personal representative, listing the address and telephone number of the trustee, receiver or personal representative.

(b) The secured party must provide the Commission with the following information:

(A) Proof of a security interest in the licensed business;

(B) Proof of the licensee's default on the secured debt;

(C) Proof of legal access to the real property; and

(D) A written request for authority to operate as a secured party listing the secured party's address and telephone number.

(2) The Commission may cancel or refuse to issue or extend authority for the trustee, receiver, personal representative, or secured party to operate:

(a) If the trustee, receiver, personal representative or secured party does not propose to operate the business immediately or does not begin to operate the business immediately upon receiving the temporary authority;

(b) For any of the reasons that the Commission may cancel or refuse to issue or renew a license;

(c) If the trustee, receiver, personal representative or secured party operates the business in violation of chapters 1 and 614, Oregon Laws 2015, or these rules; or

(d) If a reasonable time for disposition of the business has elapsed.

(3) No person or entity described in section (1) of this rule may operate the business until a certificate of authority has been issued under this rule, except that the personal representative of a deceased licensee may operate the business for up to 10 days after the death provided that the personal representative submits the information required in section (1)(a) of this rule and obtains a certificate of authority within that time period.

(4) A certificate of authority under this rule is initially issued for a 60-day period and may be extended as reasonably necessary to allow for the disposition of the business.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 5, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1275

Closure of Business

(1) A license expires upon death of a licensee unless the Commission issues an order as described in subsection (2) of this rule.

(2) The Commission may issue an order providing for the manner and condition under which:

(a) Marijuana items left by a deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed.

(b) The business of a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.

(3) A secured party, as defined in ORS 79.0102, may continue to operate a business for which a license has been issued under section 19, 20, 21 or 22, chapter 1, Oregon Laws 2015 for a reasonable period after default on the indebtedness by the debtor.

(4) If a license is canceled the Commission must address in its order the manner and condition under which marijuana items held by the licensee may be transferred or sold.

(5) If a license is surrendered or expires the Commission may address by order the manner and condition under which marijuana items held by the licensee may be transferred or sold.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 5, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1290

Licensee Responsibility

A licensee is responsible for:

(1) The violation of any administrative rule of the Commission; sections 3 to 70, chapter 1, Oregon Laws 2015; chapter 614, Oregon Laws 2015; or chapter 699, Oregon Laws 2015 affecting the licensee's license privileges.

(2) Any act or omission of a licensee representative in violation of any administrative rule of the Commission; sections 3 to 70, chapter 1, Oregon Laws 2015; chapter 614, Oregon Laws 2015; or chapter 699, Oregon Laws 2015 affecting the licensee's license privileges.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stat. Auth.: Sec 2, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1295

Local Ordinances

The Commission may impose a civil penalty, suspend or cancel any licensee for failure to comply with an ordinance adopted by a city or county pursuant to section 34, chapter 614, Oregon Laws 2015 if the city or county:

(1) Has provided the licensee with due process substantially similar to the due process provided to a licensee under the Administrative Procedures Act, ORS 183.413 to 183.470; and

(2) Provides the Commission with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes that the licensee has violated the local ordinance.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015

Stats. Implemented: Sec 33, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1300

Licensee Prohibitions

(1) A licensee may not:

(a) Import into this state or export from this state any marijuana items;

(b) Give marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or game of skill, or competition of any kind;

(c) Sell, give or otherwise make available any marijuana items to any person who is visibly intoxicated;

(d) Make false representations or statements to the Commission in order to induce or prevent action by the Commission;

(e) Maintain a noisy, disorderly or insanitary establishment or supply adulterated marijuana items;

(f) Misrepresent any marijuana item to a customer or to the public;

(g) Sell any marijuana item through a drive-up window;

(h) Deliver marijuana to any consumer off the licensed premises except as permitted by OAR 845-025-2880;

(i) Sell or offer to sell a marijuana item that does not comply with the minimum standards prescribed by the statutory laws of this state; or

(j) Use or allow the use of a mark or label on the container of a marijuana item that is kept for sale if the container does not precisely and clearly indicate the nature of the container's contents or in any way might deceive a customer as to the nature, composition, quantity, age or quality of the marijuana item.

(2) No licensee or licensee representative may be under the influence of intoxicants while on duty.

(a) For purposes of this rule "on duty" means:

(A) The beginning of a work shift that involves the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, to the end of the shift including coffee and meal breaks;

(B) For an individual working outside a scheduled work shift, the performance of acts on behalf of the licensee that involve the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, if the individual has the authority to put himself or herself on duty; or

(C) A work shift that includes supervising those who handle or sell marijuana items, check identification or control the licensed premises.

(b) Whether a person is paid or scheduled for work is not determinative of whether the person is considered "on duty" under this subsection.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015
 Stats. Implemented: Sections 48, 49, 50, 51, 52, 53, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Security

845-025-1400

Security Plans

(1) A licensee may, in writing, request that the Commission waive one or more of the security requirements described in OAR 845-025-1400 to 845-025-1470 by submitting a security plan for Commission approval. The security plan must include:

- (a) The specific rules and subsections of a rule that is requested to be waived;
- (b) The reason for the waiver;
- (c) A description of an alternative safeguard the licensee can put in place in lieu of the requirement that is the subject of the waiver;
- (d) An explanation of how and why the alternative safeguard accomplishes the goals of the security rules, specifically public safety, prevention of diversion, accountability, and prohibiting access to minors.

(2) The Commission may, in its discretion and on a case by case basis, approve the security plan if it finds:

- (a) The reason the licensee is requesting the waiver is because another state or local law prohibits the particular security measure that is required; or
- (b) The licensee cannot, for reasons beyond the licensee's control or because the security measure is cost prohibitive, comply with the particular security measure that is required; and
- (c) The alternative safeguard that is proposed meets the goals of the security rules.

(3) The Commission must notify the licensee in writing whether the security plan has been approved. If the security plan is approved the notice must specifically describe the alternate safeguards that are required and, if the security plan is time limited, must state the time period the security plan is in effect.

(4) The Commission may withdraw approval of the security plan at any time upon a finding that the previously-approved alternative measures are not sufficient to accomplish the goals of the security rules. If the Commission withdraws its approval of the security plan, the licensee will be given a reasonable period of time to come into compliance with the security requirement that was waived.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015
 Stats. Implemented: Sec 2, 12, 14, 15 and 16, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1410

Security Requirements

(1) A licensee is responsible for the security of all marijuana items on the licensed premises, including providing adequate safeguards against theft or diversion of marijuana items and records that are required to be kept.

(2) The licensee must ensure that commercial grade, non-residential door locks are installed on every external door of a licensed premises where marijuana items are present.

(3) During all hours when the licensee is not operating a licensee must ensure that:

(a) All entrances to and exits from a licensed premises are securely locked and any keys or key codes to the enclosed area remain in the possession of the licensee, licensee representative, or authorized personnel;

(b) All marijuana items on a licensed retailer's premises are kept in a safe or vault as those terms are defined in OAR 845-025-1015; and

(c) All marijuana items on the licensed premises of a licensee other than a retailer are kept in a locked, enclosed area within the licensed premises that is secured with a door that contains a multiple-position combination lock or the equivalent and a relocking device or the equivalent.

(4) A licensee must:

- (a) Have an encrypted network infrastructure;
- (b) Have an electronic back-up system for all electronic records; and

(c) Keep all video recordings and archived required records not stored electronically in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the licensed business is open.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015
 Stats. Implemented: Sec 2, 12, 14, 15 and 16, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1420

Alarm System

(1) A licensed premises must have a fully operational security alarm system, activated at all times when the licensed premises is closed for business on all:

- (a) Entry or exit points to and from the licensed premises; and
- (b) Perimeter windows, if applicable.

(2) The security alarm system for the licensed premises must:

- (a) Be able to detect movement within any indoor area on the licensed premises;
- (b) Be programmed to notify a security company that will notify the licensee, licensee representative or authorized personnel in the event of a breach or if unavailable, law enforcement; and

(c) Have at least two operational "panic buttons" located inside the licensed premises that are linked with the alarm system that immediately notifies a security company and law enforcement.

(3) Upon request, licensees shall make all information related to security alarm systems, monitoring and alarm activity available to the Commission.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015
 Stats. Implemented: Sec 2, 12, 14, 15 and 16, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1430

Video Surveillance Equipment

(1) A licensed premises must have a fully operational video surveillance recording system.

(2) Video surveillance equipment must, at a minimum:

(a) Consist of:

- (A) Digital or network video recorders;
- (B) Cameras capable of meeting the requirements of OAR 845-025-1450 and this rule;
- (C) Video monitors;
- (D) Digital archiving devices;
- (E) A minimum of one monitor on premise capable of viewing video; and
- (F) A printer capable of producing still photos.

(b) Be equipped with a failure notification system that provides, within one hour, notification to the licensee or an authorized representative of any prolonged surveillance interruption or failure; and

(c) Have sufficient battery backup to support a minimum of one hour of recording time in the event of a power outage.

(3) A licensee's video surveillance system must be capable of recording all pre-determined surveillance areas in any lighting conditions.

(4) All video surveillance equipment and recordings must be stored in a locked secure area that is accessible only to the licensee, licensee representatives, or authorized personnel, and the Commission.

(5) In limited access areas, as that term is defined in OAR 845-025-1015, all cameras shall have minimum resolution of 1280 x 720 px and record at 10 fps (frames per second).

(6) In exterior perimeter and non-limited access area, cameras shall have a minimum resolution of 1280 x 720 px and record at least 5 fps, except where coverage overlaps any limited access areas such as entrances or exits and in those overlap areas cameras must record at 10 fps.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015
 Stats. Implemented: Sec 2, 12, 14, 15 and 16, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1440

Required Camera Coverage and Camera Placement

- (1) A licensed premises must have camera coverage, as applicable, for:
- (a) All limited access areas as that term is defined in OAR 845-025-1015;
 - (b) All point of sale areas;
 - (c) All points of entry to or exit from limited access areas; and
 - (d) All points of entry to or exit from the licensed premises.
- (2) A licensee must ensure that cameras are placed so that they capture clear and certain images of any individual and activity occurring:
- (a) Within 15 feet both inside and outside of all points of entry to and exit from the licensed premises; and
 - (b) Anywhere within secure or limited access areas on the licensed premises.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015
 Stats. Implemented: Sec 2, 12, 14, 15 and 16, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1450

Video Recording Requirements for Licensed Facilities

- (1) A licensee must have cameras that continuously record, 24 hours a day, in all areas with marijuana items on the licensed premises.
- (2) A licensee must:
- (a) Use cameras that record at a minimum resolution of 1280 x 720 px;
 - (b) Keep all surveillance recordings for a minimum of 30 calendar days and in a format approved by the Commission that can be easily accessed for viewing and easily reproduced;
 - (c) Have a surveillance system that has the capability to produce a still photograph from any camera image;
 - (d) Have the date and time embedded on all surveillance recordings without significantly obscuring the picture;
 - (e) Archive video recordings in a format that ensures authentication of the recording as a legitimately-captured video and guarantees that no alterations of the recorded image has taken place;
 - (f) Keep surveillance recordings for periods exceeding 30 days upon request of the Commission and make video surveillance records and recordings available immediately upon request to the Commission for the purpose of ensuring compliance with the Act and these rules; and
 - (g) Immediately notify the Commission of any equipment failure or system outage lasting 30 minutes or more.
- (3) Failure to comply with subsections (2)(e) or (f) of this rule is a Category I violation and may result in license revocation.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015
 Stats. Implemented: Sec 2, 12, 14, 15 and 16, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1460

Location and Maintenance of Surveillance Equipment

- (1) A licensee must:
- (a) Have the surveillance room or surveillance area in a limited access area; and
 - (b) Have the surveillance recording equipment housed in a designated, locked, and secured room or other enclosure with access limited to:
 - (A) The licensee, licensee representatives, and authorized personnel
 - (B) Employees of the Commission;

(C) State or local law enforcement agencies for a purpose authorized under the Act, these rules, or for any other state or local law enforcement purpose; and

(D) Service personnel or contractors.

(c) Back up all required video surveillance recordings off-site and such off-site storage must be secure and the recordings must be easily accessed for viewing and easily reproduced.

(2) A licensee must keep a current list of all authorized employees and service personnel who have access to the surveillance system and room on the licensed premises.

(3) Licensees must keep a surveillance equipment maintenance activity log on the licensed premises to record all service activity including the identity of any individual performing the service, the service date and time and the reason for service to the surveillance system.

(4) Off-site monitoring of the licensed premises by a licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015

Stats. Implemented: Sec 2, 12, 14, 15 and 16, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1470

Producer Security Requirements

(1) In addition to the security requirements in OAR 845-025-1400 to 845-025-1460, a producer must effectively prevent public access and obscure from public view all areas of marijuana production. A producer may satisfy this requirement by:

(a) Submitting a security plan as described in OAR 845-025-1400;

(b) Fully enclosing indoor production on all sides so that no aspect of the production area is visible from the exterior satisfies; or

(c) Erecting a solid wall or fence on all exposed sides of an outdoor production area that is at least eight (8) feet high.

(2) If a producer chooses to dispose of usable marijuana by any method of composting, as described in OAR 845-025-7750, the producer must prevent public access to the composting area and obscure the area from public view.

Stat. Auth.: Sec 2, 12, Ch 614, OL 2015

Stats. Implemented: Sec 2, 12, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Health and Safety

845-025-1600

State and Local Safety Inspections

(1) All marijuana licensees may be subject to inspection of licensed premises by state or local government officials to determine compliance with state or local health and safety laws.

(2) A licensee must contact any utility provider to ensure that the licensee complies with any local ordinance or utility requirements such as water use, discharge into the sewer system, or electrical use.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015

Stats. Implemented: Sec 2, 12, 14, 15 and 16, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1620

General Sanitary Requirements

(1) A marijuana licensee must:

(a) Prohibit any individual working on a licensed premises who has or appears to have a communicable disease, open or draining skin lesion infected with *Staphylococcus aureus* or *Streptococcus pyogenes*, or any illness accompanied by diarrhea or vomiting for whom there is a reasonable possibility of contact with marijuana items from having contact with a marijuana item until the condition is corrected;

(b) Require all persons who work in direct contact with marijuana items conform to hygienic practices while on duty, including but not limited to:

(A) Maintaining adequate personal cleanliness; and

(B) Washing hands thoroughly in an adequate hand-washing area before starting work, prior to having contact with a marijuana item and at any other time when the hands may have become soiled or contaminated;

(c) Provide hand-washing facilities adequate and convenient, furnished with running water at a suitable temperature and provided with effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying device;

(d) Properly remove all litter and waste from the licensed premises and maintain the operating systems for waste disposal in an adequate manner so that they do not constitute a source of contamination in areas where marijuana items are exposed;

(e) Provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

(f) Hold marijuana items that can support pathogenic microorganism growth or toxic formation in a manner that prevents the growth of these pathogenic microorganism or formation toxins.

(2) For purposes of this rule "communicable disease" includes but is not limited to: diphtheria, measles, Salmonella enterica serotype Typhi infection, shigellosis, Shiga-toxigenic Escherichia coli (STEC) infection, hepatitis A, and tuberculosis.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015

Stats. Implemented: Sec 51, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Recreational Marijuana Producers

845-025-2000

Definitions

As used in OAR 845-025-2000 to 845-025-2080:

(1) "Canopy" means the surface area utilized to produce mature marijuana plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants including all of the space within the boundaries.

(2) "Indoor production" means producing marijuana in any manner:

(a) Utilizing artificial lighting on mature marijuana plants; or

(b) Other than "outdoor production" as that is defined in this rule.

(3) "Outdoor production" means producing marijuana:

(a) In an expanse of open or cleared ground; or

(b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.

Stat. Auth.: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015

Stats. Implemented: Sections 2, 12, 14, 15, 16, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2020

Producer Privileges

(1) A producer may only plant, cultivate, grow, harvest and dry marijuana in the manner approved by the Commission and consistent with chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015 and these rules.

(2) A producer may engage in indoor or outdoor production of marijuana, or a combination of the two.

(3) A producer may sell or deliver:

(a) Usable marijuana to the licensed premises of a marijuana processor, wholesaler, retailer, laboratory, or research certificate holder;

(b) Dried mature marijuana plants that have been entirely removed from any growing medium to the licensed premises of a marijuana processor or research certificate holder; or

(c) Immature marijuana plants and seeds to the licensed premises of a marijuana producer, wholesaler, retailer or research certificate holder.

(4) A producer may not sell a mature marijuana plant other than as provided in section (3)(b) of this rule.

(5) A producer may provide a sample of usable marijuana to a marijuana wholesaler, retailer or processor licensee for the purpose of the licensee determining whether to purchase the product. The sample product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.

Stat. Auth.: Sections 2, 12, 13, Ch 614, OL 2015
Stats. Implemented: Sec 12, 13, Ch 614, OL 2015
Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2030

Licensed Premises of Producer

(1) The licensed premises of a producer authorized to cultivate marijuana indoors includes all public and private enclosed areas used in the business operated at the location and any areas outside of a building that the Commission has licensed.

(2) The licensed premises of a producer authorized to cultivate marijuana outdoors includes the entire lot or parcel, as defined in ORS 92.010, that the licensee owns, leases or has the right to occupy.

(3) A producer may not engage in any privileges of the license within a primary residence.

(4) The licensed premises of a producer may not be located at the same physical location or address as a marijuana grow site registered under ORS 475.304 unless the producer is also a person responsible for a marijuana grow site and has been issued a license by the Commission in accordance with section 116, chapter 614, Oregon Laws 2014, and OAR 845-025-1100.

Stat. Auth.: Sections 2, 12, ,Ch 614, OL 2015
Stats. Implemented: Sec 12, 116, Ch 614, OL 2015
Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2040

Production Size Limitations

(1) Cultivation Batches and Cultivate Batch Sizes.

(a) A producer must establish cultivation batches and assign each cultivation batch a unique identification number.

(b) A cultivation batch may not have more than 100 immature plants.

(c) A producer may have an unlimited number of cultivation batches at any one time.

(2) Canopy Size Limits.

(a) Indoor Production.

(A) Tier I: Up to 5,000 square feet.

(B) Tier II: 5,001 to 10,000 square feet.

(b) Outdoor production.

(A) Tier I: Up to 20,000 square feet.

(B) Tier II: 20,001 to 40,000 square feet.

(c) Mixed production. If a producer intends to have a mixture of indoor and outdoor production the Commission will determine the producer's tiers and canopy sizes by applying the ratio in section (4) of this rule.

(d) For purposes of this section, square footage of canopy space is measured starting from the outermost point of the furthest mature flowering plant in a designated growing space and continuing around the outside of all mature flowering plants located within the designated growing space.

(e) A producer may designate multiple grow canopy areas at a licensed premises but those spaces must be separated by a physical boundary such as an interior wall or by at least 10 feet of open space.

(f) If a local government adopts an ordinance that would permit a producer to have a higher canopy size limit than is permitted under this rule, the local government may petition the Commission for an increase in canopy size limits for that jurisdiction. If the Commission grants such a petition, the Commission may amend this rule in addition to considering changes to the license fee schedule.

(g) On an annual basis, the Commission will evaluate market demand for marijuana items, the number of person applying for producer licenses or licensed as producers and whether the

availability of marijuana items in this state is commensurate with the market demand. Following this evaluation the Commission may amend this rule as needed.

(3) Canopy Size Limit — Designation and Increases.

(a) A producer must clearly identify designated canopy areas and proposed canopy size in the initial license application. A producer may change a designated canopy area within a production type at any time with prior written notice to Commission, but a producer may only change canopy tiers at the time of renewal in accordance with subsection (b) of this section.

(b) A producer may submit a request to change canopy tiers at the time the producer submits an application for renewal of the license. The Commission will grant a request to increase the canopy tier for the producer's next licensure term if:

(A) The producer's renewal application is otherwise complete;

(B) There are no bases to deny or reject the producer's renewal application;

(C) The producer has not already reached the applicable maximum canopy size set forth in section (2) of this rule; and

(D) During the preceding year of licensure, the producer has not been found to be in violation, and does not have any pending allegations of violations of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, or these rules.

(c) The Commission shall give a producer an opportunity to be heard if a request is rejected under this section.

(4) Mixed cultivation methods.

(a) A producer may produce marijuana indoors and outdoors at the same time on the same licensed premises. The Commission must be notified of a producer's plan to engage in the indoor and outdoor production of marijuana at the time of initial licensure or at renewal, and not at any other time. A producer who utilizes mixed production may only change designated canopy areas from one production type to another at the time the producer submits a renewal application.

(b) The Commission must approve the canopy size applicable to each method.

(c) The Commission will use a 4:1 ratio, for outdoor and indoor respectively, to allocate canopy size limits under this section, not to exceed the sum canopy size limits set forth in section (2) of this rule. For example, if a Tier II producer in the first year of licensure has 5,000 square feet of indoor canopy space, then the producer may have up to 20,000 square feet of outdoor canopy space at the same time.

(5) Violations. An intentional violation of this rule is a Category I violation and may result in license revocation. All other violations are Category III violations.

Stat. Auth.: Sections 2, 12, 13 Ch 614, OL 2015

Stats. Implemented: Sec 13, 116, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2050

Operating Procedures

(1) A producer must:

(a) Establish written standard operating procedures for the production of marijuana. The standard operating procedures must, at a minimum, include when, and the manner in which, all pesticide and or other chemicals are to be applied during the production process; and

(b) Maintain a copy of all standard operating procedures on the licensed premises.

(2) If a producer makes a material change to its standard operating procedures it must document the change and revise its standard operating procedures accordingly. Records detailing the material change must be maintained on the licensed premises by the producer.

Stat. Auth.: Sections 2, 12, Ch 614, OL 2015

Stats. Implemented: Sec 12, 116, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2060

Start-up Inventory

(1) Marijuana producers may not receive immature marijuana plants or seeds from any source other than from another licensee, except that between January 1, 2016 and December 31, 2016, a marijuana producer may receive immature marijuana plants and seeds from any source within Oregon for up to 90 days following initial licensure by the Commission.

(2) The marijuana producer shall, through CTS, report receipt of the number of immature marijuana plants or seeds received under this section within 48 hours of the plants or seeds arriving at the licensed premises. A producer does not have to document the source of the immature plants or seeds during the 90 day start-up period.

(3) Failure to comply with this rule is a Category I violation and could result in license revocation.

Stat. Auth.: Sections 2, 12, Ch 614, OL 2015

Stats. Implemented: Sec 12, 23, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2070

Pesticides, Fertilizers and Agricultural Chemicals

(1) Pesticides. A producer may only use pesticides in accordance with ORS chapter 634 and OAR 603, Division 57.

(2) Fertilizers, Soil Amendments, Growing Media. A producer may only use fertilizer, agricultural amendments, agricultural minerals and lime products in accordance with ORS Chapter 633.

(3) A producer may not treat or otherwise adulterate usable marijuana with any chemical, biologically active drug, plant, substance, including nicotine, or other compound that has the effect or intent of altering the usable marijuana's color, appearance, weight or smell.

(4) In addition to other records required by these rules, a producer must maintain, at all times and on the licensed premises:

(a) The material safety data sheet (MSDS) for all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana;

(b) The original label or a copy thereof for all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana; and

(c) A log of all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana. The log must include:

(A) The information required to be documented by a pesticide operator in ORS 634.146; and

(B) The unique identification tag number of the cultivation batch or individual mature marijuana plant to which the product was applied, or if applied to all plants on the licensed premises a statement to that effect.

(5) A producer may maintain the records required under this rule in electronic or written form. If electronic, a producer shall maintain a backup system or sufficient data storage so that records are retained for no less than two years after harvest of any marijuana on which documented products were used. If written, a producer shall ensure that the records are legible and complete, shall keep them in a safe and secure location, and shall retain the records for no less than two years after harvest of any marijuana on which documented products were used.

(6) A producer must make the records required under this rule immediately available during an premises inspection by a Commission regulatory specialist. If the Commission requests copies of the records at any time other than during a premises inspection, a producer shall produce the records upon request.

(7) A violation of sections (1) to (4) of this rule is a Category 1 violation and could result in license revocation.

(8) A failure to keep complete records as required by this rule is a Category III violation. A failure to keep records on the licensed premises, or failure to timely produce records, is a Category III violation.

Stat. Auth.: Sections 2, 12, Ch 614, OL 2015

Stats. Implemented: Sec 12, 76 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2080

Harvest Lot Segregation

(1) A producer must, within 45 days of harvesting a harvest lot, physically segregate the harvest lot from other harvest lots, place the harvest lot in a receptacle or multiple receptacles and assign a UID tag to each receptacle that is linked to each plant that was harvested.

(2) A producer may not combine harvest lots that are of a different strain, were produced using different growing practices or harvested at a different time.

Stat. Auth.: Sections 2, 12 Ch 614, OL 2015

Stats. Implemented: Sec 12, 23 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Medical Marijuana Opt-In**845-025-2400****Medical Marijuana Grow Site Opt-In**

(1) For purposes of this rule:

(a) "Grower" means a person responsible for a marijuana grow site as that term is defined in OAR 333-008-0010.

(b) "Grow site" has the meaning given that term in OAR 333-008-0010.

(c) "Patient" has the same meaning given that term in OAR 333-008-0010.

(2) A grower may apply for a producer license to produce marijuana at the same location as a grow site only if all growers producing marijuana at that address are listed on the application.

(3) In addition to the requirements of OAR 845-025-1030, the applicants must provide proof that each patient for whom the applicants are producing marijuana at the grow site proposed to be licensed has granted permission for the applicants to apply for a license and sell excess usable marijuana and immature plants to licensees of the Commission.

(4) If the Commission approves the application and issues a producer license, the licensees may not possess more than the amount of usable marijuana or marijuana plants permitted under ORS 475.300 to 475.346 unless the licensed premises ceases to be registered as a grow site with the Oregon Health Authority (OHA).

(5) If the licensed premises ceases to be registered as a grow site with the Oregon Health Authority, the licensee must notify the Commission within 5 days and provide proof that no growers or patients are registered by OHA at the licensed premises.

(6) A licensee licensed under this rule must record in CTS within five days of initial licensure, all mature and immature marijuana plants and usable marijuana on the licensed premises.

(7) A producer, licensed under this rule:

(a) Is subject to these rules with the exception of OAR 845-025-2060;

(b) Must comply with the duties, functions and powers of a grower under ORS 475.300 to 475.346 and any rule adopted thereunder, except that a grower is not subject to OHA's requirements related to the reporting or tracking of mature marijuana plants and usable marijuana;

(c) May sell usable marijuana or immature plants in excess of amounts produced for a patient, to other licensees, in accordance with these rules; and

(d) May, notwithstanding section 6, chapter 614, Oregon Laws 2015, transfer marijuana and usable marijuana to other registrants under ORS 475.300 to 475.346 in accordance with any rules adopted by the OHA.

Stat. Auth.: Sec 116, Ch 614, OL 2015

Stats. Implemented: Sec 116, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Marijuana Retailers**845-025-2800****Retailer Privileges**

A retailer is the only licensee that is authorized to sell a marijuana item to a consumer 21 years of age or older.

Stat. Auth.: Sections 2, 16 Ch 614, OL 2015

Stats. Implemented: Sec 12, 16 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2820**Retailer Operational Requirements**

(1) A retailer may:

(a) Only receive marijuana items from a producer, wholesaler, processor or laboratory;

(b) Only sell marijuana items to a consumer from the licensed premises, unless sale is made pursuant to a bona fide order as described in OAR 845-025-2880;

(c) Only sell up to the following amounts at any one time to a consumer within one day:

- (A) One ounce of usable marijuana;
 - (B) 16 ounces of a cannabinoid product in solid form;
 - (C) 72 ounces of a cannabinoid product in liquid form;
 - (D) Five grams of cannabinoid extracts or concentrate, whether sold alone or contained in an inhalant delivery system;
 - (E) Four immature marijuana plants; and
 - (F) Ten marijuana seeds;
- (d) Refuse to sell marijuana items to a consumer; and
- (e) Only sell to consumers between the hours of 7:00 a.m. and 10 p.m. local time.
- (2) A retailer may not:
- (a) Provide free samples of a marijuana item to a consumer;
 - (b) Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts;
 - (c) Require a consumer to purchase other products or services as a condition of purchasing a marijuana item or receiving a discount on a marijuana item;
 - (d) Sell a marijuana item for less than the cost of acquisition;
 - (e) Provide coupons or offer discounts, except that uniform volume discounts are permitted;
 - (f) Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day; or
 - (g) Sell any product derived from industrial hemp, as that is defined in ORS 571.300, that is intended for human consumption, ingestion, or inhalation, unless it has been tested, labeled and packaged in accordance with these rules.
- (3) A retailer's pricing on marijuana items must remain consistent during each day.
- (4) Prior to completing the sale of a marijuana item to a consumer, a retailer must verify that the consumer has a valid, unexpired government-issued photo identification and must verify that the consumer is 21 years of age or older by viewing the consumer's:
- (a) Passport;
 - (b) Driver license, whether issued in this state or by any other state, as long as the license has a picture of the person;
 - (c) Identification card issued under ORS 807.400;
 - (d) United States military identification card; or
 - (e) Any other identification card issued by a state that bears a picture of the person, the name of the person, the person's date of birth and a physical description of the person.
- (5) Marijuana items offered for sale by a retailer must be stored in such a manner that the items are only accessible to authorized representatives until such time as the final sale to the consumer is completed.
- (6) For purposes of this rule, "coupon" means any coupon, ticket, certificate token or any other material that a person may use to obtain a price reduction or rebate in connection with the acquisition or purchase of a marijuana item.

Stat. Auth.: Sections 2, 16 Ch 614, OL 2015

Stats. Implemented: Sec 15, Ch 1, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2840

Retailer Premises

- (1) The licensed premises of a retailer:
- (a) May not be located in an area that is zoned exclusively for residential use.
 - (b) May not be located within 1,000 feet of:
 - (A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.

(c) Must be enclosed on all sides by permanent walls and doors.

(2) A retailer must post in a prominent place signs at every:

(a) Point of sale that read:

(A) "No Minors Permitted Anywhere on the Premises"; and

(B) "No On-Site Consumption".

(b) Exit from the licensed premises that reads: "Marijuana or Marijuana Infused Products May Not Be Consumed In Public".

(3) A retailer must designate a consumer sales area on the licensed premises where consumers are permitted. The area shall include the portion of the premises where marijuana items are displayed for sale to the consumer and sold and may include other contiguous areas such as a lobby or a restroom. The consumer sales area is the sole area of the licensed premises where consumers are permitted.

(4) All inventory must be stored on the licensed premises.

(5) For purposes of determining the distance between a retailer and a school referenced in subsection (1)(b) of this rule, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the licensed premises of a retailer. If any portion of the licensed premises is within 1,000 feet of a school as described subsection (1)(b) of this rule an applicant will not be licensed.

Stat. Auth.: Sections 2, 16 Ch 614, OL 2015

Stats. Implemented: Sec 6 & 16, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2860

Consumer Health and Safety Information

A retailer must:

(1) Post at the point of sale the following posters prescribed by the Commission, measuring 22 inches high by 17 inches wide that can be downloaded at www.oregon.gov/olcc/marijuana:

(a) A Pregnancy Warning Poster; and

(b) A Poisoning Prevention Poster.

(2) Post at the point of sale a color copy of the "Educate Before You Recreate" flyer measuring 22 inches high by 17 inches wide that can be downloaded at WHATSLEGALOREGON.COM.

(3) Distribute to each individual at the time of sale, a Marijuana Information Card, prescribed by the Commission, measuring 3.5 inches high by 5 inches long that can be downloaded at www.oregon.gov/olcc/marijuana.

Stat. Auth.: Sections 2, 16 Ch 614, OL 2015

Stats. Implemented: Sec 6 & 16, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2880

Delivery of Marijuana Items by Retailer

(1) A marijuana retailer may deliver a marijuana item to a residence in Oregon subject to compliance with this rule. For purposes of this rule, "residence" means a dwelling such as a house or apartment but does not include a dormitory, hotel, motel, bed and breakfast or similar commercial business.

(2) Delivery Approval Process.

(a) The retailer must request approval from the Commission prior to undertaking delivery service of marijuana items, on a form prescribed by the Commission that includes a statement that the retailer:

(A) Understands and will follow the requirements for delivery listed in this rule; and

(B) Has taken steps to ensure the personal safety of delivery personnel, including providing any necessary training.

(b) The retailer must receive written approval from the Commission prior to making any deliveries.

(c) The Commission may refuse to review any request for approval that is not complete and accompanied by the documents or disclosures required by the form.

(d) If the Commission denies approval the Commission shall give a retailer the opportunity to be heard.

(e) The Commission may withdraw approval for delivery service at any time if the Commission finds that the retailer is not complying with this rule, the personal safety of delivery personnel is at risk, the retailer's delivery service has been the target of theft, or the delivery service is creating a public safety risk.

(3) Bona Fide Orders.

(a) A bona fide order must be received by an approved retailer from the individual requesting delivery, before 4:00 p.m. on the day the delivery is requested.

(b) The bona fide order must contain:

(A) The individual requestor's name, date of birth, the date delivery is requested and the address of the residence where the individual would like the items delivered;

(B) A document that describes the marijuana items proposed for delivery and the amounts; and

(C) A statement that the marijuana is for personal use and not for the purpose of resale.

(4) Delivery Requirements.

(a) Deliveries must be made before 9:00 p.m. local time and may not be made between the hours of 9:00 p.m. and 8:00 a.m. local time.

(b) The marijuana retailer may only deliver to the individual who placed the bona fide order and only to individuals who are 21 years of age or older.

(c) At the time of delivery the individual performing delivery must check the identification of the individual to whom delivery is being made in order to determine that it is the same individual who submitted the bona fide order, that the individual is 21 years of age or older, and must require the individual to sign a document indicating that the items were received.

(d) A marijuana retailer may not deliver a marijuana item to an individual who is visibly intoxicated at the time of delivery.

(e) Deliveries may not be made more than once per day to the same physical address or to the same individual.

(f) Marijuana items delivered to an individual's residence must:

(A) Comply with the packaging rules in OAR 845-025-7000 to 845-025-7060; and

(B) Be placed in a larger delivery receptacle that has a label that reads: "Contains marijuana: Signature of person 21 years of age or older required for delivery".

(g) A retailer may not carry or transport at any one time more than a total of \$100 in retail value worth of marijuana items designated for retail delivery.

(h) All marijuana items must be kept in a lock-box securely affixed inside the delivery vehicle.

(i) A manifest must be created for each delivery or series of deliveries and the individual doing the delivery may not make any unnecessary stops between deliveries or deviate substantially from the manifest route.

(5) Documentation Requirements. A marijuana retailer must document the following regarding deliveries:

(a) The bona fide order and the date and time it was received by the retailer;

(b) The date and time the marijuana items were delivered;

(c) A description of the marijuana items that were delivered, including the weight or volume and price paid by the consumer;

(d) Who delivered the marijuana items; and

(e) The name of the individual to whom the delivery was made and the delivery address.

(6) A retailer is only required to maintain the name of an individual to whom a delivery was made for one year.

(7) Prohibitions.

(a) A retailer may deliver marijuana items only to a location within:

- (A) The city in which the licensee is licensed, if a licensee is located within a city; or
- (B) Unincorporated areas of the county in which the licensee is licensed, if a licensee is located in an unincorporated city or area within the county.
- (b) A retailer may not deliver marijuana items to a residence located on publicly-owned land.
- (8) Sanction. A violation of any section of this rule that is not otherwise specified in OAR 845-025-8590 is a Category III violation.

Stat. Auth.: Sections 2, 16 Ch 614, OL 2015
 Stats. Implemented: Sec 6 & 16, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2890

Collection of Taxes

- (1) A retailer must collect, at the point of sale, the tax imposed on the consumer under section 2, chapter 699, Oregon Laws 2015, and remit the tax to the Oregon Department of Revenue in accordance Department of Revenue rules.
- (2) A violation of this rule is a Category III violation.
- (3) An intentional violation of this rule is a Category I violation.

Stat. Auth.: Sections 2, 16 Ch 614, OL 2015
 Stats. Implemented: Sec 6 & 16, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Retail Marijuana Processors

845-025-3200

Definitions

For purposes of OAR 845-025-3200 to 845-025-3290:

- (1) "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.
- (2) "Food" means a raw, cooked, or processed edible substance, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

Stat. Auth.: Sec 2 & 14, Ch 614, OL 2015
 Stats. Implemented: Sec 2 & 14, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-3210

Endorsements

- (1) A marijuana processor may only process and sell cannabinoid products, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity. Endorsements types are:
- (a) Cannabinoid edible processor;
 - (b) Cannabinoid topical processor;
 - (c) Cannabinoid concentrate processor; and
 - (d) Cannabinoid extract processor.
- (2) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.
- (3) In order to apply for an endorsement an applicant or processor licensee must submit a form prescribed by the Commission that includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates.
- (4) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.
- (5) An individual processor licensee may hold multiple endorsements.
- (6) For the purposes of endorsements any cannabinoid product that is intended to be consumed orally is considered a cannabinoid edible.
- (7) If a processor is no longer going to process the product for which the processor is endorsed the processor must notify the Commission in writing and provide the date on which the processing

of that product will cease.

(8) The Commission may deny a processor's request for an endorsement if the processor cannot or does not meet the requirements in OAR 845-025-3200 to 845-025-3290 for the endorsement that is requested. If the Commission denies approval the processor has a right to a hearing under the procedures of ORS chapter 183.

Stat. Auth.: Sec 2 & 14, Ch 614, OL 2015

Stats. Implemented: Sec 14 & 18, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-3220

General Processor Requirements

(1) A processor must:

(a) Use equipment, counters and surfaces for processing that are food-grade and do not react adversely with any solvent being used.

(b) Have counters and surface areas that are constructed in a manner that reduce the potential for development of microbials, molds and fungi and that can be easily cleaned.

(c) Maintain the licensed premises in a manner that is free from conditions which may result in contamination and that is suitable to facilitate safe and sanitary operations for product preparation purposes.

(d) Store all marijuana items not in use in a locked area, including products that require refrigeration in accordance with OAR 845-025-1410.

(e) Assign every process lot a unique identification number and enter this information into CTS.

(2) A processor may provide a sample of a cannabinoid product, concentrate or extract to a marijuana wholesaler or retailer for the purpose of the wholesaler or retailer licensee determining whether to purchase the product but the product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.

(3) A processor may not process or sell a marijuana item:

(a) That by its shape and design is likely to appeal to minors, including but not limited to:

(A) Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or

(B) Products in the shape of an animal, vehicle, person or character.

(b) That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items.

Stat. Auth.: Sec 2 & 14, Ch 614, OL 2015

Stats. Implemented: Sec 14, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-3230

Processor Policies and Procedures

A processor must create and maintain written, detailed standard policies and procedures that include but are not limited to:

(1) Instructions for making each cannabinoid concentrate, extract or product.

(2) The ingredients and the amount of each ingredient for each process lot;

(3) The process for making each product;

(4) The number of servings in a process lot;

(5) The intended amount of THC per serving of the product;

(6) The process for making each process lot homogenous;

(7) If processing a cannabinoid concentrate or extract:

(a) Conducting necessary safety checks prior to commencing processing;

(b) Purging any solvent or other unwanted components from a cannabinoid concentrate or extract;

(8) Procedures for cleaning all equipment, counters and surfaces thoroughly;

- (9) Procedures for preventing growth of pathogenic organisms and toxin formation;
- (10) Proper handling and storage of any solvent, gas or other chemical used in processing or on the licensed premises in accordance with material safety data sheets and any other applicable laws;
- (11) Proper disposal of any waste produced during processing in accordance with all applicable local, state and federal laws, rules and regulations;
- (12) Quality control procedures designed to maximize safety and minimize potential product contamination;
- (13) Appropriate use of any necessary safety or sanitary equipment; and
- (14) Emergency procedures to be followed in case of a fire, chemical spill or other emergency.

Stat. Auth.: Sec 2 & 14, Ch 614, OL 2015

Stats. Implemented: Sec 14, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-3240

Processor Training Requirements

- (1) A processor must have a comprehensive training program that includes, at a minimum, the following topics:
 - (a) The standard operating policies and procedures;
 - (b) The hazards presented by all solvents or other chemicals used in processing and on the licensed premises as described in the material safety data sheet for each solvent or chemical; and
 - (c) Applicable Commission statutes and rules.
- (2) At the time of hire and prior to engaging in any processing, and once yearly thereafter, each employee involved in the processing of a cannabinoid concentrate, extract or product must be trained in accordance with the processor's training program.

Stat. Auth.: Sec 2 & 14, Ch 614, OL 2015

Stats. Implemented: Sec 14, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-3250

Cannabinoid Edible Processor Requirements

- (1) A cannabinoid edible processor may only process in a food establishment licensed by the Oregon Department of Agriculture (ODA) and must comply with the applicable provisions of OAR 603, Division 21, Division 22, Division 24, Division 25, with the exception of OAR 603-025-0020(17) and Division 28.
- (2) A cannabinoid edible processor may not:
 - (a) Engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant, single-event temporary restaurant, commissary, mobile unit, bed or breakfast, or warehouse licensed under ORS 624;
 - (b) Share a food establishment with a person not licensed and endorsed by the Commission as a cannabinoid edible processor;
 - (c) Process food intended for commercial sale that does not contain cannabinoids, at the licensed premises; or
 - (d) Use a cannabinoid concentrate or extract to process food unless that concentrate or extract was made by a processor licensed by the ODA under ORS 616.706.
- (3) A cannabinoid edible processor may share a food establishment with another cannabinoid edible processor if:
 - (a) The schedule, with specific hours and days that each processor will use the food establishment, is prominently posted at the entrance to the food service establishment and has been approved by the Commission:
 - (A) The schedule must be submitted to the Commission in writing and will be approved if it demonstrates that use of a shared food establishment by multiple cannabinoid edible processors does not create an increased compliance risk.
 - (B) A processor licensee may only change the schedule with prior written approval from the Commission.

(b) Each licensee designates a separate area to secure, in accordance with OAR 845-025-1410, any marijuana, cannabinoid products, concentrates or extracts that a licensee stores at the food establishment. If a cannabinoid edible processor does not store marijuana, cannabinoid products, concentrates or extracts at the food establishment those items must be stored on a licensed premises.

(4) A food establishment used by a cannabinoid edible processor is considered a licensed premises and must meet the security and other licensed premises requirements in these rules.

(5) A cannabinoid edible processor is strictly liable for any violation found at a shared food establishment during that processor's scheduled time or within that processor's designated area in the food establishment.

Stat. Auth.: Sec 2 & 14, Ch 614, OL 2015

Stats. Implemented: Sec 14 & 18 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-3260

Cannabinoid Concentrate and Extract Processor Requirements

(1) Cannabinoid Concentrates or Extracts. A processor with a cannabinoid concentrate or extract endorsement:

(a) May not use Class I solvents as those are classified in the Federal Drug Administration Guidance, Table I, published in the Federal Register on December 24, 1997 (62 FR 67377).

(b) Must:

(A) Only use a hydrocarbon-based solvent that is at least 99 percent purity.

(B) Only use a non-hydrocarbon-based solvent that is food-grade.

(C) Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(D) Use only potable water and ice made from potable water in processing.

(E) If making a concentrate or extract that will be used in a cannabinoid edible, be endorsed as a cannabinoid edible processor and comply with OAR 845-025-3250.

(2) Cannabinoid Extracts. A processor with an endorsement to make cannabinoid extracts:

(a) May not use pressurized canned butane.

(b) Must:

(A) Process in a:

(i) Fully enclosed room clearly designated on the current diagram of the licensed premises.

(ii) Spark proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.

(B) Use a commercially manufactured professional grade closed loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted good engineering practices, such as:

(i) The American Society of Mechanical Engineers (ASME);

(ii) American National Standards Institute (ANSI);

(iii) Underwriters Laboratories (UL); or

(iv) The American Society for Testing and Materials (ASTM).

(C) If using CO2 in processing, use a professional grade closed loop CO2 gas extraction system where every vessel is rated to a minimum of nine hundred pounds per square inch.

(D) Have equipment and facilities used in processing approved for use by the local fire code official;

(E) Meet any required fire, safety, and building code requirements specified in:

(i) Applicable Oregon laws;

(ii) National Fire Protection Association (NFPA) standards;

(iii) International Building Code (IBC);

(iv) International Fire Code (IFC); and

(F) Have an emergency eye-wash station in any room in which cannabinoid extract is being processed; and

(G) Have all applicable material safety data sheets readily available to personnel working for the processor.

(3) Cannabinoid Concentrates. A processor with an endorsement to make cannabinoid concentrates:

(a) May not:

(A) Use denatured alcohol.

(B) If using carbon dioxide, apply high heat or pressure.

(b) Must only use or store dry ice in a well-ventilated room to prevent against the accumulation of dangerous levels of CO₂.

(c) May use:

(A) A mechanical extraction process;

(B) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; or

(C) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use heat over 180 degrees or pressure.

Stat. Auth.: Sec 2 & 14, Ch 614, OL 2015

Stats. Implemented: Sec 14, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-3280

Cannabinoid Topical Processor

A processor with a cannabinoid topical endorsement may not engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant or single-event temporary restaurant licensed under ORS 624.

Stat. Auth.: Sec 2 & 14, Ch 614, OL 2015

Stats. Implemented: Sec 14, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-3290

Recordkeeping

(1) A processor must keep records documenting the following:

(a) How much marijuana is in each process lot;

(b) If a product is returned by a licensee, how much product is returned and why;

(c) If a defective product was reprocessed, how the defective product was reprocessed; and

(d) Each training provided in accordance with OAR 845-025-3240, the names of employees who participated in the training, and a summary of the information provided in the training.

(2) A processor must obtain a material safety data sheet for each solvent used or stored on the licensed premises and maintain a current copy of the material safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process on the licensed premises.

(3) If the Commission requires a processor to submit or produce documents to the Commission that the processor believes falls within the definition of a trade secret as defined in ORS 192.501, the processor must mark each document "confidential" or "trade secret".

Stat. Auth.: Sec 2 & 14, Ch 614, OL 2015

Stats. Implemented: Sec 14, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Recreational Marijuana Wholesaler

845-025-3500

Wholesale License Privileges; Prohibitions

(1) License Privileges. A wholesale licensee may:

(a) Purchase marijuana items from a producer, processor or wholesale licensee.

(b) Sell, including sale by auction:

(A) Any type of marijuana item to a retail, wholesale or research certificate holder.

(B) Only immature marijuana plants and seeds to a producer licensee.

(C) Only usable marijuana to a processor licensee.

(c) Transport and store marijuana items on behalf of other licensees, pursuant to the requirements of OAR 845-025-7500 to OAR 845-025-7590.

(d) Provide a sample of usable marijuana or a cannabinoid product, concentrate or extract to a marijuana wholesaler, retailer or processor licensee for the purpose of the licensee determining whether to purchase the product. The product may not be consumed on a licensed premises. Any sample provided to another licensee must be recorded in CTS.

(2) Prohibited Conduct. A wholesale licensee may not:

(a) Receive marijuana items from any source other than a producer, processor or wholesale licensee.

(b) Sell or otherwise transfer a marijuana item to consumers or any entity other than a licensee of the Commission.

(3) For purposes of this rule, "marijuana item" does not include a mature marijuana plant.

Stat. Auth.: Sec 2 & 15, Ch 614, OL 2015

Stats. Implemented: Sec 15 & 23 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Marijuana Testing Laboratories

845-025-5000

Laboratory License Privileges

A licensed marijuana testing laboratory may:

(1) Obtain samples of marijuana items from licensees for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490;

(2) Transport and dispose of samples as provided in these rules; and

(3) Perform testing on marijuana items in a manner consistent with the laboratory's accreditation by the Oregon Health Authority, these rules and OAR 333-007-0300 to 333-007-0490.

Stat. Auth.: Sec 93, Ch 614, OL 2015

Stats. Implemented: Sec 93, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5030

Laboratory Licensing Requirements

(1) General Requirements

(a) A laboratory that intends to test marijuana items for producer, processor, wholesale or retail licensees must be licensed by the Commission.

(b) An applicant for a license under this rule must comply with all applicable application requirements in OAR 845-025-1030 and pay the required application and license fees, except that a laboratory licensee is not subject to any residency requirements.

(c) A laboratory application is subject to the same application review procedures as other applicants.

(d) In addition to the denial criteria in OAR 845-025-1115, the Commission may refuse to issue a laboratory license for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules.

(e) Laboratory application and license fees are established in OAR 845-025-1060.

(2) Accreditation by the Oregon Health Authority

(a) In addition to the requirements listed in section (1) of this rule, an applicant for a laboratory license must be accredited by the Authority with a scope of accreditation that includes the sampling and testing analysis required in OAR 333-007-0300 to 333-007-0490 prior to exercising the licensed privileges in 845-025-5000.

(b) An applicant for a license under this rule may apply for licensure prior to receiving accreditation, but the Commission will not issue a license until proof of accreditation is received.

(c) The Commission may make efforts to verify or check on an applicant's accreditation status during the licensing process, but an applicant bears the burden of taking all steps needed to secure accreditation and present proof of accreditation to the Commission.

(d) In addition to the denial criteria in OAR 845-025-1115, the Commission may consider an application incomplete if the applicant does not obtain accreditation from the Authority within six months of applying for a license. The Commission shall give an applicant an opportunity to be heard if an application is declared incomplete under this section, but an applicant is not entitled to a contested case proceeding under ORS chapter 183. An applicant whose application is declared incomplete may reapply at any time.

(e) A licensed laboratory must maintain accreditation by the Authority at all times while licensed by the Commission. If a laboratory's accreditation lapses, is canceled or is suspended at any time for any reason while licensed by the Commission, the laboratory may not engage in any activities permitted under the license until accreditation is reinstated.

(f) Exercising license privileges while accreditation is suspended or canceled is a Category I violation and could result in license cancellation.

(3) Renewal.

(a) A laboratory must renew its license annually and pay the required renewal fees in accordance with OAR 845-025-1190.

(b) A laboratory renewal application may be denied for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules.

Stat. Auth.: Sec 93, Ch 614, OL 2015

Stats. Implemented: Sec 93, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5045

Laboratory Tracking and Reporting

(1) A laboratory licensee is required to utilize CTS and follow all requirements established by OAR 845-025-7500 to OAR 845-025-7590.

(2) A laboratory licensee is responsible for tracking and entering the following information into CTS:

(a) Receipt of samples for testing, including:

(A) Size of the sample;

(B) Name of licensee from whom the sample was obtained;

(C) Date the sample was collected; and

(D) UID tag information associated with the harvest or process lot from which the sample was obtained.

(b) Tests performed on samples, including:

(A) Date testing was performed;

(B) What samples were tested for;

(C) Name of laboratory responsible for testing; and

(D) Results of all testing performed.

(c) Disposition of any testing sample material.

Stat. Auth.: Sec 93, Ch 614, OL 2015

Stats. Implemented: Sec 93, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5060

Laboratory Transportation and Waste Disposal

(1) A laboratory licensee must follow all rules regarding transportation of marijuana items established in OAR 845-025-7700.

(2) A laboratory licensee must follow all rules regarding disposal of samples from marijuana items established in OAR 845-025-7750.

Stat. Auth.: Sec 93, Ch 614, OL 2015

Stats. Implemented: Sec 93, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5075

Laboratory Licensee Prohibited Conduct

(1) In addition to the prohibitions set forth in OAR 845-025-8520, a laboratory licensee may not:

- (a) Perform any required marijuana testing using any testing methods or equipment not permitted under the laboratory's accreditation through the Authority;
- (b) Perform any required marijuana testing for any licensed marijuana producer, processor, wholesaler or retailer in which the laboratory licensee has a financial interest; or
- (c) Engage in any activity that violates any provision of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, OAR 333-007-0300 through 333-007-0490 or OAR 333, Division 64 as applicable or these rules.

(2) The Commission may suspend or cancel a laboratory license for any violation of sections 91 to 99, chapter 614, Oregon Laws 2015, or these rules. The licensee has a right to a hearing under the procedures of ORS chapter 183; OAR chapter 137, division 003; and OAR chapter 845, division 003.

(3) A violation of this rule is a Category I violation and could result in license revocation.

Stat. Auth.: Sec 93, Ch 614, OL 2015

Stats. Implemented: Sec 93, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Research Certificate

845-025-5300

Application for Marijuana Research Certificate

(1) The Commission shall issue Marijuana Research Certificates to qualifying public and private researchers who present research proposals that demonstrate:

- (a) The proposed research would benefit the state's cannabis industry, medical research or public health and safety; and
- (b) The proposed operation and methodology complies with all applicable laws and administrative rules governing marijuana licensees and licensee representatives.

(2) The process for applying for, receiving and renewing a certificate shall be the same as the process for applying for, receiving and renewing a marijuana license under OAR 845-025-1030 to 845-025-1115 except that an applicant for a Marijuana Research Certificate is not subject to the residency requirements in OAR 845-025-1045(2)(b).

(3) In addition to the application requirements in OAR-025-1030 the applicant must also provide:

- (a) A clear description of the research proposal;
- (b) A description of the researchers' expertise in the scientific substance and methods of the proposed research;
- (c) An explanation of the scientific merit of the research plan, including a clear statement of the overall benefit of the applicant's proposed research to Oregon's cannabis industry, medical research, or to public health and safety;
- (d) Descriptions of key personnel, including clinicians, scientists, or epidemiologists and support personnel who would be involved in the research, demonstrating they are adequately trained to conduct this research;
- (e) A clear statement of the applicant's access to funding and the estimated cost of the proposed research;
- (f) A disclosure of any specific conflicts of interest that the researcher or other key personnel have regarding the research proposal;
- (g) A description of the research methods demonstrating an unbiased approach to the proposed research; and
- (h) If the applicant intends to research the use of pesticides, an experimental use permit issued by Oregon Department of Agriculture pursuant to OAR 603-057-0160.

(4) Research certificates will be granted for up to a three-year term.

(5) The Commission may request that the research certificate holder submit information and fingerprints required for a criminal background check at any time within the research certificate

term.

(6) A certificate holder may, in writing, request that the Commission waive one or more of these rules. The request must include the following information:

- (a) The specific rule and subsection of a rule that is requested to be waived;
 - (b) The reason for the waiver;
 - (c) A description of an alternative safeguard the licensee can put in place in lieu of the requirement that is the subject of the waiver, or why such a safeguard is not necessary; and
 - (d) An explanation of how and why the alternative safeguard or waiver of the rule protects public health and safety, prevents diversion of marijuana, and provides for accountability.
- (7) The Commission may, in its discretion, and on a case-by-case basis, grant the waiver in whole or in part if it finds:
- (a) The reason the certificate holder is requesting the waiver is because another state or local law prohibits compliance; or
 - (b) The certificate holder cannot comply with the particular rule, for reasons beyond the certificate holder's control or compliance with the rule is cost prohibitive; or
 - (c) Because of the nature of the research, the Commission finds that compliance with a particular rule is not necessary and that even with the waiver public health and safety can be protected, there is no increased opportunity for diversion of marijuana, and the certificate holder remains accountable.
- (8) The Commission must notify the certificate holder in writing whether the request has been approved. If the request is approved the notice must specifically describe any alternate safeguards that are required and, if the waiver is time limited, must state the time period the waiver is in effect.
- (9) The Commission may withdraw approval of the waiver at any time upon a finding that the previously approved waiver is not protecting public health and safety or the research certificate holder has other issues with compliance. If the Commission withdraws its approval of the waiver the certificate holder will be given a reasonable period of time to come into compliance with the requirement that was waived.

Stat. Auth.: Sec 113, Ch 614, OL 2015

Stats. Implemented: Sec 113, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5350

Marijuana Research Certificate Privileges and Prohibitions

- (1) A certificate holder may receive marijuana items from a licensee or a registrant under ORS 475.300 to 475.346.
- (2) A certificate holder may not sell or otherwise transfer marijuana items to any other person except when disposing of waste pursuant to OAR 845-025-7750, or transferring to another certificate holder.
- (3) A certificate holder may not conduct any human subject research related to marijuana unless the certificate holder has received approval from an institutional review board that has adopted the Common Rule, 45 CFR Part 46.
- (4) All administrative rules adopted by Commission for the purpose of administering and enforcing chapter 1, Oregon Laws 2015; chapter 614, Oregon Laws 2015; and any rules adopted thereunder with respect to licensees and licensee representatives apply to certificate holders except for those which are inconsistent with this rule.

Stat. Auth.: Sec 113, Ch 614, OL 2015

Stats. Implemented: Sec 113, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Marijuana Handler Permits

845-025-5500

Marijuana Handler Permit and Retailer Requirements

- (1) A marijuana handler permit is required for any individual who performs work for or on behalf of a marijuana retailer if the individual participates in:
 - (a) The possession, securing or selling of marijuana items at the premises for which the license has been issued;

(b) The recording of the possession, securing or selling of marijuana items at the premises for which the license has been issued;

(c) The verification of any document described in section 16, chapter 1, Oregon Laws 2015; or

(d) The direct supervision of a person described in subsections (a) to (c) of this section.

(2) An individual who is required by section (1) of this rule to hold a marijuana handler permit must carry that permit on his or her person at all times when performing work on behalf of a marijuana retailer.

(3) A person who holds a marijuana handler permit must notify the Commission in writing within 10 days of any conviction for a misdemeanor or felony.

(4) A marijuana retailer must verify that an individual has a valid marijuana handler permit issued in accordance with OAR 845-025-5500 to 845-025-5590 before allowing the individual to perform any work at the licensed premises.

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5520

Marijuana Handler Applications

(1) In order to obtain a marijuana handler permit an individual must submit an application on a form prescribed by the Commission. The application must contain the applicant's:

(a) Name;

(b) Mailing address;

(c) Date of birth;

(d) Signature; and

(e) Response to conviction history questions.

(2) In addition to the application an applicant must submit:

(a) A copy of a driver's license or identification card issued by one of the fifty states in the United States of America or a passport;

(b) The applicable fee as specified in OAR 845-025-1060; and

(c) Proof of having completed a marijuana handler education course and passed the examination.

(3) If an application does not contain all the information requested or if the information and fee required in section (2) of this rule is not provided to the Commission, the application will be returned to the individual as incomplete, along with the fee.

(4) If an application is returned as incomplete, the individual may reapply at any time.

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5540

Marijuana Handler Permit Denial Criteria

(1) The Commission must deny an initial or renewal application if the applicant:

(a) Is not 21 years of age or older; or

(b) Has not completed the marijuana handler education course and passed the examination.

(2) The Commission may deny a marijuana handler permit application, unless the applicant shows good cause to overcome the denial criteria, if the applicant:

(a) Has been convicted of a felony, except for a felony described in section 20(4)(a), chapter 614, Oregon Laws 2015;

(b) Has violated a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules; or

(c) Makes a false statement to the Commission.

(3) If the Commission denies an application under subsection (2)(b) or (c) of this rule the individual may not reapply within two years of the date the Commission received the application.

(4) A Notice of Denial must be issued by the Commission in accordance with ORS 183.

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5560

Marijuana Handler Course Education and Examination Requirements

(1) An individual must, prior to applying for a marijuana handler permit, complete an approved marijuana handler education course, pass the required examination, and pay the fee specified in OAR 845-025-1060.

(2) An individual must score at least 70 percent on the marijuana handler course examination in order to pass.

(a) An individual who does not pass the examination may retake the examination up to two times within 90 days of the date the individual took the course.

(b) If the individual fails to pass both retake examinations, the individual must retake the handler education course.

(3) An individual must take a marijuana handler education course at least every five years prior to applying for renewal of a marijuana handler permit.

(4) The Commission may require additional education or training for permit holders at any time, with adequate notice to permit holders.

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5580

Marijuana Handler Renewal Requirements

(1) An individual must renew his or her marijuana handler permit every five years by submitting a renewal application, on a form prescribed by the Commission and the applicable fee specified in OAR 845-025-1060.

(2) Renewal applications will be reviewed in accordance with OAR 845-025-5520 and 845-025-5540.

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5590

Suspension or Revocation

(1) The Commission may suspend or cancel the permit of any marijuana handler if the handler:

(a) Has been convicted of a felony, except for a felony described in section 20, chapter 614, Oregon Laws 2015(4)(a);

(b) Has violated a provision of sections 3 to 70, chapter 1, Oregon Laws 2015, or these rules; or

(c) Makes a material false statement to the Commission.

(2) If an individual's permit is canceled under sections (1)(b) or (c) of this rule the individual may not reapply within two years from the date a final order of revocation is issued.

(3) A notice of suspension or revocation must be issued by the Commission in accordance with ORS 183.

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Stat. Auth.: Sec 19 & 20, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Testing

845-025-5700

Licensee Testing Requirements

(1) Licensees are required to test marijuana items in accordance with OAR 333-007-0300 to 333-007-0490.

(2) A licensee may not sell or transfer a marijuana item:

(a) That is required to be tested before being sold or transferred unless the required testing has been performed by a licensed laboratory; or

(b) That is from a batch that has failed a test and the batch has not been retested in accordance with OAR 333-007-0460 and subsequently passed the required testing.

(3) A violation of this rule is a Category I violation.

Stat. Auth.: Sec 91 & 92, Ch 614, OL 2015

Stat. Auth.: Sec 91 & 92, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5720

Labeling, Storage, and Security of Pre-Tested Marijuana Items

(1) Following samples being taken from a harvest or process lot a licensee must:

(a) Label the harvest or process lot with the following information:

(A) The laboratory doing the samples;

(B) The test batch samples numbers, once known;

(C) The date the samples were taken;

(D) The harvest or process lot number;

(E) The licensee's license number; and

(F) In bold, capital letters, no smaller than 12 point font, "PRODUCT NOT TESTED".

(b) Store and secure the harvest or process lot in a manner that prevents the product from being tampered with or sold prior to test results being reported.

(2) A harvest or process lot may be stored in more than one receptacle as long as the labeling requirements are met.

(3) If the samples pass testing the product may be sold in accordance with the applicable Commission rules.

(4) If the samples do not pass testing the licensee must comply with OAR 845-025-5740.

Stat. Auth.: Sec 91 & 92, Ch 614, OL 2015

Stat. Auth.: Sec 91 & 92, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5740

Failed Test Samples

(1) If a sample fails any initial test the licensee may have samples retested in accordance with OAR 333-007-0460.

(2) Failed microbiological contaminant testing.

(a) If a sample from a batch of usable marijuana fails microbiological contaminant testing the batch may be used to make a cannabinoid concentrate or extract if the processing method effectively sterilizes the batch such as a method using a hydrocarbon-based solvent or a CO2 closed loop system.

(b) If a sample from a batch of a cannabinoid concentrate or extract fails microbiological contaminant testing the batch may be further processed if the processing method effectively sterilizes the batch such as a method using a hydrocarbon-based solvent or a CO2 closed loop system.

(c) A batch that is sterilized in accordance with subsection (a) or (b) of this section must be resampled and retested in accordance with OAR 333-007-0460 and must be tested, if not otherwise required for that product, for microbiological contaminants, solvents and pesticides.

(3) Failed solvent testing.

(a) If a sample from a batch fails solvent testing the batch may be re-processed using procedures that would reduce the concentration of solvents to less than the action level.

(b) A batch that is re-processed in accordance with subsection (a) of this section must be resampled and retested in accordance with OAR 333-007-0460 and must be tested, if not otherwise required for that product, for microbiological contaminants, solvents and pesticides.

(4) Failed water activity testing.

(a) If a sample from a batch of usable marijuana fails for water activity, the batch from which the sample was taken may continue to dry or cure.

(b) A batch that undergoes additional drying or curing as described in subsection (a) of this section must be resampled and retested in accordance with OAR 333-007-0460.

(5) Failed pesticide testing. If a sample from a batch fails pesticide testing the batch must be destroyed, in accordance with OAR 845-025-7750, or re-tested in accordance with OAR 333-007-0460.

(6) If a sample fails a retest required under sections (2), (3) and (5) of this rule for microbiological contaminants, solvents or pesticides a licensee must destroy or dispose of the batch.

(7) A regulatory specialist must witness the destruction or disposal of a batch if destruction or disposal is required by this rule.

(8) A licensee must inform a laboratory prior to samples being taken that the batch is being resampled and retested after an initial failed test.

(9) A licensee must, as applicable:

(a) Have detailed procedures for sterilization processes to remove microbiological contaminants and for reducing the concentration of solvents or pesticides; and

(b) Document, in CTS, all resampling, retesting, sterilization, re-processing, remediation and destruction or disposal.

Stat. Auth.: Sec 91 & 92, Ch 614, OL 2015

Stat. Auth.: Sec 91 & 92, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-5760

Audit Testing or Compliance Testing

(1) The Commission may require a licensee to have samples from a harvest or process lot submitted to a laboratory for testing in order to determine whether the licensee is in compliance with OAR 333-007-0300 to 333-007-0490 and these rules, at the licensee's expense.

(2) Audit testing must comply with OAR 333-007-0300 to 333-007-0490 and any applicable Oregon Environmental Laboratory Accreditation Program rules.

(3) The Commission may initiate an investigation of a licensee upon receipt of a tentatively identified compounds report from a laboratory, reported in accordance with OAR 333-064-0100 and may require the licensee to submit samples for additional testing, including testing for analytes that are not required by OAR 333-007-0300 to 333-007-0490, at the licensee's expense.

Stat. Auth.: Sec 91 & 92, Ch 614, OL 2015

Stat. Auth.: Sec 91 & 92, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Packaging and Labeling

845-025-7000

Definitions

For the purposes of OAR 845-025-7000 to 845-025-7060:

(1) "Attractive to minors" means packaging, labeling and marketing that features:

(a) Cartoons;

(b) A design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;

(c) Features symbols or celebrities that are commonly used to market products to minors.

(2) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(3) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.

(4) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.

(5)(a) "Cannabinoid product" means a cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana.

(b) "Cannabinoid product" does not include:

- (A) Usable marijuana by itself;
- (B) A cannabinoid concentrate or extract by itself; or
- (C) Industrial hemp, as defined in ORS 571.300.

(6) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:

- (a) The use of comically exaggerated features;
- (b) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or
- (c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.

(7) "Child resistant" means packaging that is:

- (a) Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly as defined by 16 CFR 1700.20 (1995); and
- (b) Resealable for any cannabinoid concentrate or extract, or cannabinoid product, intended for more than a single use or containing multiple servings.

(8) "Consumer":

- (a) Has the meaning given that term in section 1, chapter 614, Oregon Laws 2015; or
- (b) Means a patient or designated primary caregiver receiving a transfer from a medical marijuana dispensary.

(9) "Container" means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed prior to being sold to a consumer.

(10) "Exit Package" means a sealed container provided at the retail point of sale in which any marijuana items already within a container are placed.

(11) "Licensee" has the meaning given that term in OAR 845-025-1015.

(12) Marijuana.

(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(13) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product or a cannabinoid concentrate or extract.

(14) "Processing" means the compounding or conversion of marijuana into cannabinoid products or cannabinoid concentrates or extracts.

(15) "Producing" means:

- (a) Planting, cultivating, growing, trimming or harvesting marijuana; or
- (b) Drying marijuana leaves and flowers.

(16) "Registrant" means a person registered with the Authority under ORS 475.304, 475.314, or section 85, chapter 614, Oregon Laws 2015.

(17) Usable Marijuana.

(a) "Usable marijuana" means the dried leaves and flowers of marijuana.

(b) "Usable marijuana" does not include:

- (A) The seeds, stalks and roots of marijuana; or
- (B) Waste material that is a by-product of producing or processing marijuana.

Stat. Auth.: Sec 103, Ch 614, OL 2015

Stat. Auth.: Sec 103 & 100 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-7020

Packaging for Sale to Consumer

(1) The purpose of this rule is to set the minimum standards for the packaging of marijuana items that are sold to the consumer, applicable to:

- (a) A licensee; or
 - (b) On and after April 1, 2016, a registrant who is not exempt from the labeling requirements.
- (2) Containers or packaging for marijuana items must protect a marijuana item from contamination and must not impart any toxic or deleterious substance to the marijuana item.
- (3) Marijuana items for ultimate sale to a consumer must:
- (a) Be packaged in a container that is child-resistant;
 - (b) Not be packaged or labeled in a manner that is attractive to minors; and
 - (c) Be labeled in accordance with OAR 333-007-0010 to 333-007-0100.
- (4) Packaging may not contain any text that makes an untruthful or misleading statement.
- (5) Nothing in this rule:
- (a) Prevents the re-use of packaging that is capable of continuing to be child-resistant, as permitted by rules established by the Commission or the Authority; or
 - (b) Prohibits the Commission or the Authority from imposing additional packaging requirements in their respective rules governing licensees and registrants.

Stat. Auth.: Sec 103, Ch 614, OL 2015

Stat. Auth.: Sec 12, 14, 15, 16 103 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-7040

Wholesaler and Retailer Packaging and Labeling Compliance Requirements

(1) If a wholesaler or a retailer receives a marijuana item that is not packaged or labeled in accordance with OAR 845-025-7000 to 845-025-7060 or 333-007-0010 to 333-007-0100, the wholesaler or retailer must notify the Commission and return the marijuana item to the licensee who transferred the wholesaler or retailer the marijuana item. The wholesaler or retailer must document the return and the reason for the return in the tracking system.

(2) Sale of a marijuana item that is not packaged and labeled in accordance with OAR 845-025-7000 to 845-025-7060 and 333-007-0010 to 333-007-0100 is a category III violation.

Stat. Auth.: Sec 103, Ch 614, OL 2015

Stat. Auth.: Sec 15, 16 103 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-7060

Packaging and Labeling Pre-approval Process

(1) Prior to a marijuana item being sold to a consumer, a licensee or a registrant, if pre-approval is required by the Authority, packaging marijuana items for ultimate sale to a consumer must submit a prototype of the packaging complete with labels affixed to the package for pre-approval by the Commission, subject to the exceptions in sections (6) to (8) of this rule, the packaging and labels must be accompanied by the following:

- (a) A fee as specified in OAR 845-025-1060; and
 - (b) Information including but not limited to:
 - (A) The licensee's license number or the registrant's registration number; and
 - (B) A picture of and description of the item to be placed in the package.
- (2) The Commission will evaluate the packaging and label in order to determine whether:
- (a) The packaging:
 - (A) Is child resistant.
 - (B) Is marketed in a manner attractive to minors.
 - (C) Contains untruthful or misleading content.
 - (D) If the packaging is for a cannabinoid edible or other cannabinoid products, is attractive to minors.
 - (b) The label complies with the Authority's labeling rules, OAR 333-007-0010 to 333-007-0100.

(3) The Commission must review the packaging and labeling and notify the licensee or registrant whether the packaging and labeling is approved, and if not approved, a description of the packaging or labeling deficiencies.

(4) If a licensee or registrant's packaging or labeling is deficient it must correct the deficiencies and resubmit the packaging for pre-approval, but the licensee or registrant is not required to submit an additional fee unless the packaging is found deficient for a second time in which case the licensee must resubmit the packaging or labeling in accordance with subsection (1) of this rule.

(5) If the label affixed to the package is not compliant with OAR 333-007-0010 to 333-007-0100 the package will not be approved.

(6) Packages and labels that have been previously approved do not need to be resubmitted if the only changes to the packaging or label are:

(a) Changes in the:

(A) Harvest or processing date;

(B) Strain;

(C) Test results;

(D) Net weight or volume; or

(E) Harvest or process lot numbers.

(b) The deletion of any non-mandatory label information.

(c) The addition, deletion or change in the:

(A) UPC barcodes or 2D mobile barcodes (QR codes); or

(B) Website address, phone number, fax number, or zip code of the licensee or registrant.

(d) The repositioning of any label information on the package.

(7) The Commission must publish a list of previously-approved commercially available packaging. Packaging identified on this list as approved for certain product types does not need to be submitted for approval if used for the type of product for which it is approved and the packaging does not contain any graphics, pictures or logos.

(8) Labels for marijuana items do not require pre-approval if they contain only the information required by OAR 333-007-0010 to 333-007-0100 and have no graphics, pictures or logos.

(9) Notwithstanding any provisions of this rule, the Commission may permit or require electronic submission of labels and packaging for approval.

Stat. Auth.: Sec 102 & 104, Ch 614, OL 2015

Stat. Auth.: Sec 102 & 104, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Seed-To-Sale Tracking

845-025-7500

CTS Requirements

(1) A licensee must:

(a) Use CTS as the primary inventory and recording keeping system.

(b) Have a CTS account activated and functional prior to operating or exercising any privileges of the license and must maintain an active account while licensed.

(2) A licensee must have at least one license holder who is a CTS administrator and a licensee may authorize additional license holders or licensee representatives to obtain Administrator accounts.

(3) In order to obtain a CTS administrator account, a license holder must attend and successfully complete all required CTS training. The Commission may also require additional ongoing, continuing education for an individual to retain his or her CTS administrator account.

(4) A licensee may designate licensee representatives as CTS users. A designated user must be trained by a CTS administrator in the proper and lawful use of CTS.

(5) A licensee must:

(a) Maintain an accurate and complete list of all CTS administrators and CTS users for each licensed premises and must update the list when a new CTS user is trained.

(b) Train and authorize any new CTS users before those users are permitted to access CTS or input, modify, or delete any information in CTS.

(c) Cancel any CTS administrator or user from an associated CTS account if that individual is no longer a licensee representative or the administrator or user has violated OAR 845-025-7500 to 845-025-7590.

(d) Correct any data that is entered into CTS in error.

(6) A licensee is accountable for all actions licensee representatives take while logged into CTS or otherwise conducting inventory tracking activities.

(7) Nothing in this rule prohibits a licensee from using secondary separate software applications to collect information to be used by the business including secondary inventory tracking or point of sale systems. Secondary software applications must use CTS data as the primary source of data and must be compatible with updating to CTS. If a licensee uses a separate software application it must get approval from the vendor contracting with the Commission to provide CTS and the software application must:

(a) Accurately transfer all relevant CTS data to and from CTS for the purposes of reconciliations with any secondary systems.

(b) Preserve original CTS data when transferred to and from a secondary application.

(8) If at any point a licensee loses access to CTS for any reason, the licensee must keep and maintain comprehensive records detailing all tracking inventory activities that were conducted during the loss of access.

(a) Once access is restored, all inventory tracking activities that occurred during the loss of access must be entered into CTS.

(b) A licensee must document when access to the system was lost and when it was restored.

(c) A licensee may not transport any marijuana items to another licensed premises until such time as access is restored and all information is recorded into CTS.

Stat. Auth.: Sec 2, 12, 14, 15, 16 & 93 , Ch 614, OL 2015

Stat. Auth.: Sec 23 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-7520

Unique Identification (UID) Tags

A licensee must:

(1) Use UID tags issued by a Commission-approved vendor that is authorized to provide UID tags for CTS. Each licensee is responsible for the cost of all UID tags and any associated vendor fees.

(2) Have an adequate supply of UID tags at all times.

(3) Properly tag all inventory that is required to have a UID tag.

(4) Place tags in a position that can be clearly read by an individual standing next to the item and the tag must be kept free from dirt and debris.

Stat. Auth.: Sec 2, 12, 14, 15, 16 & 93 , Ch 614, OL 2015

Stat. Auth.: Sec 23 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-7540

CTS User Requirements

(1) A licensee and any designated CTS administrator or user shall enter data into CTS that fully and transparently accounts for all inventory tracking activities.

(2) A licensee is responsible for the accuracy of all information entered into CTS.

(3) An individual entering data into the CTS system may only use that individual's CTS account. Each CTS administrator and CTS user must have a unique log-on and password, which may not be used by any other person.

(4) A violation of this rule is a Category III violation. Intentional misrepresentation of data entered into the CTS system is a Category I violation.

Stat. Auth.: Sec 2, 12, 14, 15, 16 & 93 , Ch 614, OL 2015

Stat. Auth.: Sec 23 Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-7560**System Notifications**

A licensee must:

- (1) Monitor all compliance notifications from CTS and resolve the issues detailed in the compliance notification in a timely fashion. A licensee may not dismiss a compliance notification in CTS until the licensee resolves the compliance issues detailed in the notification.
- (2) Take appropriate action in response to informational notifications received through CTS, including but not limited to notifications related to UID billing, enforcement alerts, and other pertinent information.

Stat. Auth.: Sec 2, 12, 14, 15, 16 & 93 , Ch 614, OL 2015
 Stat. Auth.: Sec 23 Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-7580**Reconciliation with Inventory**

A licensee must:

- (1) Use CTS for all inventory tracking activities at a licensed premises.
- (2) Reconcile all on-premises and in-transit marijuana item inventories each day in CTS at the close of business.

Stat. Auth.: Sec 2, 12, 14, 15, 16 & 93 , Ch 614, OL 2015
 Stat. Auth.: Sec 23 Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-7590**Inventory Audits**

The Commission may perform a physical audit of the inventory of any licensee at the agency's discretion and with reasonable notice to the licensee. Variances between the physical audit and the inventory reflected in CTS at the time of the audit, which cannot be attributed to normal moisture variation in usable marijuana, are violations. The Commission may impose a civil penalty, suspend or cancel a licensee for violation of this section.

Stat. Auth.: Sec 2, 12, 14, 15, 16 & 93 , Ch 614, OL 2015
 Stat. Auth.: Sec 6 Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Transportation and Delivery**845-025-7700****Transportation and Delivery of Marijuana Items**

- (1) Marijuana items may only be transferred between licensed premises by a licensee or licensee representative.
- (2) An individual authorized to transport marijuana items must have a valid Oregon Driver's License.
- (3) A licensee must:
 - (a) Use a vehicle for transport that is:
 - (A) Insured at or above the legal requirements in Oregon;
 - (B) Capable of securing (locking) the marijuana items during transportation; and
 - (C) Capable of being temperature controlled if perishable marijuana items are being transported.
 - (b) Using CTS, generate a printed transport manifest that accompanies every transport of marijuana items that contains the following information:
 - (A) The name, contact information of a licensee representative, licensed premises address and license number of the licensee transporting the marijuana items;
 - (B) The name, contact information of the licensee representative, licensed premises address, and license number of the licensee receiving the delivery;
 - (C) Product name and quantities (by weight or unit) of each marijuana item contained in each transport, along with the UIDs for every item;

- (D) The date of transport and approximate time of departure;
 - (E) Arrival date and estimated time of arrival;
 - (F) Delivery vehicle make and model and license plate number; and
 - (G) Name and signature of the licensee's representative accompanying the transport.
- (4) A licensee or licensee representative may transport marijuana items from an originating location to multiple licensed premises as long as each transport manifest correctly reflects specific inventory in transit and each recipient licensed premises provides the licensee with a printed receipt for marijuana items delivered
- (5) All marijuana items must be packaged in shipping containers and labeled in accordance with OAR 845-025-2880 prior to transport.
- (6) A licensee must provide a copy of the transport manifest to each licensed premises receiving the inventory described in the transport manifest, but in order to maintain transaction confidentiality, may prepare a separate manifest for each receiving licensed premises.
- (7) A licensee must provide a copy of the printed transport manifest and any printed receipts for marijuana items delivered to law enforcement officers or other representatives of a government agency if requested to do so while in transit.
- (8) A licensee must contact the Commission immediately, or as soon as possible under the circumstances, if a vehicle transporting marijuana items is involved in any accident that involves product loss.
- (9) Upon receipt of inventory a receiving licensee must ensure that the marijuana items received are as described in the transport manifest.
- (10) A receiving licensee must separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in CTS and in any relevant business records.
- (11) A licensee must provide temperature control for perishable marijuana items during transport.
- (12) Any vehicle transporting marijuana items must travel directly from the shipping licensee to the receiving licensee and must not make any unnecessary stops in between except to other licensed premises receiving inventory.
- (13) A licensee may transport marijuana for other licensees if the transporting licensee holds a wholesale license.

Stat. Auth.: Sec 2, 12, 14, 15, 16 , Ch 614, OL 2015
 Stat. Auth.: Sec 2, 12, 14, 15, 16 , Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Waste Management

845-025-7750

Waste Management

- (1) A licensee must:
- (a) Store, manage and dispose of solid and liquid wastes generated during marijuana production and processing in accordance with applicable state and local laws and regulations which may include but are not limited to:
 - (A) Solid waste requirements in ORS 459 and OAR 340 Divisions 93 to 96;
 - (B) Hazardous waste requirements in ORS 466 and OAR 340, Divisions 100 to 106; and
 - (C) Wastewater requirements in ORS 468B and OAR 340, Divisions 41 to 42, 44 to 45, 53, 55 and 73.
 - (b) Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.
- (2) A licensee may give or sell marijuana waste to a producer, processor or wholesale licensee or research certificate holder. Any such transaction must be entered into CTS pursuant to OAR 845-025-7500.
- (3) In addition to information required to be entered into CTS pursuant to OAR 845-025-7500, a licensee must maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana.

Stat. Auth.: Sections 2, 12, 14, Ch 614, OL 2015
 Stats. Implemented: Sections 12, 14, 15, 23, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Advertising

845-025-8000

Purpose and Application of Rules

(1) The Commission serves the interests of the citizens of Oregon by regulating and prohibiting advertising marijuana items in a manner:

- (a) That is attractive to minors;
- (b) That promotes excessive use;
- (c) That promotes activity that is illegal under Oregon law; or
- (d) That otherwise presents a significant risk to public health and safety.

(2) The Commission also serves the interests of Oregonians by allowing advertising for the purpose of informing the public of the availability and characteristics of marijuana.

(3) All marijuana advertising by a licensee must conform to these rules.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 2, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-8020

Definitions

As used in OAR 845-025-8000 through 845-025-8080:

(1) "Advertising" is publicizing the trade name of a licensee together with words or symbols referring to marijuana or publicizing the brand name of marijuana or a marijuana product.

(2) "Handbill" is a flyer, leaflet, or sheet that advertises marijuana.

(3) "Radio" means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or internet programming. Radio includes any audio programming downloaded or streamed via the internet.

(4) "Television" means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the internet.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 2, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-8040

Advertising Restrictions

(1) Marijuana advertising may not:

- (a) Contain statements that are deceptive, false, or misleading;
- (b) Contain any content that can reasonably be considered to target individuals under the age of 21, including but not limited to cartoon characters, toys, or similar images and items typically marketed towards minors;
- (c) Specifically encourages the transportation of marijuana items across state lines;
- (d) Assert that marijuana items are safe because they are regulated by the Commission or have been tested by a certified laboratory or otherwise make claims that any government agency endorses or supports marijuana;
- (e) Make claims that recreational marijuana has curative or therapeutic effects;
- (f) Display consumption of marijuana items;
- (g) Contain material that encourages the use of marijuana because of its intoxicating effect; or
- (h) Contain material that encourages excessive or rapid consumption.

(2) A marijuana retailer may not make any deceptive, false, or misleading assertions or statements on any product, any sign, or any document provided to a consumer.

(3) A licensee must include the following statement on all advertising:

(a) "Do not operate a vehicle or machinery under the influence of this drug".

(b) "For use only by adults twenty-one years of age and older."

(c) "Keep out of the reach of children."

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 2, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-8060

Advertising Media, Coupons, and Promotions

(1) The Commission prohibits advertising through handbills that are posted or passed out in public areas such as parking lots and publicly owned property.

(2) A licensee may not utilize television, radio, print media or internet advertising unless the licensee has reliable evidence that no more than 30 percent of the audience for the program, publication or internet web site in or on which the advertising is to air or appear is reasonably expected to be under the age of 21.

(3) A licensee may not engage in advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 2, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-8080

Removal of Objectionable and Non-Conforming Advertising

(1) A licensee must remove any sign, display, or advertisement if the Commission finds it violates these rules.

(2) The Commission will notify the licensee and specify a reasonable time period for the licensee to remove any sign, display or advertisement that the Commission finds objectionable.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 2, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Investigation and Enforcement

845-025-8500

Responsibility of Licensee, Responsibility for Conduct of Others

Each licensee is responsible for violations of any provision of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2014, or chapter 699, Oregon Laws 2015, affecting the licensed privileges, or these rules and for any act or omission of a licensee representative that violates any law, administrative rule, or regulation affecting the licensed privileges.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Sec 2, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-8520

Prohibited Conduct

(1) Sale to a Minor. A licensee or permittee may not sell, deliver, transfer or make available any marijuana item to a person under 21 years of age.

(a) Violation of this section for an intentional sale to a minor by a licensee, permittee or license representative is a Category II violation.

(b) Violation of this section for other than intentional sales is a Category III violation.

(2) Identification. A licensee or license representative must require a person to produce identification as required by Section 24, chapter 614, Oregon Laws 2015 before selling or providing a marijuana item to that person. Violation of this section is a Category IV violation.

(3) Access to Premises. A licensee or permittee may not:

(a) During regular business hours for the licensed premises, refuse to admit or fail to promptly admit a Commission regulatory specialist who identifies him or herself and who enters or wants to

enter a licensed premises to conduct an inspection to ensure compliance with chapter 1, Oregon Laws 2015; chapter 614, Oregon Laws 2014; chapter 699, Oregon Laws 2015 affecting the licensed privileges; or these rules;

(b) Outside of regular business hours or when the premises appear closed, refuse to admit or fail to promptly admit a Commission regulatory specialist who identifies him or herself and requests entry on the basis that there is a reason to believe a violation of chapter 1, Oregon Laws 2015; chapter 614, Oregon Laws 2014; chapter 699, Oregon Laws 2015 affecting the licensed privileges; or these rules is occurring; or

(c) Once a regulatory specialist is on the licensed premises, ask the regulatory specialist to leave until the specialist has had an opportunity to conduct an inspection to ensure compliance with chapter 1, Oregon Laws 2015; chapter 614, Oregon Laws 2014; chapter 699, Oregon Laws 2015 affecting the licensed privileges; or these rules.

(d) Violation of this section is a Category II violation.

(4) Use or Consumption of Intoxicants on Duty and Under the Influence on Duty.

(a) No licensee, licensee representative, or permittee may consume any intoxicating substances while on duty, except for employees as permitted under OAR 845-025-1230(5)(b). Violation of this subsection is a Category III violation.

(b) No licensee, licensee representative, or permittee may be under the influence of intoxicating substances while on duty. Violation of this subsection is a Category II violation.

(c) Whether a person is paid or scheduled for a work shift is not determinative of whether the person is considered "on duty."

(d) As used in this section:

(A) "On duty" means:

(i) From the beginning to the end of a work shift for the licensed business, including any and all coffee, rest or meal breaks; or

(ii) Performing any acts on behalf of the licensee or the licensed business outside of a work shift if the individual has the authority to put himself or herself on duty.

(B) "Intoxicants" means any substance that is known to have or does have intoxicating effects, and includes alcohol, marijuana, or any other controlled substances.

(5) Permitting Use of Marijuana at Licensed Premises. A licensee or permittee may not permit the use or consumption of marijuana, or any other intoxicating substance, anywhere in or on the licensed premises, or in surrounding areas under the control of the licensee, except for employees as permitted under OAR 845-025-1230(5)(b). Violation of this section is a Category III violation.

(6) Import and Export. A licensee or permittee may not import marijuana items into this state or export marijuana items out of this state. Violation of this section is a Category I violation and could result in license or permit revocation.

(7) Permitting, Disorderly or Unlawful Conduct. A licensee or permittee may not permit disorderly activity or activity that is unlawful under Oregon state law on the licensed premises or in areas adjacent to or outside the licensed premises under the control of the licensee.

(a) If the prohibited activity under this section results in death or serious physical injury, or involves unlawful use or attempted use of a deadly weapon against another person, or results in a sexual offense which is a Class A felony such as first degree rape, sodomy, or unlawful sexual penetration, the violation is a Category I violation and could result in license or permit revocation.

(b) If the prohibited activity under this section involves use of a dangerous weapon against another person with intent to cause death or serious physical injury, it is a Category II violation.

(c) As used in this section:

(A) "Disorderly activities" means activities that harass, threaten or physically harm oneself or another person.

(B) "Unlawful activity" means activities that violate the laws of this state, including but not limited to any activity that violates a state criminal statute.

(d) The Commission does not require a conviction to establish a violation of this section except as section 13(1)(f), chapter 614, Oregon Laws 2015 requires.

(8) Marijuana as a Prize, Premium or Consideration. No licensee or permittee may give or permit the giving of any marijuana item as a prize, premium, or consideration for any lottery, contest, game of chance or skill, exhibition, or any competition of any kind on the licensed premises.

(9) Visibly Intoxicated Persons. No licensee or permittee may sell, give, or otherwise make

available any marijuana item to any person who is visibly intoxicated. Violation of this section is a Category III violation.

(10) Additional Prohibitions. A licensee or permittee may not:

(a) Sell or deliver any marijuana item through a drive-up window.

(b) Sell or offer for sale any marijuana item for a price per item that is less than the licensee's cost for the marijuana item;

(c) Use any device or machine that both verifies the age of the consumer and delivers marijuana to the consumer; or

(d) Deliver marijuana to a consumer off the licensed premises, except that retail licensees may provide delivery as set forth in OAR 845-025-2880.

(e) Violation of this subsection is a Category III violation.

Stat. Auth.: Sections 2, 12, 14, 15 & 16, Ch 614, OL 2015

Stats. Implemented: Sections 12, 14, 15, 16, 48, 49 & 50, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-8540

Dishonest Conduct

(1) False Statements. A licensee or permittee may not:

(a) Make a false statement or representation to the Commission or law enforcement in order to induce or prevent action or investigation by the Commission or law enforcement. Violation of this subsection is a Category II violation.

(b) If the Commission finds that the false statement or representation was intentional, the Commission may charge the violation as a Category I violation and could result in license or permit revocation.

(2) Marijuana Item Misrepresentations.

(a) A licensee or permittee may not misrepresent any marijuana item to a consumer, licensee, or the public, including:

(A) Misrepresenting the contents of a marijuana item;

(B) Misrepresenting the testing results of a marijuana item;

(C) Misrepresenting the potency of a marijuana item; or

(D) Making representations or claims that the marijuana item has curative or therapeutic effects.

(b) A licensee may not treat or otherwise adulterate usable marijuana with any chemical, biologically active drug, plant, substance, including nicotine, or other compound that has the effect or intent of altering the usable marijuana's color, appearance, weight or smell in violation of OAR 845-025-1300.

(c) A knowing or intentional violation of this section is a Category I violation and could result in license or permit revocation.

(d) Violation of this section in any manner other than knowing or intentional is a Category II violation.

(3) Supply of Adulterated Marijuana Items.

(a) A licensee may not supply adulterated marijuana items.

(b) Violation of this section is a Category I violation and could result in license revocation.

(4) Evidence. A licensee or permittee may not:

(a) Intentionally destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so. Violation of this subsection is a Category I violation and could result in license cancellation.

(b) Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so, in any manner other than intentional. Violation of this subsection is a Category II violation.

(c) Refuse to give, or fail to promptly give, a Commission regulatory specialist or law enforcement officer evidence when lawfully requested to do so. Violation of this subsection is a Category II violation.

Stat. Auth.: Sections 2, 12, 14, 15 & 16, Ch 614, OL 2015

Stats. Implemented: Sec 51, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-8560

Inspections

(1) The Commission may conduct:

(a) A complaint inspection at any time following the receipt of a complaint that alleges a licensee or permittee is in violation of chapter 1, Oregon Laws 2015, chapter 614, Oregon Laws 2015, chapter 699, Oregon Laws 2015, or these rules;

(b) An inspection at any time if it believes, for any reason, that a licensee or permittee is in violation of chapter 1, Oregon Laws 2015; chapter 614, Oregon Laws 2015; chapter 699, Oregon Laws 2015; or these rules; or

(c) Compliance transactions in order to determine whether a licensee or permittee is complying with chapter 1, Oregon Laws 2015; chapter 614, Oregon Laws 2015; chapter 699, Oregon Laws 2015; or these rules.

(2) A licensee, licensee representative, or permittee must cooperate with the Commission during an inspection.

(3) If licensee, licensee representative or permittee fails to permit the Commission to conduct an inspection the Commission may seek an investigative subpoena to inspect the premises and gather books, payrolls, accounts, papers, documents or records.

Stat. Auth.: Sections 2, 12, 14, 15 & 16, Ch 614, OL 2015
 Stats. Implemented: Sec 30 & 108, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-8580

Suspended Licenses: Posting of Suspension Notice Sign, Activities Allowed During Suspension

(1) Before 7:00 a.m. on the date a license suspension goes into effect, and until the suspension is completed, Commission staff must ensure that a suspension notice sign is posted on each outside entrance or door to the licensed premises.

(2) The suspension notice sign must be posted in a way that allows any person entering the premises to read it. Licensees must use the suspension notice sign provided by the Commission. The sign will state that the license has been suspended by order of the Commission due to violations of the recreational marijuana laws (statutes or administrative rule) of Oregon. If there are multiple licenses at the location, the sign will specify which license privileges have been suspended.

(3) During the period of license suspension, the licensee is responsible for ensuring:

(a) Compliance with all applicable laws and rules; and

(b) That the suspension notice sign is not removed, altered, or covered.

(4) A licensee or licensee representative may not allow the sale, delivery to or from, or receipt of marijuana items at the licensed premises during the period of time that the license is under suspension. During a period of time that the license is under suspension, a recreational marijuana licensee may operate the business provided there is no sale, delivery to or from, or receipt of a marijuana item.

(5) Sanction:

(a) A violation of section (4) of this rule is a Category I violation.

(b) A violation of sections (2) or (3)(b) of this rule is a Category IV violation.

Stat. Auth.: Sec 2, Ch 614, OL 2015
 Stats. Implemented: Stats. Implemented: Sec 29 & 108, Ch 614, OL 2015
 Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-8590

Suspension, Cancellation, Civil Penalties, Sanction Schedule

(1) The Commission may suspend or cancel:

(a) A license under section 9, chapter 614, Oregon Laws, 2015.

(b) A marijuana handlers permit under section 20, chapter 614, Oregon Laws, 2015.

(c) A research certificate under section 113, chapter 614, Oregon Laws, 2015.

(2) The Commission may impose a civil penalty not to exceed \$5,000 under section 29, chapter 614, Oregon Laws 2015. Civil penalties will be calculated by multiplying:

(a) The number of days in a suspension, if suspension could be or is being imposed, by \$165 for licensees or certificate holders; or

(b) The number of days in a suspension, if suspension could be or is being imposed, by \$25 for permittees.

(3) Violation Categories:

(a) The Commission has the following violation categories:

(A) Category I — Violations that make licensee ineligible for a license;

(B) Category II — Violations that create a present threat to public health or safety;

(C) Category III — Violations that create a potential threat to public health or safety;

(D) Category IV — Violations that create a climate conducive to abuses associated with the sale or manufacture of marijuana items;

(E) Category V — Violations inconsistent with the orderly regulation of the sale or manufacture of marijuana items.

(b) A proposed sanction schedule for the first and subsequent violations within a two-year period within each violation category is listed in Exhibit 1, incorporated by reference.

(c) If the Commission finds aggravating or mitigating circumstances, it may assess a greater or lesser sanction from the proposed sanctions listed in Exhibit 1. Mitigating and aggravating circumstances include but are not limited to:

(A) Good faith efforts by a licensee, permittee or certificate holder to prevent a violation;

(B) Extraordinary cooperation from the licensee, permittee or certificate holder during the violation investigation that shows the licensee, permittee, or certificate holder accepts responsibility;

(C) A prior warning about compliance problems;

(D) Repeated failure to comply with laws;

(E) Efforts to conceal a violation;

(F) The violation involved more than one customer or employee;

(G) The violation involved an individual under the age of 18; or

(H) The violation resulted in injury or death.

(d) The Commission may always increase or decrease a sanction to prevent inequity or to take account of particular circumstances in the case.

(6) The Commission increases sanctions based on successive violations in the same category within a two-year period. For example, if a licensee, permittee, or certificate holder who has committed one Category III violation and one Category IV violation within the past two years commits another Category III violation, the Commission assesses the sanction at the second level for the pending Class III violation. Numerous violations within the two-year period, regardless of the type, may indicate such a disregard for the law or failure to control the premises so as to warrant cancellation of the license, permit or certificate.

(7) A licensee may not avoid the sanction for a violation or the application of the provision for successive violations by changing the corporate structure for example, by adding or dropping a partner or converting to another form of legal entity when the individuals who own, operate, or control the business are substantially similar.

Stat. Auth.: Sec 2, Ch 614, OL 2015

Stats. Implemented: Stats. Implemented: Sec 9, 29,93 & 108, Ch 614, OL 2015

Hist.: OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

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OREGON HEALTH AUTHORITY, PUBLIC HEALTH DIVISION

DIVISION 8

MEDICAL MARIJUANA

333-008-0000

Description of the Oregon Medical Marijuana Act

The Oregon Medical Marijuana Act (Act) was adopted by voters in the November 3, 1998 general election (Ballot Measure 67). The Act was amended during the 1999 legislative session (Oregon Laws 1999, chapter 825), during the 2005 legislative session (Oregon Laws 2005, chapter 822), and amended again during the 2007 legislative session (Oregon Laws 2007, Chapter 573). The statutes governing the Oregon Medical Marijuana Program (OMMP) are ORS 475.300 through 475.346. The Oregon Health Authority was assigned rulemaking authority necessary for the implementation and administration of the Oregon Medical Marijuana Act. The Act intends:

- (1) To allow Oregonians with debilitating medical conditions who may benefit from the medical use of marijuana to receive the benefit of their doctor's professional advice regarding the possible risks and benefits of medical marijuana;
- (2) To allow Oregonians suffering from debilitating medical conditions to use small amounts of marijuana without fear of civil or criminal penalties when their doctors advise that such use may provide a medical benefit to them; and
- (3) To make only those changes to existing Oregon laws that are necessary to protect patients and their doctors from criminal and civil penalties, and are not intended to change current civil and criminal laws governing the use of marijuana for non-medical purposes.

Stat. Auth.: ORS 475.300

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08

333-008-0010

Definitions

For the purposes of OAR 333-008-0000 through 333-008-0120, the following definitions apply:

- (1) "Act" means the Oregon Medical Marijuana Act.
- (2) "Applicant" means a person applying for an Oregon Medical Marijuana registry identification card on a form prescribed by the Authority.
- (3) "Attending physician" means a Doctor of Medicine (MD) or Doctor of Osteopathy (DO), licensed under ORS chapter 677, who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.
- (4) "Authority" means the Oregon Health Authority.
- (5) "Debilitating medical condition" means:
 - (a) Cancer, glaucoma, agitation incident to Alzheimer's disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of these medical conditions;
 - (b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
 - (A) Cachexia;

- (B) Severe pain;
- (C) Severe nausea;
- (D) Seizures, including but not limited to seizures caused by epilepsy; or
- (E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;
- (c) Post-traumatic stress disorder; or
- (d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the Authority by rule or approved by the Authority pursuant to a petition submitted under OAR 333-008-0090.
- (6) "Delivery" means the actual, constructive or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance, whether or not there is an agency relationship, but does not include transfer of marijuana from one patient to another patient if no consideration is paid for the transfer.
- (7) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Authority. "Designated primary caregiver" does not include the person's attending physician.
- (8) "Food stamps" means the Supplemental Nutrition Assistance Program as defined and governed by ORS 411.806 through 411.845.
- (9) "Grow site" means a specific location registered by the Authority used by the grower to produce marijuana for medical use by a specific patient.
- (10) "Grow site registration card" means the card issued to the patient and displayed at the grow site.
- (11) "Grower" has the same meaning as "person responsible for a marijuana grow site."
- (12) "Immature plant" means a marijuana plant that is not flowering
- (13) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- (14) "Mature plant" means a marijuana plant that does not fall within the definition of a seedling or a start.
- (15) "Medical marijuana facility" is a facility, registered by the Authority, under OAR 333-008-1050.
- (16) "Medical use of marijuana" means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her debilitating medical condition.
- (17) "Oregon Health Plan (OHP)" means the medical assistance program administered by the Authority under ORS chapter 414.
- (18) "OMMP" refers to the office within the Authority that administers the provisions of the OMMA, and all policies and procedures pertaining thereto, as set forth in these rules.
- (19) "Parent or legal guardian" means the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age.
- (20) "Patient" has the same meaning as "registry identification cardholder."
- (21) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose.
- (22) "Person responsible for a medical marijuana facility" has the meaning given that term in OAR 333-008-1010.
- (23) "Primary responsibility" as that term is used in relation to an attending physician means that the physician:
 - (a) Provides primary health care to the patient; or
 - (b) Provides medical specialty care and treatment to the patient as recognized by the American

Board of Medical Specialties; or

(c) Is a consultant who has been asked to examine and treat the patient by the patient's primary care physician licensed under ORS chapter 677, the patient's physician assistant licensed under ORS chapter 677, or the patient's nurse practitioner licensed under ORS chapter 678; and,

(d) Has reviewed a patient's medical records at the patient's request and has conducted a thorough physical examination of the patient, has provided or planned follow-up care, and has documented these activities in the patient's medical record.

(24) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(25) "Registry identification card" means a document issued by the Authority that identifies a person authorized to engage in the medical use of marijuana, and the person's designated primary caregiver, if any.

(26) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

(27) "Replacement registry identification card" means a new card issued in the event that a registry identification cardholder's card, designated primary caregiver identification card, grower identification card, or grow site registration card is lost or stolen, or if a registry identification cardholder's designation of primary caregiver, grower, or grow site has changed.

(28) "Seedling or start" has the same meaning as "immature plant".

(29) "Supplemental Security Income (SSI)" means the monthly benefit assistance program administered by the federal government for persons who are age 65 or older, or blind, or disabled and who have limited income and financial resources.

(30) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae and any mixture or preparation thereof, that are appropriate for medical use. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(31) "Written documentation" means a statement signed and dated by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records, maintained in accordance with standard medical record practices.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 15-1998(Temp), f. & cert. ef. 12-24-98 thru 6-22-99; OHD 3-1999, f. & cert. ef. 4-29-99; OHD 13-2000(Temp), f. & cert. ef. 12-21-00 thru 6-15-01; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11; PH 1-2014, f. & cert. ef. 1-13-14; PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-0020

New Registration Application and Verification

(1) A person may apply for a registry identification card on forms prescribed by the Authority. In order for an application to be considered complete, an applicant must submit the following:

(a) An application form signed and dated by the applicant;

(b) Copies of legible and valid U.S. state or federal issued photographic identification that includes last name, first name, and date of birth from the applicant, the designated primary caregiver, and grower, as applicable. Acceptable forms of current U.S. state or federal issued photographic identification include but are not limited to:

(A) Driver's license;

(B) State identification card;

(C) Passport; or

(D) Military identification card.

(c) Written documentation, which may consist of relevant portions of the applicant's medical record, signed by the applicant's attending physician within 90 days of the date of receipt by the Authority, which describes the applicant's debilitating medical condition and states that the use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;

(d) If applicable, a completed and notarized "Declaration of Person Responsible for Minor" form

for any person under 18 years of age, signed and dated by the person responsible for the minor;

(e) The name of a designated primary caregiver, if any;

(f) The name of a designated grower (either the patient or another person), if any and the location of the grow site; and

(g) An application fee and grow site registration fee, if applicable, in the form of cash, bank check, money order, or personal check.

(2) The Authority shall process an application prior to issuing registry identification cards to assure that the application is complete and information provided has been verified.

(a) The Authority shall only accept applications that are mailed or are hand-delivered.

(b) If an applicant does not provide all the information required and the application is considered incomplete, the Authority shall notify the applicant of the information that is missing, and shall allow the applicant 14 days to submit the missing information.

(c) If an applicant does not provide the information necessary to declare an application complete, or to complete the verification process within the timelines established in subsections (2)(b) and (3)(e) of this rule, the application shall be rejected as incomplete. An applicant whose application is rejected as incomplete may reapply at any time. If an applicant submits an application fee and the application is subsequently denied or rejected, the application fee may be applied toward a new application submitted within one year of the denial or rejection date.

(d) The Authority may reject an application if the application or supporting documents appear to be altered (for example, writing is whited out). An application shall be denied in accordance with OAR 333-008-0030 if an application or supporting documents are determined to have been falsified.

(e) The Authority may verify information on each application and accompanying documentation, including:

(A) Contacting each applicant by telephone or by mail. If proof of identity is uncertain, the Authority may require a face-to-face meeting and may require the production of additional identification materials;

(B) Contacting a minor's parent or legal guardian;

(C) Contacting the Oregon Medical Board to verify that an attending physician is licensed to practice in the state and is in good standing;

(D) Contacting the attending physician to request further documentation to support a finding that the physician is the applicant's attending physician. The Authority shall notify the applicant of the intent to review the medical records and request the applicant's authorization to conduct the review. Failure to authorize a review of medical records may result in the application being declared incomplete, or denial of an application. If the Authority is unable to verify that the applicant's attending physician meets the definition under OAR 333-008-0010(3) the applicant will be allowed 30 days to submit written documentation or a new attending physician's declaration from a physician meeting the requirements of these rules. Failure to submit the required attending physician documentation is grounds for denial under ORS 475.309 and OAR 333-008-0030;

(E) Contacting the Division of Medical Assistance Programs, Department of Human Services-Self Sufficiency, or the Social Security Administration (SSA) to verify eligibility for benefits; and

(F) Conducting a criminal records check under ORS 181.534 of any person whose name is submitted as a grower.

(3) Application fees.

(a) A non-refundable application fee of \$200 is required at the time of application.

(b) If applicable as specified in OAR 333-008-0025, a non-refundable grow site registration fee of \$50 is required at the time of application.

(c) An applicant who can demonstrate current receipt of SSI benefits, current eligibility for OHP benefits or current receipt of food stamp benefits through the Oregon SNAP program qualifies for a reduced non-refundable application fee.

(A) An applicant demonstrating receipt of SSI benefits by providing a copy of a current monthly SSI benefit card showing dates of coverage is entitled to a reduced application fee of \$20.

(B) An applicant demonstrating current eligibility for OHP benefits by providing a copy of the applicant's current eligibility statement is entitled to a reduced application fee of \$50.

(C) An applicant demonstrating receipt of current food stamp benefits, verified by enrollment in Oregon's Food Stamp Management Information System database system and by providing current proof of his or her food stamp benefits, is entitled to a reduced application fee of \$60.

(D) An applicant who falls within one of the categories listed in subparagraph (i) or (ii) of this paragraph and who provides a copy of the applicable determination from the United States Department of Veteran's Affairs (VA), is entitled to a reduced application fee of \$20:

(i) Receives service-connected compensation from the VA based on a finding by the VA of 100% service-connected disability; or

(ii) Receives a needs-based pension from the VA based on a finding by the VA of non-service connected disability.

(d) The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(e) The Authority shall notify an applicant who submits a reduced application fee for which the applicant is not eligible and will allow the applicant 14 days from the date of notice to pay the correct application fee and submit a current valid proof of eligibility.

(4) The application forms referenced in this rule may be obtained by contacting the Oregon Medical Marijuana Program (OMMP) at PO Box 14450, Portland, OR 97293-0450 or by calling 971-673-1234.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 13-2000(Temp), f. & cert. ef. 12-21-00 thru 6-15-01; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 38-2004, f. 12-22-04, cert. ef. 1-1-05; PH 17-2005, f. 11-25-05, cert. ef. 12-1-05; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 14-2010(Temp), f. & cert. ef. 7-6-10 thru 12-31-10; PH 27-2010, f. & cert. ef. 12-28-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11; PH 9-2013(Temp), f. & cert. ef. 10-2-13 thru 3-30-14; PH 1-2014, f. & cert. ef. 1-13-14; PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 16-2014, f. & cert. ef. 6-5-14; PH 20-2014, f. & cert. ef. 7-11-14

333-008-0025

Marijuana Grow Site Registration

(1) A patient may register a marijuana grow site with the Authority. The address of a medical marijuana facility may not be listed by a patient on the application as the location of the marijuana grow site. The Authority will register only one grow site per patient, and will only register grow sites in Oregon.

(2) To register a marijuana grow site, an applicant or patient must submit to the Authority an application, prescribed by the Authority, that includes:

(a) The name of the grower;

(b) The date of birth of the grower;

(c) The physical address of the marijuana grow site where marijuana is to be produced;

(d) The mailing address of the grower;

(e) The registry identification card number of the patient, if known, for whom the marijuana is being produced; and

(f) A non-refundable grow site registration fee of \$50 in the form of cash, bank check, money order, or personal check. If the grower is the applicant, he or she is not required to pay the grow site registration fee. The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(3) For a new patient application submitted on or after July 1, 2015, in addition to the application a patient must submit a residency form, prescribed by the Authority and completed by the grower, along with a copy of the grower's Oregon driver's license or Oregon identification card.

(a) If a grower was first registered with the Authority as a grower on or before January 1, 2015, and has been continuously registered as a grower, the grower must have been a resident of Oregon for at least one year immediately prior to the application being submitted to the Authority.

(b) If a grower was not first registered with the Authority as a grower on or before January 1,

2015, the grower must have been a resident of Oregon for at least two years immediately prior to the application being submitted to the Authority.

(c) If a grower was first registered with the Authority as a grower on or before January 1, 2015, but has not been continuously registered as a grower since first registered, the grower must have been a resident of Oregon for at least two years immediately prior to the application being submitted to the Authority.

(d) If a grower does not have an Oregon driver's license or Oregon identification card, or the grower's Oregon driver's license or Oregon identification card was not issued one or two years prior to the date of application, as applicable, the Authority will attempt to verify whether the grower has been a resident for the required length of time and may contact the grower and require the grower to submit additional information to the Authority to prove residency.

(4) The Authority shall conduct a criminal background check on the grower as authorized under ORS 475.304.

(a) A person convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offense occurred on or after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.

(b) A person convicted more than once of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offenses occurred after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

(c) The Authority shall notify a patient by certified mail that the grower is ineligible and the patient will be allowed the opportunity to identify another grower.

(5) The Authority shall issue a marijuana grow site registration card to a patient who has met the requirements of section (2) of this rule, unless the grower is disqualified under section (4) of this rule.

(6) A grower must display a marijuana grow site registration card for each patient for whom marijuana is being produced, at the marijuana grow site at all times.

(7) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient, or, if the marijuana is usable marijuana or an immature marijuana plant, transferred to a registered medical marijuana facility, upon request.

(8) All marijuana produced for a patient must be provided to the patient or designated primary caregiver when the grower ceases producing marijuana for the patient.

(9) A grower must return the grow site registration card to the patient to whom the card was issued when requested to do so by the patient or when the grower ceases producing marijuana for the patient.

(10) A patient or the designated primary caregiver of the patient may reimburse the grower for the costs of supplies and utilities associated with production of marijuana for patient. No other costs associated with the production of marijuana for the patient, including the cost of labor, may be reimbursed.

(11) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

(12) The Authority may not register a grow site if the location of the grow site is the same location as a medical marijuana facility.

Stat. Auth.: ORS 475.338, sec. 173, ch. 614, OL 2015

Stats. Implemented: ORS 475.300 - 475.346, sec. 173, ch. 614, OL 2015

Hist.: PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11; PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-0030

Registration Approval and Denial

(1) The Authority shall approve or deny an application within 30 days of receiving a complete application, including payment of the designated fee.

(2) If the Authority approves the application, the Authority shall issue a serially numbered registry identification card to the patient within five business days. The registry identification card shall include, but is not limited to:

(a) The patient's name, address, and date of birth;

- (b) The effective date, date of issuance, and expiration date of the registry identification card;
- (c) The designated primary caregiver's name, address, and date of birth, if applicable;
- (d) The name, address, and date of birth of the grower, if applicable; and
- (e) The location where the marijuana is produced.

(3) When a patient has specified a designated primary caregiver, or a grower, the Authority shall issue an OMMP registry identification card for the designated primary caregiver and the grower. The Authority shall also issue a grow site registration card to the patient. All cards shall contain the information specified in section (2) of this rule, as appropriate.

(4) The Authority may deny an application if:

- (a) The applicant did not provide the information required as provided in ORS 475.309 to establish the applicant's debilitating medical condition and to document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with such condition;
- (b) The Authority determines that the information provided was falsified;
- (c) The applicant has been prohibited by a court order from obtaining a registry identification card; or
- (d) An applicant has willfully violated the provisions of ORS 475.300 to 475.346 or these rules.

(5) If the Authority denies an application, the Authority shall send the applicant a denial letter within 30 days of receipt of the complete application. The time period set forth in OAR 333-008-0020 that provides an applicant an opportunity to supplement an incomplete application does not count towards the 30-day deadline for processing an application. The denial letter will be sent by certified mail to the address listed on the application form. The letter will state the reasons for denial and when the applicant may reapply.

(6) Denial of a registry identification card shall be considered a final Authority action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person under the age of 18 whose application has been denied, the person's parent or legal guardian shall have standing to contest the Authority's action.

(7) Any person whose application has been denied may not reapply for at least six months from the date of the denial, unless so authorized by the Authority or a court of competent jurisdiction.

(8) If a patient registry identification card, a designated primary caregiver identification card, or a grower registry identification card or grow site registration card has been lost or stolen, the fee to receive a replacement card is \$100. If the patient qualifies for the reduced application fee of \$20, the fee to receive any of the replacement cards is \$20.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; OHD 21-2001(Temp), f. & cert. ef. 10-12-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 12-2004(Temp), f. & cert. ef. 4-1-04 thru 8-2-04; Administrative correction 8-19-04; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0040

Annual Renewal

(1) A patient shall register on an annual basis to maintain active registration status by submitting a renewal application prescribed by the Authority. A renewal application shall be submitted by mail or in person at the OMMP office.

(2) Between 60 to 90 calendar days prior to expiration, the Authority shall mail to the patient's address of record, a letter notifying the patient of the upcoming expiration date, along with a renewal application.

(3) In addition to completing the renewal application, the patient must submit, prior to the expiration of the registry identification card:

(a) Written documentation, signed by the patient's attending physician within 90 days prior to the expiration date of the patient's current card, reconfirming the patient's debilitating medical condition and that the medical use of marijuana mitigates the symptoms of the patient's debilitating medical condition; and

(b) The information and fees required in OAR 333-008-0020. A patient applying for renewal may qualify for a reduced application fee if the applicant meets the criteria set forth in OAR 333-008-0020.

(4) If the renewal information is not received by the expiration date on the registry identification card, the patient's registry identification card and all other associated OMMP cards, if any, shall be deemed expired. The expiration date may be extended, due to personal hardship, at the discretion of the Authority. If a person fails to apply for renewal within the time period specified in this rule, that person must submit a new application.

(5) The Authority shall verify the renewal application information in the same manner as specified in OAR 333-008-0020.

(6) The Authority may reject a renewal application if the application or supporting documents appear to be altered (e.g., writing is whited out). An application shall be denied in accordance with OAR 333-008-0030 if an application or supporting documents are determined to have been falsified.

Stat. Auth.: ORS 475.309 & 475.312

Stats. Implemented: ORS 475.309 & 475.312

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 27-2010, f. & cert. ef. 12-28-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0045

Interim Changes

(1) A patient shall notify the Authority within 30 calendar days of any change in the patient's name, address, telephone number, attending physician, designated primary caregiver, grower or grow site address.

(2) A patient shall notify, as applicable, the designated primary caregiver, the grower, and the person responsible for a medical marijuana facility of any changes in status including, but not limited to:

- (a) The assignment of another individual as the designated primary caregiver for the patient;
- (b) The assignment of another individual as a grower for the patient;
- (c) The revocation of an Authorization to Transfer form under OAR 333-008-1230; or
- (d) The end of eligibility of the patient to hold a registry identification card.

(3) If the Authority is notified by the patient that a designated primary caregiver or a grower has changed, the Authority shall notify the designated primary caregiver or the grower by mail at the address of record confirming the change in status and informing the caregiver or grower that their card is no longer valid and must be returned to the Authority within seven calendar days.

(4) A patient who has been diagnosed by an attending physician as no longer having a debilitating medical condition or whose attending physician has determined that the medical use of marijuana is contraindicated for the patient's debilitating medical condition shall return the registry identification card and all associated OMMP cards to the Authority within 30 calendar days of notification of the diagnosis or notification of the contraindication. If, due to circumstances beyond control of the patient he or she is unable to obtain a second medical opinion about the patient's continuing eligibility to use medical marijuana before the 30-day period has expired, the Authority may grant the patient additional time to obtain a second opinion before requiring the patient to return the registry identification card and all associated cards.

(5) Change forms may only be submitted to the Authority via mail or in person at the OMMP office.

(6) If a patient's designated primary caregiver, grower or grow site has changed, the non-refundable fee to receive a replacement card is \$100. If the patient qualifies for the reduced application fee of \$20, the non-refundable fee to receive a replacement card is \$20.

(7) If a patient is registering a new grow site at any time other than when submitting a new application or a renewal application, a grow site registration fee will not be charged.

Stat. Auth.: ORS 475.309 & 475.312

Stats. Implemented: ORS 475.309 & 475.312

Hist.: PH 27-2010, f. & cert. ef. 12-28-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11; PH 1-2014, f. & cert. ef. 1-13-14; PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14

333-008-0050

Confidentiality

(1) The Authority shall create and maintain either paper or computer data files of patients, designated primary caregivers, growers, and grow site addresses. The data files shall include all information collected on the application forms or equivalent information from other written documentation, plus a copy of OMMP registry identification cards, effective date, date of issue, and expiration date. Except as provided in section (2) of this rule, the names and identifying

information of registry identification cardholders and the name and identifying information of a pending applicant for a card, a designated primary caregiver, a grower, and a marijuana grow site location, shall be confidential and not subject to public disclosure.

(2) Names and other identifying information made confidential under section (1) of this rule may be released to:

(a) Authorized employees of the Authority as necessary to perform official duties of the Authority, including the production of any reports of aggregate (i.e., non-identifying) data or statistics;

(b) Authorized employees of state or local law enforcement agencies when they provide a specific name or address. Information will be supplied only as necessary to verify:

(A) That a person is or was a lawful possessor of a registry identification card;

(B) That a person is or was a person responsible for a registered medical marijuana facility;

(C) That the address is or was a documented grow site, and how many people are authorized to grow at that grow site;

(D) How many people a person was or is authorized to grow for; or

(E) That an address is or was the location of a registered medical marijuana facility.

(c) Other persons (such as, but not limited to, employers, lawyers, family members) upon receipt of a properly executed release of information signed by the patient, the patient's parent or legal guardian, designated primary caregiver or grower. The release of information must specify what information the Authority is authorized to release and to whom.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11; PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14

333-008-0060

Monitoring and Investigations

(1) The Authority may, at any time, contact a patient, designated primary caregiver, grower, or a patient's attending physician by telephone, mail or in person to verify the current accuracy of information included in the registration system. This authority does not extend to allowing Authority staff to routinely search the person or property of a person who possesses a registry identification card, a grow site, or to search the property of an attending physician.

(2) Notwithstanding section (1) of this rule, the Authority may, when it has reason to believe a violation of ORS 475.300 through 475.346 has occurred, either conduct an investigation to collect evidence of a violation of the Oregon Medical Marijuana Act, or arrange for this responsibility to be assumed by the proper state or local authorities. Such violations include, but are not limited to:

(a) Failure by a patient to notify the Authority of any change in the patient's name, address, attending physician, designated primary caregiver, grower, or grow site location.

(b) Failure by a patient, designated primary caregiver, or grower to return the OMMP identity and registry identification cards to the Authority within seven calendar days of the patient's notification of the diagnosis that the patient no longer has a debilitating medical condition.

(c) Failure by a designated primary caregiver or grower to return the OMMP identity and registry identification cards to the Authority within seven calendar days of notification by the patient that the person's designation as primary caregiver or grower has been terminated.

(d) Submission of false information by a patient, designated primary caregiver, grower, or attending physician during the registration or registration renewal process.

(e) Conviction of a patient, designated primary caregiver, or grower of a marijuana-related offense that occurred after the date of issuance of a registry identification card.

(3) If the Authority has reason to believe that an individual, signing an application as the attending physician, does not meet the definition of attending physician under these rules, the Authority may examine the original patient medical record in the physician's possession or a copy provided by the physician. The sole purpose of this examination is to determine whether the physician meets the definition of attending physician in OAR 333-008-0010, including whether the physician has primary responsibility for a patient as that is defined in OAR 333-008-0010, and will not include review of any clinical judgments such as adequacy of diagnosis or propriety of treatment.

(a) The Authority shall notify the patient of the intent to review the medical records pursuant to this section and request the patient's authorization to conduct the review. An applicant's or patient's failure to authorize a review of his or her medical records may result in denial of an

application.

(b) The Authority shall send written notification allowing the physician 10-days to provide additional information requested by the Authority.

(4) In determining whether to examine a patient's medical record pursuant to section (3) of this rule, the Authority may consider, but is not limited to, factors such as complaints from patients or family members, complaints from health care providers, total number of applicants for whom the physician provided documentation, or number of applicants for whom the physician provided documentation during a specific time period.

(5) If the Authority records show that any one physician is the attending physician of record for more than 450 patients at any point in time, the Authority shall request, in writing, that the physician do one of the following:

(a) Provide information for each new patient over the 450 threshold, including:

(A) Documentation that the patient's medical records have been reviewed;

(B) Patient chart notes documenting the patient was examined by the physician and the date of the examination; and

(C) Documentation showing provided or planned follow-up care;

(b) Provide a letter from a clinic at which the physician provides care requesting that the physician be exempted from section (5) of this rule, and provide documentation from the clinic that:

(A) It has clear systems for ensuring medical records are reviewed and that each patient is examined by a physician;

(B) It provides follow-up care for patients;

(C) It maintains a record system documenting the review of medical records, physician examination, and follow-up care; and

(D) It will allow on-site inspections by the Authority to confirm compliance; or

(c) Provide a written statement explaining why the physician should be released from this requirement, for example, an explanation that the physician:

(A) Has a practice that includes a disproportionately high percentage of patients with qualifying conditions;

(B) Serves as a consultant for other health care providers who refer patients requesting medical marijuana; or

(C) Has multiple practice sites and at one of the practice sites the physician clearly meets the attending physician definition.

(6) If the Authority receives a request from a physician to be exempted from the requirement in section (5) of this rule, the Authority shall provide the physician a decision, in writing, explaining whether the physician is or is not exempted from the requirement in section (5) of this rule. The Authority's written decision shall explain the basis for the Authority's decision.

(7) The Authority shall refer criminal complaints against a patient, designated primary caregiver, or grower; or medical practice complaints against an attending physician to the appropriate state or local authorities.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0070

Suspension and Revocation

(1) The Authority may suspend a registry identification card, and preclude a person from using a registry identification card for a period of up to six months if the Authority obtains evidence that establishes a registry identification cardholder has:

(a) Committed egregious violations of the Act, including obtaining a registry identification card by fraud;

(b) Committed multiple or continuing violations of the Act; or

(c) Been convicted of a marijuana-related offense.

(2) The Authority shall send written notice of a suspension by certified mail.

(3) The Authority shall revoke the registry identification card of a cardholder if a court has issued an order that prohibits the cardholder from participating in the medical use of marijuana or otherwise participating in the OMMP under ORS 475.300 through 475.346. The cardholder shall return the registry identification card to the Authority within seven calendar days.

(4) The cardholder shall return the registry identification card to the Authority within seven calendar days of the final order of suspension being issued. If the cardholder is a patient, the patient shall return his or her card and all other associated OMMP cards.

(5) If, during the period of suspension, a patient's annual renewal date comes due, the patient must apply for renewal at the end of the period of suspension.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0080

Permissible Amounts of Medical Marijuana

(1) A patient or the patient's designated primary caregiver may possess up to six mature marijuana plants, 24 ounces of usable marijuana, and a patient and the patient's designated primary caregiver may possess a combined total of up to 18 marijuana seedlings or starts.

(2) Notwithstanding section (1) of this rule, if a patient has been convicted, on or after January 1, 2006, of a Class A or Class B felony under ORS 475.752 through 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, and the offense occurred on or after January 1, 2006, the patient or the patient's designated primary caregiver may possess only one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.

(3) A grower:

(a) May produce marijuana for and provide marijuana to a patient or that person's designated primary caregiver as authorized under ORS 475.300 through 475.346 and these rules;

(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each patient or designated primary caregiver for whom marijuana is being produced;

(c) May possess up to 18 marijuana seedlings or starts for each patient for whom marijuana is being produced.

(4) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

(5) A patient, the designated primary caregiver for a patient and the grower must have, in his or her possession, his or her OMMP identity card when transporting marijuana. A patient must have, in his or her possession, his or her OMMP identity card when using marijuana in a location other than the residence of the cardholder.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0090

Addition of Qualifying Diseases or Medical Conditions

(1) For the purposes of this rule, the following definitions apply:

(a) DSM means the latest published edition of Diagnostic and Statistical Manual of Mental Disorders.

(b) ICD means the most recent revision of the International Classification of Diseases published by the United Nations-sponsored World Health Organization that provides codes, up to six characters long, to classify diseases and a variety of signs, symptoms, abnormal findings, complaints, social circumstances, and external causes of injury or disease.

(c) Peer-reviewed published scientific study means that a study has been cited by the Cochrane Review, the Institute of Medicine, or PubMed Central?.

(d) Petitioner means an individual who has filed a petition in accordance with ORS 475.334 and this rule.

(e) State Public Health Officer (SPHO) means the individual appointed by the Director of the Authority in accordance with ORS 431.045, or his or her designee.

(2) The Authority shall accept a written petition from any person requesting that a particular disease or condition be included among the diseases and conditions that qualify as a debilitating medical condition under ORS 475.302.

(a) A petition may only request a single disease or condition be added as a debilitating medical condition. A separate petition must be submitted for each disease or condition proposed to be added as a debilitating medical condition.

(b) A petition must be submitted by mail using a form prescribed by the Authority and must include, along with the form, the following in an electronic format (e.g. compact disc (CD) or thumb drive):

(A) A specific description of the disease or condition proposed to be added and its characteristics, including the applicable ICD code or the specific diagnosis as described in the DSM;

(B) A general explanation of how or why the petitioner believes marijuana would mitigate the symptoms or effects of the disease or condition that is the subject of the petition; and

(C) At least one peer-reviewed published scientific study showing the efficacy in humans for use of medical marijuana for the disease or condition that is the subject of the petition.

(c) A petitioner may also include with the information required to be submitted in subsection (2)(b) of this rule letters of support from physicians or other licensed health care professionals knowledgeable about the disease or condition proposed to be added, and any other information the petitioner believes the SPHO should review in considering the petition.

(d) If a petitioner submits a petition to add the same or a substantially equivalent disease or condition that was the subject of a petition that was denied by the SPHO within the last five years from the date a new petition is submitted, a petitioner must submit at least one peer-reviewed published scientific study that was published since the date the SPHO denied the previous petition for the same or substantially equivalent disease or condition.

(e) A petition may not contain individually identifiable health information as that is defined in ORS 433.443 unless any individual identified in relation to health information submits an Authorization for Use and Disclosure of Information on a form prescribed by the Authority. A petition that contains individually identifiable health information that is submitted without the required authorization must be returned to the petitioner as incomplete.

(f) A petition that does not contain all the information required by section (2) of this rule shall be returned to the petitioner as incomplete. A petition returned as incomplete is not considered a denial for purposes of subsection (2)(d) of this rule.

(3) If the petitioner has submitted a petition with all the information required in section (2) of this rule, the SPHO must:

(a) Assign a petition number to the petition;

(b) Notify the petitioner by certified mail that the petition has been accepted;

(c) Post a notice, a copy of the petition and materials submitted by the petitioner on the Authority's website announcing that the petition has been accepted and is under consideration, and solicit information from individuals or organizations concerning experts in cannabis therapeutics and scientific studies, including but not limited to peer-reviewed published scientific studies;

(d) Notify the Advisory Committee on Medical Marijuana (ACMM) by electronic mail that the petition is under consideration, and request from the ACMM recommendations regarding relevant experts and information pertinent to the petition;

(e) Conduct an investigation that may, as the SPHO determines necessary, include:

(A) Consulting with one or more experts in cannabis therapeutics and one or more experts on the disease or condition that is the subject of the petition;

(B) Requesting a literature review and a summary of peer-reviewed published scientific studies related to the use of marijuana for the disease or condition that is the subject of the petition, from neutral persons knowledgeable about conducting such reviews; and

(C) Gathering any other information the SPHO believes relevant to making a decision on the petition.

(f) Hold a public hearing at a time and place determined by the SPHO. At the public hearing the petitioner shall have the opportunity to address the SPHO in person or by telephone. Written comments shall be accepted by the SPHO for one week following the close of the public hearing.

(4) Following the investigation identified in subsection (3)(e) of this rule and the close of the public comment period specified in subsection (3)(f) of this rule, the SPHO must issue a Notice of Intent

to either approve or deny the petition.

(a) The SPHO must issue a Notice of Intent to Approve the petition if, based on the evidence presented to and considered by the SPHO, the SPHO finds that:

(A) Marijuana is efficacious for the disease or condition that is the subject of the petition or marijuana may mitigate the symptoms or effects of the disease or condition that is the subject of the petition; and

(B) Any risk of physical or mental harm from using marijuana for the disease or condition that is the subject of the petition is outweighed by the physical or mental benefit of using marijuana for that disease or condition.

(b) The SPHO must issue a Notice of Intent to Deny the petition if the SPHO determines that the evidence presented to and considered by the SPHO does not meet the standards established in subsection (4)(a) of this rule.

(c) The Notice of Intent must be in writing and must describe all evidence and information upon which the decision of the SPHO is based, including the identity and credentials of all experts relied upon.

(d) If the Authority issues a Notice of Intent to Deny the petitioner is entitled to a contested case hearing as provided under ORS chapter 183. The petitioner has 30 days to request a hearing.

(5) At a contested case hearing, the petitioner has the burden of proving the decision of the SPHO was without a reasonable basis in fact.

(6) The SPHO must issue a final order within 180 days of receipt of a complete petition.

(7) A petitioner may withdraw his or her petition without prejudice at any time prior to the public hearing specified in subsection (3)(f) of this rule. A petition withdrawn after the public hearing specified in subsection (3)(f) of this rule shall be deemed denied for purposes of this rule.

Stat. Auth.: ORS 475.334 & 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 6-2002, f. & cert. ef. 3-25-02; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 18-2012, f. 12-26-12, cert. ef. 1-1-13

333-008-0110

Advisory Committee on Medical Marijuana

(1) The Advisory Committee on Medical Marijuana (ACMM) shall advise the Director of the Authority on the administrative aspects of the OMMP, review current and proposed administrative rules of the program, and provide annual input on the fee structure of the program.

(2) The Authority will provide staff support to the ACMM by assisting with the scheduling of meetings, recording of minutes, and dissemination of meeting-related materials.

(3) The ACMM will adopt a Charter and By-Laws that detail:

(a) How meetings will be conducted;

(b) The election of presiding officers; and

(c) The scheduling of at least four public meetings per year.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08

333-008-0120

System to Allow Verification of Data at All Times

(1) The Authority shall establish an interactive method to allow authorized employees of state and local law enforcement agencies to use the Oregon State Police Law Enforcement Data System (LEDS) to query an OMMP data file in order to verify at any time whether a particular patient, designated primary caregiver, grower, person responsible for a medical marijuana facility, grow site location, or medical marijuana facility is listed or registered with the Authority.

(2) LEDS access will only allow a yes or no answer to the query and the information obtained may not be used for any other purpose other than verification.

(3) The Authority may allow the release of reports related to verification if it is without identifying data.

(4) The Authority shall have staff available by phone to verify law enforcement agency employee questions during regular business hours in case the electronic verification system is down, and in

the event the system is expected to be down for more than two business days, the Authority shall ensure program staff are available by phone for verification purposes.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11; PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14

Medical Marijuana Facilities

333-008-1000

Applicability

(1) A person may not establish, conduct, maintain, manage or operate a facility on or after March 1, 2014, unless the facility has been registered by the Authority under these rules.

(2) Nothing in these rules exempts a PRF, an employee of a registered facility, or a registered facility from complying with any other applicable state or local laws.

(3) Registration of a facility does not protect a PRF or employees from possible criminal prosecution under federal law.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14

333-008-1010

Definitions

For the purposes of OAR 333-008-1000 through 333-008-1501 the following definitions apply:

(1) "Agricultural land" means land that is located within an exclusive farm use zone as that term is described in ORS 215.203.

(2) "Attended primarily by minors" means that a majority of the students are minors.

(3) "Authority" means the Oregon Health Authority.

(4) "Batch" means a quantity of usable marijuana of a single strain or a number of immature plants transferred at one time to a facility by a person authorized by a patient to transfer usable marijuana to a registered facility.

(5) "Business day" means Monday through Friday excluding legal holidays.

(6) "Career school" means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.

(7) "Conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.

(8)(a) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Authority.

(b) "Designated primary caregiver" does not include the person's attending physician.

(9) "Domicile" means the place of abode of an individual where the person intends to remain and to which, if absent, the individual intends to return.

(10) "Edible" means a product made with marijuana that is intended for ingestion.

(11) "Elementary school" means a learning institution containing any combination of grades Kindergarten through 8 or age level equivalent.

(12)(a) "Employee" means any person, including aliens, employed for remuneration or under any contract of hire, written or oral, express or implied, by an employer.

(b) "Employee" does not include a person who volunteers or donates services performed for no remuneration or without expectation or contemplation of remuneration as the adequate consideration for the services performed for a religious or charitable institution or a governmental entity.

(13) "Facility" means a medical marijuana facility.

- (14) "Farm use" has the meaning given that term in ORS 215.203.
- (15) "Finished product" means a usable marijuana product including but not limited to edible products, ointments, concentrates and tinctures. A finished product does not mean dried marijuana flowers.
- (16) "Grower" has the same meaning as "person responsible for a marijuana grow site."
- (17) "Grow site" means a specific location registered by the Authority and used by the grower to produce marijuana for medical use by a specific patient.
- (18) "Immature marijuana plant or immature plant" means a marijuana plant that is not flowering.
- (19) "Macroscopic screening" means visual observation without the aid of magnifying lens(es).
- (20) "Microscopic screening" means visual observation with a minimum magnification of 40x.
- (21) "Minor" means an individual under the age of 18.
- (22) "Oregon Medical Marijuana Program" or "OMMP" means the program operated and administered by the Authority that registers patients, designated primary caregivers, and growers.
- (23) "Patient" has the same meaning as "registry identification cardholder."
- (24) "Person" means an individual.
- (25) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose and has the same meaning as "grower".
- (26) "Person responsible for a medical marijuana facility" or "PRF" means an individual who owns, operates, or otherwise has legal responsibility for a facility and who meets the qualifications established in these rules and has been approved by the Authority.
- (27) "Pesticide" means any substance or mixture of substances, intended to prevent, destroy, repel, or mitigate any pest.
- (28) "Premises" means a location registered by the Authority under these rules and includes all areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where individuals are permitted to be present.
- (29) "Random sample" means an amount of usable marijuana taken from a batch in which different fractions of the usable marijuana have an equal probability of being represented.
- (30) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.
- (31) "Remuneration" means compensation resulting from the employer-employee relationship, including wages, salaries, incentive pay, sick pay, compensatory pay, bonuses, commissions, stand-by pay, and tips.
- (32) "Resident" means an individual who has a domicile within this state.
- (33) "Restricted area" means a secure area where usable marijuana and immature plants are present.
- (34) "Safe" means:
- (a) A metal receptacle with a locking mechanism capable of storing all usable marijuana at a registered facility that:
- (A) Is rendered immobile by being securely anchored to a permanent structure of the building; or
- (B) Weighs more than 750 pounds.
- (b) A vault; or
- (c) A refrigerator or freezer capable of being locked for storing edibles or other finished products that require cold storage that:
- (A) Is rendered immobile by being securely anchored to a permanent structure of the building; or
- (B) Weighs more than 750 pounds.
- (35) "Secondary school" means a learning institution containing any combination of grades 9 through 12 or age level equivalent and includes those institutions that provide junior high schools which include 9th grade.

(36) "Secure area" means a room:

- (a) With doors that are kept locked and closed at all times except when the doors are in use; and
- (b) Where access is only permitted as authorized in these rules.

(37) "Single strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(38) "These rules" means OAR 333-008-1000 through 333-008-1501.

(39) "Usable marijuana" has the meaning given that term is ORS 475.302 and includes "finished product".

(40) "Valid testing methodology" means a scientifically valid testing methodology described in a published national or international reference and validated by the testing laboratory.

(41) "Vault" means an enclosed area that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1020

Application for Medical Marijuana Facility Registration

(1) A PRF wishing to apply to register a facility must provide to the Authority:

- (a) An application on a form prescribed by the Authority;
- (b) The applicable fee as specified in OAR 333-008-1030;
- (c) Documentation that demonstrates the facility is registered as a business or has filed an application to register as a business with the Office of the Secretary of State;
- (d) Documentation that shows the current zoning of the location of the proposed facility;
- (e) Documentation, on a form prescribed by the Authority, with the applicant's affirmation that the proposed facility is not within 1,000 feet of the real property comprising a public or private elementary, secondary or career school;
- (f) Information and fingerprints required for a criminal background check in accordance with OAR 333-008-1130; and
- (g) Proof that the PRF resides in Oregon in accordance with OAR 333-008-1120(1)(a).

(2) An application for the registration of a facility must be submitted by a PRF electronically via the Authority's website, <http://mmj.oregon.gov>. The documentation required in subsections (1)(c) through (g) of this rule may be submitted electronically to the Authority or may be mailed. If documentation is mailed, it must be postmarked within five calendar days of the date the application was submitted electronically to the Authority or the application will be considered to be incomplete. If documentation is submitted electronically it must be received by the Authority by 5 p.m. Pacific Standard Time (PST) within five calendar days of the date the application was submitted electronically to the Authority or the application will be considered incomplete. Applicable fees must be paid online at the time of application.

(3) Applications will be reviewed in the order they are received by the Authority. An application is considered received as of the date and time that payment of fees is authorized by the entity that issued the credit or debit card used by the PRF to pay the fees.

(4) The Authority shall return an incomplete application to the person that submitted the application. A person may re-submit an application that was returned as incomplete at any time. An application that is returned as incomplete must be treated by the Authority as if it was never received. An application is considered incomplete if:

- (a) An application does not contain all the requested information in the form;
- (b) The applicant does not submit the required documentation described in subsections (1)(c) through (g) of this rule; or
- (c) The application and registration fees are not paid.

(5) A PRF who wishes to register more than one location must submit a separate application, registration fees, and all documentation described in section (1) of this rule for each location.

(6) At the time of application the PRF will be asked, by the Authority, to sign an authorization waiving the confidentiality of the location of the facility and permitting the Authority to make the location and name of the facility public if the facility is registered.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1030

Fees

(1) The initial fees for the registration of a facility are:

- (a) A non-refundable application fee of \$500; and
- (b) A \$3,500 registration fee.

(2) The annual renewal fees for the registration of a facility are:

- (a) A \$500 non-refundable renewal fee; and
- (b) A \$3,500 registration fee.

(3) The Authority must return the registration fee if:

- (a) An application is returned to the applicant as incomplete;
- (b) The Authority denies an application; or
- (c) An applicant withdraws an application.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14

333-008-1040

Application Review

(1) Once the Authority has determined that an application is complete it will review an application to the extent necessary to determine compliance with ORS 475.314 and these rules.

(2) The Authority may, in its discretion, prior to acting on an application:

- (a) Contact the applicant and request additional documentation or information;
- (b) Inspect the premises of the proposed facility; and
- (c) Verify any information submitted by the applicant.

(3) Prior to making a decision whether to approve or deny an application the Authority must:

- (a) Ensure that the criminal background check process has been completed and review the results;
- (b) Contact the OMMP and obtain documentation of whether the location of the facility is the same location as a registered grow site under OAR 333-008-0025;
- (c) Review documentation submitted by the applicant to determine, based on the information provided by the applicant, whether the proposed facility is located within 1,000 feet of the real property comprising a public or private elementary, secondary or career school;
- (d) Review the list of registered facilities to determine whether any registered facilities are within 1,000 feet of the proposed facility; and
- (e) Verify that the business that operates the facility is registered with the Office of the Secretary of State.

(4) If during the review process the Authority determines that the application or supporting documentation contains intentionally false or misleading information the Authority must return the application to the applicant as incomplete.

(5) If the proposed facility is in compliance with ORS 475.314(3)(a) through (d) and the PRF has passed the criminal background check and resides in Oregon, the Authority must notify the applicant in writing that the dispensary and PRF have met the initial criteria for registration. Within 60 days of the Authority's notification the applicant must submit a form, prescribed by the Authority, that the proposed facility and PRF are in compliance with these rules, including but not limited to:

- (a) Installation of a security system, including a video surveillance system, and alarm system that are all operational, and installation of a safe in accordance with OAR 333-008-1140 through 333-008-1180;
 - (b) Having policies and procedures as required by OAR 333-008-1200 and training for employees on the policies and procedures;
 - (c) Identification of at least one laboratory that will perform the testing required in OAR 333-008-1190;
 - (d) Having a fully operational electronic data management system in accordance with OAR 333-008-1210; and
 - (e) Having packaging and labeling that complies with OAR 333-008-1220 and 333-008-1225.
- (6) If the Authority does not receive the form described in section (5) of this rule within 60 days of the applicant being notified that the dispensary and PRF met initial criteria for registration, the applicant's application will be returned as incomplete.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1050

Approval of Application

- (1) If the Authority receives the form required to be submitted under OAR 333-008-1040(5) the Authority must perform a site visit within 30 days of receiving the form to determine whether the PRF and facility are in compliance with these rules.
- (2) If, after the site visit the Authority determines that the facility is in compliance with these rules the Authority must provide the applicant with proof of registration that includes a unique registration number, and notify the PRF in writing that the facility may operate.
- (3) If, after the site visit the Authority determines that the facility is not in compliance with these rules the Authority may:
- (a) Give the PRF 10 business days to come into compliance;
 - (b) Propose to deny the facility's registration in accordance with OAR 333-008-1275(2); or
 - (c) Consider the application to be incomplete.
- (4) A facility that has been registered must display proof of registration in a prominent place inside the facility so that proof of registration is easily visible to individuals authorized to transfer usable marijuana and immature plants to the facility and individuals who are authorized to receive a transfer of usable marijuana and immature plants from the facility at all times when usable marijuana or immature plants are being transferred.
- (5) A registered facility may not use the Authority or the OMMP name or logo except to the extent that information is contained on the proof of registration on any signs at the facility, on its website, or in any advertising or social media.
- (6) A facility's registration is only valid for the location indicated on the proof of registration and is only issued to the PRF that is listed on the application or subsequently approved by the Authority.
- (7) A facility's registration may not be transferred to another location.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1060

Denial of Application

- (1) The Authority must deny a new or renewal application if:
- (a) An application, supporting documentation provided by the PRF, or other information obtained by the Authority shows that the qualifications for a facility in ORS 475.314 or these rules have not been met; or
 - (b) The PRF has been:
 - (A) Convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date the application was received by the Authority; or

(B) Convicted more than once for the manufacture or delivery of a controlled substance in Schedule I or Schedule II; or

(C) Prohibited by a court from participating in the OMMP.

(c) The city or county in which the facility is located has prohibited facilities in accordance with sections 133 or 134, chapter 614, Oregon Laws 2015, unless the facility meets the criteria in sections 133(6) or 134(6), chapter 614, Oregon Laws 2015.

(2) If the PRF that is identified in the application is not qualified to be a PRF, the Authority will permit a change of PRF form to be submitted in accordance with OAR 333-008-1120, along with the applicable criminal background check fee. If the proposed PRF is not qualified to be a PRF, the Authority must deny the application in accordance with section (1) of this rule.

(3) If the Authority intends to deny an application for registration it must issue a Notice of Proposed Denial in accordance with ORS 183.411 through 183.470.

Stat. Auth.: ORS 475.314 & 475.338, sec. 133 & 134, ch. 614, OL 2015

Stats. Implemented: ORS 475.314, sec. 133 & 134, ch. 614, OL 2015

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1070

Expiration and Renewal of Registration

(1) A facility's registration expires one year following the date of application approval.

(2) If a PRF wishes to renew the facility's registration, the person must submit to the Authority within 60 calendar days of the registration's expiration:

(a) An application renewal form prescribed by the Authority;

(b) The required renewal fees;

(c) Forms required for the Authority to do a criminal background check on the PRF.

(3) A PRF that does not submit timely renewal documentation in accordance with section (2) of this rule may not operate the facility if the previous registration expires prior to the Authority issuing a renewed registration. The facility will remain registered until a renewal is either issued or denied, but the facility may not operate with an expired registration.

(4) If a PRF does not submit a renewal form and the required renewal fees prior to the registration's expiration, the registration is expired and is no longer valid, and the PRF may reapply for registration.

(5) Renewals will be processed in accordance with OAR 333-008-1040 to 333-008-1060.

Stat. Auth.: ORS 475.314 & 475.338, sec. 133 & 134, ch. 614, OL 2015.

Stats. Implemented: ORS 475.314, sec. 133 & 134, ch. 614, OL 2015.

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1080

Notification of Changes

(1) A PRF must notify the Authority within 10 calendar days of any of the following:

(a) The PRF's conviction for the manufacture or delivery of a controlled substance in Schedule I or Schedule II;

(b) The issuance of a court order that prohibits the PRF from participating in the OMMP;

(c) A decision to change the PRF;

(d) A decision to permanently close the facility at that location;

(e) A decision to move to a new location;

(f) A change in ownership;

(g) A change in the person's residency;

(h) The location of a public or private elementary, secondary or career school attended primarily by minors within 1,000 feet of the facility;

(i) Any structural changes within the facility that will result in a change to the secure or restricted areas, or entrances or exits to the facility; and

(j) The theft of usable marijuana or immature plants.

(2) The notification required in section (1) of this rule must include a description of what has changed or the event and any documentation necessary for the Authority to determine whether the facility is still in compliance with ORS 474.314 and these rules including but not limited to, as applicable:

- (a) A copy of the criminal judgment or order;
 - (b) A copy of the court order prohibiting the PRF from participating in the OMMP;
 - (c) The location of the school that has been identified as being within 1,000 feet of the facility;
 - (d) The information required in OAR 333-008-1120 and 333-008-1130 to determine the residency of the new PRF and to perform the criminal background check; or
 - (e) A copy of the police report documenting that the theft of usable marijuana or immature plants was reported to law enforcement.
- (3) Failure of the PRF to notify the Authority in accordance with this rule may result in revocation of a facility's registration.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1090

Required Closures

A facility may not receive transfers of usable marijuana or immature plants or transfer usable marijuana or immature plants if:

- (1) The PRF is convicted for the manufacture or delivery of a controlled substance in Schedule I or Schedule II;
- (2) The PRF changes and the Authority has not:
 - (a) Performed a criminal background check on the proposed PRF in accordance with OAR 333-008-1130;
 - (b) Determined whether the individual is a resident of Oregon; and
 - (c) Provided written approval that the new PRF meets the requirements of ORS 475.314.
- (3) The PRF has been ordered by the court not to participate in the OMMP; or
- (4) A public or private elementary, secondary or career school attended primarily by minors is found to be within 1,000 feet of the registered facility.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1100

Business Qualifications for Medical Marijuana Facility Registration

A facility must maintain a current registration as a business with the Office of the Secretary of State in order to receive or maintain registration.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1110

Locations of Medical Marijuana Facilities

- (1) In order to be registered a facility must be located in an area that is zoned by the local governing agency for commercial, industrial or mixed use or as agricultural land.
- (2) Registration by the Authority is not a guarantee that a facility is permitted to operate under applicable land use or other local government laws where the facility is located.
- (3) A facility may not be located:
 - (a) At the same address as a registered marijuana grow site;
 - (b) Within 1,000 feet of the real property comprising a public or private elementary, secondary or

career school attended primarily by minors; or

(c) Within 1,000 feet of another medical marijuana facility.

(4) For purposes of implementing ORS 475.314(3)(c), the Authority will consider a location to be a school if it has at least the following characteristics:

(a) Is a public or private elementary, secondary or career school as those terms are defined OAR 333-008-1010;

(b) There is a building or physical space where students gather together for education purposes on a regular basis;

(c) A curriculum is provided;

(d) Attendance at the location meets Oregon's mandatory attendance law, ORS 339.010 or an exemption under ORS 339.030(1)(a); and

(e) Faculty is present to teach or guide student education.

(5) For purposes of determining the distance between a facility and a school referenced in subsection (3)(b) of this rule, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public or private elementary, secondary or career school to the closest point of the premises of a facility. If any portion of the premises of a proposed or registered facility is within 1,000 feet of a public or private elementary, secondary or career school it may not be registered.

(6) For purposes of determining the distance between a facility and another registered facility "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from the closest point anywhere on the premises of a registered facility to the closest point anywhere on the premises of a proposed facility. If any portion of the premises of a proposed facility is within 1,000 feet of a registered facility it may not be registered.

(7) In order to be registered a facility must operate at a particular location as specified in the application and may not be mobile.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1120

Person Responsible for a Medical Marijuana Facility (PRF)

(1) A PRF must:

(a) Be a resident of Oregon. For a new application or a change of PRF form submitted on or after July 1, 2015, a PRF must submit a residency form, prescribed by the Authority, along with a copy of the PRF's Oregon driver's license or Oregon identification card.

(A) If a PRF was first registered with the Authority as a PRF for a different facility on or before January 1, 2015, and has continuously remained a PRF, the PRF must have been a resident of Oregon for at least one year immediately prior to the application being submitted to the Authority.

(B) If a PRF was not first registered with the Authority as a PRF on or before January 1, 2015, the PRF must have been a resident of Oregon for at least two years immediately prior to the application being submitted to the Authority.

(C) If a PRF was first registered with the Authority as a PRF on or before January 1, 2015, but has not continuously remained a PRF for a dispensary since first registered, the PRF must have been a resident of Oregon for at least two years immediately prior to the application being submitted to the Authority.

(D) If a PRF does not have an Oregon driver's license or the PRF's Oregon driver's license or Oregon identification card was not issued one or two years prior to the date of application, as applicable, the Authority will attempt to verify whether the PRF has been a resident for the required length of time and may require the PRF to submit additional information to the Authority to prove residency.

(b) Have legal authority to act on behalf of the facility; and

(c) Be responsible for ensuring the facility complies with applicable laws, if registered.

(2) A PRF may not:

(a) Have been convicted in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years from the date of application; or

(b) Have been convicted more than once in any state for the manufacture or delivery of a controlled substance in Schedule I or Schedule II.

(3) A PRF is accountable for any intentional or unintentional action of its owners, officers, managers, employees or agents, with or without the knowledge of the PRF, who violate ORS 475.314 or these rules.

(4) If a PRF no longer meets the criteria of a PRF the Authority shall inform the PRF and the owner of the facility if different that:

(a) The PRF may no longer serve in that capacity;

(b) In order to remain registered, a change of PRF form must be submitted along with a criminal background check fee of \$35; and

(c) The facility may not operate until the Authority has approved a PRF.

(5) If the Authority is notified that a change of PRF is needed, the current PRF is no longer able to serve as the PRF, or the PRF has been or will be removed by the owner of a facility, the owner of the facility must submit a change of PRF form to the Authority within 10 business days of the notification or the Authority will begin proceedings to revoke the registration of the facility.

(6) If the PRF of record for the facility is no longer serving in that capacity the facility may not operate until a new PRF has been approved by the Authority.

Stat. Auth.: ORS 475.314 & 475.338, sec. 173, ch. 614, OL 2015

Stats. Implemented: ORS 475.314, sec. 173, ch. 614, OL 2015

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15; PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1130

Criminal Background Checks

(1) A PRF must, at the time of application, provide to the Authority:

(a) A criminal background check request form, prescribed by the Authority that includes but is not limited to:

(A) First, middle and last name;

(B) Any aliases;

(C) Date of birth;

(D) Driver's license information; and

(E) Address and recent residency information.

(b) Fingerprints in accordance with the instructions on the Authority's webpage: <http://mmj.oregon.gov>.

(2) The Authority may request that the PRF disclose his or her Social Security Number if notice is provided that:

(a) Indicates the disclosure of the Social Security Number is voluntary; and

(b) That the Authority requests the Social Security Number solely for the purpose of positively identifying the PRF during the criminal records check process.

(3) The Authority shall conduct a criminal records check in order to determine whether the PRF has been convicted of the manufacture or delivery of a controlled substance in Schedule I or Schedule II in any state.

(4) The Authority must conduct a criminal background check in accordance with this rule on a PRF every year at the time of application renewal.

(5) If a PRF wishes to challenge the accuracy or completeness of information provided by the Department of State Police, the Federal Bureau of Investigation and agencies reporting information to the Department of State Police or Federal Bureau of Investigation, those challenges must be made through the Department of State Police, Federal Bureau of Investigation or reporting agency and not through the contested case process specified in OAR 333-008-1060(2).

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14

333-008-1140

Security for Registered Facilities

(1) The PRF must ensure that a registered facility complies with OAR 333-008-1140 through 333-008-1180.

(2) The PRF is responsible for the security of all usable marijuana and immature plants in the registered facility, including providing adequate safeguards against theft or diversion of usable marijuana and immature plants and records that are required to be kept.

(3) The PRF must ensure that commercial grade, non-residential door locks are installed on every external door at a registered facility prior to opening for business and used while a facility is registered.

(4) During all hours when the registered facility is open for business, the PRF must ensure that:

(a) All usable marijuana and immature plants received and all usable marijuana and immature plants available for transfer to a patient or a designated primary caregiver are kept in a locked, secure area that can only be accessed by authorized personnel.

(b) All areas where usable marijuana or immature plants are received for transfer by a registered facility are identified as a restricted access area by posting a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads, "Restricted Access Area — Authorized Personnel Only".

(c) All areas where usable marijuana or immature plants are available for transfer to a patient or designated primary caregiver are:

(A) Identified as a restricted access area and clearly identified by the posting of a sign not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height that reads "Restricted Access Area — No Minors Allowed";

(B) Supervised by the PRF or an employee of the registered facility at all times when a patient or designated primary caregiver is present; and

(C) Separate from any area where usable marijuana or immature plants are being transferred to a registered facility.

(5) During all hours when the registered facility is not open for business the PRF must ensure that:

(a) All entrances to and exits from the facility are securely locked and any keys or key codes to the facility remain in the possession of the PRF or authorized employees;

(b) All usable marijuana is kept in a safe; and

(c) All immature plants are in a locked room.

(6) The PRF must ensure that:

(a) Electronic records are encrypted, and securely stored to prevent unauthorized access and to ensure confidentiality;

(b) There is an electronic back-up system for all electronic records; and

(c) All video recordings and archived required records not stored electronically are kept in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the registered facility is open.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14

333-008-1150

Alarm System for Registered Facilities

(1) Prior to being registered a PRF must ensure that the facility has a fully operational security alarm system, installed by an alarm installation company, on all facility entry or exit points and perimeter windows.

(2) The security alarm system for the registered facility must:

(a) Be able to detect movement inside the registered facility;

(b) Be programmed to notify a security company that will notify the PRF or his or her designee in the event of a breach; and

(c) Have at least two operational "panic buttons" located inside the registered facility that are linked with the alarm system that notifies a security company.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1160

Video Surveillance Equipment for Registered Facilities

(1) Prior to being registered a PRF must ensure that a fully operational video surveillance recording system is installed in the facility.

(2) Video surveillance equipment must, at a minimum:

(a) Consist of:

(A) Digital or network video recorders;

(B) Cameras capable of meeting the requirements of OAR 333-008-1170 and this rule;

(C) Video monitors;

(D) Digital archiving devices; and

(E) A color printer capable of producing still photos.

(b) Be equipped with a failure notification system that provides prompt notification to the PRF or employees of any prolonged surveillance interruption or failure; and

(c) Have sufficient battery backup to support a minimum of one hour of recording time in the event of a power outage.

(3) All video surveillance equipment and recordings must be stored in a locked secure area that is accessible only to the PRF, authorized employees of the registered facility and the Authority.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1170

Required Camera Coverage and Camera Placement for Registered Facilities

(1) Prior to being registered a PRF must ensure that the facility has camera coverage for:

(a) All secure and restricted access areas described in OAR 333-008-1140;

(b) All point of sale areas;

(c) All points of entry to or exit from secure and restricted access areas; and

(d) All points of entry to or exit from the registered facility.

(2) A PRF must ensure that cameras are placed so that they capture clear and certain images of any individual and activity occurring:

(a) Within 15 feet both inside and outside of all points of entry to and exit from the registered facility; and

(b) Anywhere within secure or restricted areas on the facility premises.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1180

Video Recording Requirements for Registered Facilities

(1) A PRF must ensure that all cameras are continuously monitored by motion sensor video equipment or similar technology 24 hours a day when usable marijuana or immature plants are on the premises of the facility.

(2) A PRF must ensure that:

(a) All surveillance recordings are kept for a minimum of 30 calendar days and are in a format that can be easily accessed for viewing;

(b) The surveillance system has the capability to produce a color still photograph from any camera

image;

(c) The date and time is embedded on all surveillance recordings without significantly obscuring the picture;

(d) Video recordings are archived in a format that ensures authentication of the recording as a legitimately-captured video and guarantees that no alterations of the recorded image has taken place; and

(e) Video surveillance records and recordings are available upon request to the Authority for the purpose of ensuring compliance with ORS 475.314 and these rules.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1190

Testing

(1) Prior to being registered a PRF must have documentation that identifies at least one laboratory that will do the testing in accordance with these rules and identify who will do the testing for immature plants.

(2) A PRF must ensure that usable marijuana and immature plants are tested for pesticides, mold and mildew in accordance with this rule prior to the usable marijuana or immature plants being transferred to a patient or a designated primary caregiver. A PRF may accept test results from a grower or other individual for flowers or other usable plant material if:

(a) The grower or other individual provides a copy of the test results;

(b) The PRF can demonstrate that the grower or other individual took random samples from the batch to be tested; and

(c) The PRF can demonstrate that the batch from where samples were taken were sealed and not tampered with from the time samples for testing were taken and when they were delivered to the facility.

(3) Upon usable marijuana being transferred to a registered facility in accordance with OAR 333-008-1230, the PRF must ensure the usable marijuana is segregated into batches, that each batch is placed in an individual container or bag, and that a label is attached to the container or bag that includes at least the following information:

(a) A unique identifier;

(b) The name of the person who transferred it; and

(c) The date the usable marijuana was received by the registered facility.

(4) Sampling. A PRF must ensure that random samples from each batch are taken in an amount necessary to conduct the applicable test, that the samples are labeled with the batch's unique identifier, and submitted for testing.

(5) Testing. A PRF must ensure that each sample is tested for pesticides, mold, and mildew and for an analysis of the levels of tetrahydrocannabinol (THC) and cannabidiol (CBD).

(a) Immature Plants. An immature plant may be tested for pesticides, mold or mildew by conducting a macroscopic or microscopic screening to determine if the plant has visible pesticide residue, mold or mildew. Testing for mold and mildew on immature plants must be done at least every 30 calendar days.

(b) Flowers or other usable marijuana plant material. Usable marijuana in the form of flowers or other plant material must be:

(A) Tested for pesticides, mold and mildew using valid testing methodologies and macroscopic or microscopic screening may not be used;

(B) Tested for pesticides by testing for the following analytes:

(i) Chlorinated Hydrocarbons;

(ii) Organophosphates;

(iii) Carbamates; and

(iv) Pyrethroids; and

(C) Analyzed, using valid testing methodologies, to determine the levels of THC and CBD.

(c) Finished Products. If a facility receives a transfer of a pre-packaged finished product the facility may, in lieu of testing the finished product, obtain from the individual who transferred the finished product, lab results that show the usable marijuana in the finished product was tested in accordance with this rule, and that the finished product was tested for levels of THC and CBD.

(6) Laboratory Requirements. A PRF must ensure that all testing, except for testing of immature plants, is done by a third party or in-house laboratory that:

(a) Uses valid testing methodologies; and

(b) Has a Quality System for testing of pesticides, mold and mildew that is compliant with the:

(A) 2005 International Organization for Standardization 17025 Standard; or

(B) 2009 National Environmental Laboratory Accreditation Conference Institute TNI Standards.

(7) Macroscopic or microscopic screening of immature plants must be conducted by a person who has a minimum of a bachelor's degree in horticulture, botany, plant pathology, or microbiology but is not required to be done by a laboratory.

(8) Testing Results. A laboratory must provide testing results to the PRF signed by an official of the laboratory who can attest to the accuracy of the results, and that includes the levels of pesticides, mold or mildew detected and the levels of THC and CBD.

(a) If an immature plant has visible pesticide residue, mold or mildew it must be deemed to test positive and must be returned to the person who transferred the immature plant to the registered facility.

(b) A sample of usable marijuana shall be deemed to test positive for mold and mildew if the sample has levels that exceed the maximum acceptable counts in **Appendix A**.

(c) A sample of usable marijuana shall be deemed to test positive for pesticides with a detection of more than 0.1 parts per million of any pesticide.

(9) If an immature plant or sample of usable marijuana tests positive for pesticides, mold or mildew based on the standards in this rule the PRF must ensure the entire batch from which the sample was taken is returned to the person who transferred the immature plant or usable marijuana to the registered facility and must document how many or how much was returned, to whom, and the date it was returned.

(10) A registered facility may perform its own testing as long as the testing complies with this rule.

(11) The PRF may permit laboratory personnel or other persons authorized to do testing access to secure or restricted access areas of the registered facility where usable marijuana or immature plants are stored. The PRF must log the date and time in and out of all such persons.

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of table\(s\).](#)]

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 8-2014(Temp), f. 2-19-14, cert. ef. 2-21-13 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1200

Operation of Registered Facilities

(1) A PRF must ensure that a registered facility does not permit:

(a) A minor to be present in any area of a registered facility where usable marijuana or immature plants are present, even if the minor is a patient or an employee; and

(b) Consumption, ingestion, inhalation or topical application of usable marijuana anywhere on the premises of the registered facility, except that an employee of a registered facility who is a patient may consume usable marijuana during his or her work shift on the premises of the registered facility as necessary for his or her medical condition, if the employee is:

(A) Alone and in a closed room if the usable marijuana is being smoked;

(B) Not visible to patients or caregivers on the premises of the registered facility to receive a transfer of usable marijuana or an immature plant; and

(C) Not visible to the public outside the facility.

(2) A PRF must ensure that a registered facility uses an Oregon Department of Agriculture licensed and certified scale to weigh all usable marijuana.

(3) The following persons are the only persons permitted in any area of a registered facility where usable marijuana or immature plants are present, and only in accordance with these rules, as applicable:

- (a) A PRF;
- (b) An owner of a registered facility;
- (c) An employee of the registered facility;
- (d) Laboratory personnel in accordance with OAR 333-008-1190;
- (e) A contractor authorized by the PRF to be on the premises of a registered facility;
- (f) A patient, designated primary caregiver, or growers;
- (g) An authorized employee or authorized contractor of the Authority;
- (h) Other government officials that have jurisdiction over some aspect of the registered facility or that otherwise have authority to be on the premises of the registered facility; and
- (i) A governmental official authorized by the Authority to be on the premises if accompanied by an Authority representative and the facility has been provided notice and has agreed to permit the governmental official access.

(4) A PRF must have written detailed policies and procedures and training for employees on the policies and procedures that, at a minimum, cover the following:

- (a) Security;
- (b) Testing;
- (c) Transfers of usable marijuana and plants to and from the facility;
- (d) Operation of a registered facility;
- (e) Required record keeping;
- (f) Labeling; and
- (g) Violations and enforcement.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1210

Record Keeping

(1) A PRF must ensure that the following information is documented and maintained electronically in a manner that can easily be shared with the Authority or accessed by the Authority:

- (a) All Authorization to Transfer forms, including the date on which a form was received;
- (b) Any written notifications from a patient with regard to any change in status as required by ORS 475.309(7)(a)(B) or (10)(a);
- (c) Any revocation of an Authorization to Transfer form;
- (d) All transfer information required in OAR 333-008-1230 and 333-008-1245;
- (e) Documentation of the costs of doing normal and customary business used to establish the reimbursement amounts for transfers of usable marijuana or immature plants, including costs related to transferring, handling, securing, insuring, testing, packaging and processing usable marijuana and immature marijuana plants and the cost of supplies, utilities and rent or mortgage.
- (f) The amount of money paid by a registered facility to a grower for each transfer of usable marijuana or immature plants;
- (g) The amount of money paid by each patient or designated primary caregiver for a transfer of usable marijuana or an immature plant;
- (h) The laboratory reports of all testing and other information required to be documented in OAR 333-008-1190; and
- (i) All other information required to be documented and retained by these rules.

(2) The PRF must ensure that information required to be documented pursuant to section (1) of this rule is maintained in a safe and secure manner that protects the information from unauthorized access, theft, fire, or other destructive forces, and is easily retrievable for inspection by the Authority upon request, either at the registered facility or online.

(3) A PRF must ensure that a registered facility uses an electronic data management system for

the recording of transfers of usable marijuana and immature plants. The system must meet the following minimum requirements:

- (a) Record the information required to be documented in this rule and OAR 333-008-1230 and 333-008-1245;
 - (b) Provide for off-site or secondary backup system;
 - (c) Assign a unique transaction number for each transfer to or from the registered facility;
 - (d) Monitor date of testing and testing results;
 - (e) Track products by unique transaction number through the transfer in, testing and transfer out processes;
 - (f) Generate transaction and other reports requested by the Authority viewable in PDF format;
 - (g) Produce reports, including but not limited to inventory reports; and
 - (h) Provide security measures to ensure patient and grower records are kept confidential.
- (4) Documents and information required to be maintained in these rules must be retained by the PRF for at least one year.
- (5) A PRF must provide the Authority with any documentation required to be maintained in these rules upon request, in the format requested by the Authority, or permit the Authority access to such documentation on-site.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1220

Labeling

(1) Prior to transferring usable marijuana a PRF must ensure that a label is affixed to the usable marijuana that includes but is not limited to:

- (a) Flowers or other usable plant material:
 - (A) Percentage of THC and CBD;
 - (B) Weight in grams;
 - (C) Testing batch number and date tested;
 - (D) Who performed the testing; and
 - (E) Description of the product (strain).
- (b) Finished product:
 - (A) THC and CBD potency;
 - (B) The weight or volume of usable marijuana in the packaged finished product in grams, milligrams, or milliliters, as applicable;
 - (C) Testing batch number and date tested;
 - (D) Who performed the testing; and
 - (E) Warning label in accordance with section (2) of this rule.

(2) If the registered facility transfers a finished product, the PRF must ensure that the finished product has a warning label on the outside of the packaging that includes the following: "WARNING: MEDICINAL PRODUCT — KEEP OUT OF REACH OF CHILDREN" in bold capital letters, in a font size that is larger than the type-size of the other printing on the label such that it is easy to read and prominently displayed on the product.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1225

Packaging

(1) For purposes of this rule:

(a) "Child-resistant safety packaging" means:

(A) Containers designed and constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly;

(B) Opaque so that the product cannot be seen from outside the packaging;

(C) Closable for any product intended for more than a single use or containing multiple servings; and

(D) Labeled in accordance with OAR 333-008-1220.

(b) "Container" means a sealed, hard or soft-bodied receptacle in which a tetrahydrocannabinol-infused product is placed prior to being transferred to a patient or caregiver.

(c) "Packaged in a manner not attractive to minors" means the tetrahydrocannabinol-infused product is not in a container that is brightly colored, depicts cartoons or images other than the logo of the facility, unless the logo of the facility depicts cartoons, in which case only the name of the facility is permitted.

(2) A registered facility may not transfer any tetrahydrocannabinol-infused product that is meant to be swallowed or inhaled, unless the product is:

(a) In child-resistant safety packaging; and

(b) Packaged in a manner that is not attractive to minors.

Stat. Auth.: ORS 475.314

Stats. Implemented: ORS 475.314

Hist.: PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14; PH 25-2014, f. & cert. ef. 9-24-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1230

Transfers to a Registered Facility

(1) A patient may authorize usable marijuana or immature marijuana plants to be transferred to a registered facility by signing an Authorization to Transfer form prescribed by the Authority. A patient may authorize transfers to more than one registered facility. A separate form must be provided for each registered facility. The Authorization must include, but is not limited to, the following information:

(a) The patient's name, OMMP card number and expiration date and contact information;

(b) The name and contact information of the individual who is authorized to transfer the usable marijuana or immature marijuana plants to the registered facility and that individual's OMMP card number and expiration date;

(c) The name and address of the registered facility that is authorized to receive the usable marijuana or immature marijuana plants; and

(d) The date the authorization expires, if earlier than the expiration date of the patient's OMMP card.

(2) Only a patient, the patient's designated primary caregiver, or the patient's grower may be authorized to transfer usable marijuana or immature plants to a registered facility.

(3) The original Authorization to Transfer form must be provided to the registered facility to which a transfer may be made by the patient or person authorized to transfer the usable marijuana or immature plants. The patient should retain a copy of the Authorization to Transfer form for his or her records and provide a copy to the person authorized to transfer the usable marijuana or immature plants.

(4) An Authorization to Transfer form automatically expires on the date the patient's OMMP card expires, unless the patient has specified an earlier expiration date. If the patient renews his or her OMMP card the patient may execute a new Authorization to Transfer form in accordance with this rule.

(5) Once usable marijuana or an immature plant is transferred to a registered facility pursuant to a valid Authorization to Transfer form, the usable marijuana or immature plant is no longer the property of the patient unless the usable marijuana or immature plants are returned by the registered facility.

(6) Prior to a registered facility accepting a transfer of usable marijuana or immature plants the PRF must ensure that:

(a) It has a valid Authorization to Transfer form on file that authorizes the individual that is transferring the usable marijuana or immature plants to make the transfer; and

(b) The individual transferring the usable marijuana or immature plants is the individual authorized

to make the transfer.

(7) A PRF must ensure that when a registered facility accepts a transfer of usable marijuana or an immature plant the batch of usable marijuana and each immature plant are segregated in accordance with the testing rule, OAR 333-008-1190 and that the following information is documented, as applicable:

- (a) The unique identifier;
- (b) The weight in metric units of all usable marijuana received by the registered facility;
- (c) The number of immature plants received by the registered facility;
- (d) The amount of a finished product received by the registered facility, including, as applicable, the weight in metric units, or the number of units of a finished product;
- (e) A description of the form the usable marijuana was in when it was received, for example, oil or an edible product;
- (f) Who transferred the usable marijuana or the immature plant, the individual's OMMP card number and expiration date of the card, a copy of the individual's picture identification, the date the usable marijuana or an immature plant was received, and the name of the patient who authorized the transfer; and
- (g) The amount of reimbursement paid by the registered facility.

(8) Nothing in these rules requires a PRF or a registered facility to accept a transfer of usable marijuana or immature plants.

(9) A PRF must ensure that:

- (a) From the time that a batch or plant has been received by the registered facility until it is tested in accordance with these rules, the usable marijuana and immature plants are segregated, withheld from use, and kept in a secure location so as to prevent the marijuana or plants from becoming contaminated or losing efficacy, or from being tampered with or transferred except that samples may be removed for testing; and
- (b) No usable marijuana or immature plants are transferred to a patient or designated primary caregiver until testing has been completed, the registered facility has received a written testing report, and the usable marijuana and immature plants have tested negative for pesticides, mold and mildew.

(10) Usable marijuana and immature plants must be kept on-site at the facility. The Authority may cite a PRF for a violation of these rules if during an inspection it cannot account for its inventory or if the amount of flowers or other usable marijuana plant material at the registered facility is not within five percent of the documented inventory.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1240

Transfers to a Patient or Designated Primary Caregiver

(1) Prior to a registered facility transferring usable marijuana or an immature plant to a patient or a designated primary caregiver the PRF must ensure that:

- (a) The usable marijuana or an immature plant has not tested positive for mold, mildew or pesticides as specified in OAR 333-008-1190; and
- (b) The identity and cardholder status of the person requesting usable marijuana or an immature plant is verified by viewing the person's OMMP card and picture identification and making sure the two match.

(2) The PRF must ensure that for each transfer of usable marijuana or an immature plant to a patient or a designated primary caregiver the following information is documented:

- (a) The name, OMMP card number and expiration date of the card of each person to whom the registered facility transfers usable marijuana or an immature plant;
- (b) A copy of the person's picture identification;
- (c) The amount of usable marijuana transferred in metric units, if applicable;
- (d) The number of immature plants transferred, if applicable;
- (e) The amount of a finished product transferred in metric units, or units of the finished product, if applicable;

- (f) A description of what was transferred;
 - (g) The date of the transfer; and
 - (h) The amount of money paid by a patient or a designated primary caregiver to a registered facility for the transfer of usable marijuana or an immature plant.
- (3) The PRF must ensure that a registered facility does not transfer at any one time more usable marijuana or immature plants than a patient or designated primary caregiver is permitted to possess under ORS 475.320(1)(a). A PRF is not responsible for determining whether a patient or designated primary caregiver is limited in the amount of usable marijuana he or she can possess under 475.320(1)(b).

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; Suspended by PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

333-008-1245

Transfers to a Patient or Designated Primary Caregiver

(1) A registered facility may not transfer a tetrahydrocannabinol-infused product that is manufactured in a manner that is attractive to minors. For purposes of this section a product is considered to be manufactured in a manner that is attractive to minors if it is:

- (a) Brightly colored; or
- (b) In the shape of an animal or any other commercially recognizable toy or candy.

(2) Prior to a registered facility transferring usable marijuana or an immature plant to a patient or a designated primary caregiver the PRF must ensure that:

- (a) The usable marijuana or an immature plant has not tested positive for mold, mildew or pesticides as specified in OAR 333-008-1190; and
- (b) The identity and cardholder status of the person requesting usable marijuana or an immature plant is verified by viewing the person's OMMP card and picture identification and making sure the two match.

(3) The PRF must ensure that for each transfer of usable marijuana or an immature plant to a patient or a designated primary caregiver the following information is documented:

- (a) The name, OMMP card number and expiration date of the card of each person to whom the registered facility transfers usable marijuana or an immature plant;
- (b) A copy of the person's picture identification;
- (c) The amount of usable marijuana transferred in metric units, if applicable;
- (d) The number of immature plants transferred, if applicable;
- (e) The amount of a finished product transferred in metric units, or units of the finished product, if applicable;
- (f) A description of what was transferred;
- (g) The date of the transfer; and
- (h) The amount of money paid by a patient or a designated primary caregiver to a registered facility for the transfer of usable marijuana or an immature plant.

(4) The PRF must ensure that a registered facility does not transfer at any one time more usable marijuana or immature plants than a patient or designated primary caregiver is permitted to possess under ORS 475.320(1)(a). A PRF is not responsible for determining whether a patient or designated primary caregiver is limited in the amount of usable marijuana he or she can possess under 475.320(1)(b).

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14; PH 25-2014, f. & cert. ef. 9-24-14

333-008-1250

Inspections

(1) The Authority must conduct an initial inspection of every registered facility within six months of approving an application to ensure compliance with these rules, and must conduct a routine inspection of every registered facility at least every year.

(2) The Authority may conduct a complaint inspection at any time following the receipt of a complaint that alleges a registered facility is in violation of ORS 475.314 or these rules.

(3) The Authority may conduct an inspection at any time if it believes, for any reason, that a registered facility or a PRF is in violation of ORS 475.314 or these rules.

(4) A PRF and any employees, contractors, or other individuals working at a registered facility must cooperate with the Authority during an inspection.

(5) If an individual at a registered facility fails to permit the Authority to conduct an inspection the Authority may seek an administrative warrant authorizing the inspection pursuant to ORS 431.262.

Stat. Auth.: ORS 431.262, 475.314 & 475.338

Stats. Implemented: ORS 431.262 & 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14

333-008-1260

Violations

(1) The following are violations of ORS 475.314 or these rules:

(a) A PRF or an employee of a facility failing to cooperate with an inspection;

(b) The submission by a PRF, employee, or owner of a facility of false or misleading information to the Authority;

(c) Transferring usable marijuana or immature plants to an individual who is not a patient or a designated primary caregiver;

(d) Accepting a transfer of usable marijuana or immature plants without a valid authorization from the patient;

(e) Possessing a mature marijuana plant at the registered facility;

(f) Failing to document and maintain information in the manner required by these rules;

(g) Failing to account for flowers or other usable marijuana plant material in accordance with OAR 333-008-1230(10);

(h) Failing to submit a plan of correction in accordance with OAR 333-008-1275;

(i) Failing to comply with an emergency suspension order or final order of the Authority, including failing to pay a civil penalty; or

(j) Failing to comply with ORS 475.314 or any of these rules.

(2) It is a violation of ORS 475.314 and these rules to operate a facility without being registered by the Authority.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1270

Enforcement

(1)(a) Informal Enforcement. If, during an inspection the Authority documents violations of ORS 475.314 or any of these rules, the Authority may issue a written Notice of Violation to the PRF that cites the laws alleged to have been violated and the facts supporting the allegations.

(b) The PRF must submit to the Authority a signed plan of correction within 10 business days from the date the Notice of Violation was mailed to the person. A signed plan of correction will not be used by the Authority as an admission of the violations alleged in the Notice.

(c) A PRF must correct all deficiencies within 10 days from the date of the Notice, unless an extension of time is requested from the Authority. A request for such an extension shall be submitted in writing and must accompany the plan of correction.

(d) The Authority must determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Authority it must notify the PRF in writing and request that the plan of correction be modified and resubmitted no later than 10 working days from the date the letter of non-acceptance was mailed.

(e) If the registered facility does not come into compliance by the date of correction reflected on the plan of correction, the Authority may propose to revoke the registration of the facility or

impose civil penalties.

(f) The Authority may conduct an inspection at any time to determine whether a registered facility has corrected the deficiencies in a Notice of Violation.

(2) Formal Enforcement. If, during an inspection or based on other information the Authority determines that a registered facility or PRF is in violation of ORS 475.314 or these rules the Authority may issue:

(a) A Notice of Proposed Revocation in accordance with ORS 183.411 through 183.470; or

(b) A Notice of Imposition of Civil Penalties in accordance with ORS 183.745. Civil penalties may be issued for any violation of 475.314 and these rules, not to exceed \$500 per violation per day.

(3) The Authority must determine whether to use the informal or formal enforcement process based on the nature of the alleged violations, whether there are mitigating or aggravating factors, and whether the PRF or the registered facility has a history of violations.

(4) The Authority must issue a Notice of Proposed Revocation if the:

(a) Facility no longer meets the criteria in ORS 475.314(3)(a) to (d); or

(b) PRF is not a resident of Oregon, has disqualifying criminal convictions as described in OAR 333-008-1120, or a court has issued an order that prohibits the PRF from participating in the OMMP under ORS 475.300 through 475.346 unless a new PRF is approved by the Authority.

(5) The Authority may maintain a civil action against a facility that is operating but not registered in accordance with ORS 475.314 and these rules.

(6) The Authority must post a final order revoking the registration of a facility on the Authority's website and provide a copy of the final order to the OMMP.

(7) To the extent permitted by law, if the Authority discovers violations that may constitute criminal conduct or conduct that is in violation of laws within the jurisdiction of other state or local governmental entities, the Authority may refer the matter to the applicable agency.

(8) If the registration of a facility is revoked the PRF must make arrangements to return the usable marijuana and immature plants in amounts still possessed by the facility, to the person who transferred the usable marijuana or immature plants and must document the same.

Stat. Auth.: ORS 431.262, 475.314 & 475.338

Stats. Implemented: ORS 431.262 & 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; Suspended by PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14

333-008-1275

Enforcement

(1)(a) Informal Enforcement. If, during an inspection the Authority documents violations of ORS 475.314 or any of these rules, the Authority may issue a written Notice of Violation to the PRF that cites the laws alleged to have been violated and the facts supporting the allegations.

(b) The PRF must submit to the Authority a signed plan of correction within 10 business days from the date the Notice of Violation was mailed to the person. A signed plan of correction will not be used by the Authority as an admission of the violations alleged in the Notice.

(c) A PRF must correct all deficiencies within 10 business days from the date of the Notice, unless an extension of time is requested from the Authority. A request for such an extension shall be submitted in writing and must accompany the plan of correction.

(d) The Authority must determine if a written plan of correction is acceptable. If the plan of correction is not acceptable to the Authority it must notify the PRF in writing and request that the plan of correction be modified and resubmitted no later than 10 business days from the date the letter of non-acceptance was mailed.

(e) If the registered facility does not come into compliance by the date of correction reflected on the plan of correction, the Authority may propose to revoke the registration of the facility or impose civil penalties.

(f) The Authority may conduct an inspection at any time to determine whether a registered facility has corrected the deficiencies in a Notice of Violation.

(2) Formal Enforcement. If, during an inspection or based on other information the Authority determines that a registered facility or PRF is in violation of ORS 475.314 or these rules the Authority may issue:

(a) A Notice of Proposed Revocation in accordance with ORS 183.411 through 183.470.

(b) A Notice of Imposition of Civil Penalties in accordance with ORS 183.745. Civil penalties may

be issued for any violation of ORS 475.314 and these rules, not to exceed \$500 per violation per day.

(c) An Order of Emergency Suspension pursuant to ORS 183.430.

(3) The Authority must determine whether to use the informal or formal enforcement process based on the nature of the alleged violations, whether there are mitigating or aggravating factors, and whether the PRF or the registered facility has a history of violations.

(4) The Authority must issue a Notice of Proposed Revocation if the:

(a) Facility no longer meets the criteria in ORS 475.314(3)(a) to (d); or

(b) PRF is not a resident of Oregon, has disqualifying criminal convictions as described in OAR 333-008-1120, or a court has issued an order that prohibits the PRF from participating in the OMMP under ORS 475.300 through 475.346 unless a new PRF is approved by the Authority.

(5) The Authority may maintain a civil action against a facility that is operating but not registered in accordance with ORS 475.314 and these rules.

(6) The Authority may revoke the registration of a facility for failure to comply with an ordinance adopted by a city or county pursuant to Oregon Laws 2014, chapter 79, section 2, if the city or county:

(a) Has provided the facility with due process substantially similar to the due process provided to a registration or license holder under the Administrative Procedures Act, ORS 183.413 to 183.470; and

(b) Provides the Authority with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes the facility is in violation of the local ordinance.

(7) The Authority must post a final order revoking the registration of a facility on the Authority's website and provide a copy of the final order to the OMMP.

(8) To the extent permitted by law, if the Authority discovers violations that may constitute criminal conduct or conduct that is in violation of laws within the jurisdiction of other state or local governmental entities, the Authority may refer the matter to the applicable agency.

(9) If the registration of a facility is revoked the PRF must make arrangements to return the usable marijuana and immature plants in amounts still possessed by the facility, to the person who transferred the usable marijuana or immature plants and must document the same.

(10) The Authority is not required to accept the surrender of a registration and may proceed with an enforcement action even if a PRF has surrendered the facility's registration.

Stat. Auth.: ORS 431.262, 475.314 & 475.338

Stats. Implemented: ORS 431.262 & 475.314

Hist.: PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14; PH 25-2014, f. & cert. ef. 9-24-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1280

Confidentiality

(1) Any criminal background information received by the Authority about a PRF during the criminal background check process is confidential and is not subject to disclosure without a court order.

(2) The name of a PRF and the address of a registered facility is confidential and is not subject to disclosure without a court order, except as provided in ORS 475.331(2) and section (5) of this rule, or unless a PRF has authorized disclosure.

(3) If an application has been denied, the information submitted to the Authority in an application for registration of a facility is not confidential and may be subject to disclosure under ORS 192.410 through 192.505.

(4) A final order revoking the registration of a facility is not confidential and may be posted on the Authority's website or otherwise made public by the Authority.

(5) Authorized employees of state and local law enforcement agencies may verify with the Authority at all times whether:

(a) A location is the location of a registered facility; or

(b) A person is listed as the PRF of a registered facility.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314 & 475.331

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14; PH 4-2015, f. & cert. ef. 1-28-15

333-008-1290**Change of Location**

(1) A registered facility that changes location must submit a new application that complies with OAR 333-008-1020.

(2) A facility may not operate at a new location unless it is registered by the Authority.

Stat. Auth.: ORS 475.314 & 475.338

Stats. Implemented: ORS 475.314

Hist.: PH 2-2014(Temp), f. 1-14-14, cert. ef. 1-15-14 thru 7-13-14; PH 20-2014, f. & cert. ef. 7-11-14

333-008-1400**Moratoriums**

(1) For purposes of this rule, "moratorium" means an ordinance, adopted by the governing body of a city or county by May 1, 2014, that specifically suspends the operation of registered medical marijuana facilities within the area subject to the jurisdiction of the city or county, for a period of time that does not extend past May 1, 2015.

(2) If a city or county adopts a moratorium it must notify the Authority and provide a copy of the ordinance.

(3) An applicant applying for registration of a facility proposing to operate in an area subject to a moratorium may submit a request, in writing, to withdraw the application and may request a refund of the fees.

(4) A PRF of a registered facility located in an area subject to a moratorium may submit a request, in writing, to surrender its registration and request a refund of the fees.

(5) Upon receipt of a request to withdraw an application or surrender a registration under sections (3) or (4) of this rule the Authority shall determine whether the ordinance falls within the definition of moratorium and inform the applicant or PRF in writing whether:

(a) The application is considered withdrawn and the fees refunded; or

(b) The registration has been surrendered and the fees refunded.

(6) The Authority may refund all fees, including the non-refundable registration fee.

(7) Notifications or requests described in sections (2) to (4) of this rule may be submitted to the Authority:

(a) By mail at P.O. Box 14116, Portland, OR 97293; or

(b) By electronic mail to medmj.dispensaries@state.or.us.

Stat. Auth.: 2014 OL, Ch. 79, Sec. 3

Stats. Implemented: 2014 OL, Ch. 79, Sec. 3

Hist.: PH 9-2014(Temp), f. & cert. ef. 4-1-14 thru 9-27-14; PH 25-2014, f. & cert. ef. 9-24-14; Suspended by PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1500**Limited Marijuana Retail Sales**

(1) For purposes of this rule, the following definitions apply:

(a) "Dried leaves and flowers of marijuana" means the cured and dried leaves and flowers from a mature marijuana plant that have not been chemically altered or had anything added to them.

(b) "Individual" means a person 21 years of age or older who is not a patient or designated primary caregiver.

(c) "Limited marijuana retail product" means:

(A) The seeds of marijuana;

(B) The dried leaves and flowers of marijuana; and

(C) An immature marijuana plant.

(d) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(e) "Medical marijuana dispensary" or "dispensary" means an entity registered with the Oregon Health Authority under ORS 475.314.

(f) "Photographic identification" means valid U.S. state or federal issued identification with a photograph of the individual that includes the individual's last name, first name, and date of birth.

(2) Unless the city or county in which the dispensary operates has adopted an ordinance prohibiting the sale of limited marijuana retail product, and notwithstanding any provision of ORS 475.314 or OAR 333-008-1000 to 333-008-1290 that is in conflict, on or after October 1, 2015, a medical marijuana dispensary may sell limited marijuana retail product to an individual if the dispensary:

(a) Five days prior to selling any limited marijuana retail product notifies the Authority, on a form prescribed by the Authority, that the dispensary intends to sell limited marijuana retail product.

(b) Examines the photo identification of all individuals before entering the dispensary to ensure the individual is 21 years of age or older;

(c) Verifies at the time of sale that the individual is 21 years of age or older by examining the individual's photographic identification;

(d) Sells no more than:

(A) One-quarter ounce of dried leaves and flowers per day to the same individual; and

(B) Four immature marijuana plants to the same individual at any time between October 1, 2015 and December 31, 2016.

(3) A dispensary may only sell limited marijuana retail products to an individual and may not offer or provide any other product containing marijuana to an individual.

(4) For each limited marijuana retail product sale, a dispensary must document:

(a) The limited marijuana retail product that was sold and the amount of dried leaves or flowers in metric units, amount of seeds or number of plants, as applicable;

(b) The birth date of the individual who bought the product;

(c) The sale price; and

(d) The date of sale.

(5) A dispensary is not required to maintain a record of the name of the individual to whom a limited marijuana retail product was sold but the dispensary must have a system in place that is outlined in their policies and procedures for ensuring that an individual is not sold more than one-quarter ounce of dried leaves and flowers in a day or more than four immature plants.

(6) Records of sale transactions and the documentation required in section (4) of this rule shall be maintained in accordance with OAR 333-008-1210(3) and (4).

(7) A dispensary that chooses to sell limited marijuana retail product to individuals must:

(a) Post at the point the sale, the following posters prescribed by the Authority, measuring 22 inches high by 17 inches wide that can be downloaded at www.healthoregon.org/marijuana:

(A) A Pregnancy Warning Poster; and

(B) A Poisoning Prevention Poster.

(b) Post at the point of sale a color copy of the "Educate Before You Recreate" flyer measuring 22 inches high by 17 inches wide that can be downloaded at WHATSLEGALOREGON.COM.

(c) Distribute to each individual at the time of sale, a Marijuana Information Card, prescribed by the Authority, measuring 3.5 inches high by 5 inches long that can be downloaded at www.healthoregon.org/marijuana.

(d) Comply with all rules in OAR 333-008-1000 to 333-008-1501, including but not limited to all security, testing, labeling, packaging and documentation rules except rules that:

(A) Prohibit individuals from entering or being present in a dispensary; and

(B) Prohibit a dispensary from transferring marijuana to an individual.

(e) On and after January 4, 2016:

(A) Collect a tax of 25 percent of the retail sales price of a limited marijuana retail product in the same manner that a marijuana retailer that holds a license under section 22, chapter 1, Oregon Laws 2015, collects the tax imposed under section 2, chapter 699, Oregon Laws 2015;

(B) Comply with all requirements in sections 1 through 13, chapter 699, Oregon Laws 2015, and any applicable administrative rules adopted by the Department of Revenue; and

(C) If requested by the Authority, sign an authorization to permit the sharing of information

between the Authority and the Department of Revenue concerning tax collection required by section 21a, chapter 699, Oregon Laws 2015.

(8) The Authority may, if it determines that a dispensary has violated OAR 333-008-1500 to 333-008-1501:

- (a) Prohibit a dispensary from selling limited marijuana retail product; and
- (b) Take any action authorized under OAR 333-008-1270 or 333-008-1275.

(9) A dispensary may not sell limited marijuana retail product to individuals if the dispensary is located in a city or county that has adopted an ordinance prohibiting such sales in accordance with section 3, chapter 784, Oregon Laws 2015.

(10) A dispensary that has had its registration suspended may not sell limited marijuana retail product while the registration is suspended.

Stat. Auth.: ORS 475.314 & 475.338, OL 2015, ch. 784 & sec. 21a, ch. 699, OL 2015
Stats. Implemented: ORS 475.314, OL 2015, ch. 784 & sec. 21a, ch. 699, OL 2015
Hist.: PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

333-008-1501

Dispensary Signs

(1) Between October 1, 2015 and December 31, 2016, a registered dispensary must post signs at any point of public entry that read:

- (a) "Medical Marijuana Patients Only"; or
- (b) If a dispensary has properly notified the Authority that it intends to sell limited marijuana retail products:
 - (A) "Medical Marijuana Patients and Persons 21 and Older Permitted"; and
 - (B) "NO PERSON UNDER 21 PERMITTED ON THE PREMISES WITHOUT AN OMMMP CARD".

(2) The signs described in section (1) of this rule must be:

- (a) In bold, 80 point Times New Roman font; and
- (b) Affixed to the exterior of the dispensary in a conspicuous location that can be easily seen by the public from outside the dispensary.

Stat. Auth.: ORS 475.314 & 475.338, OL 2015, ch. 784
Stats. Implemented: ORS 475.314, OL 2015, ch. 784
Hist.: PH 16-2015(Temp), f. & cert. ef. 9-22-15 thru 3-19-16

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