

**Date:** April 17, 2018

**Time:** 2:00 pm – 4:00 pm

**Location:** Portland State Office Building, 800 NE Oregon St., Room 1 B, Portland, OR 97232

**Attendees:**

**Committee Attendees:** Sheri Ralston, Sunnie Sanchez, Jesse Sweet, John Bayes Troy Lemoine, Cheryl Smith (Phone), Anthony Taylor (Phone)

**OHA Staff:** Shannon O’Fallon, Margaret Flerchinger, Carole Yann

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Agenda Topic	Person Responsible
<b>Welcome and Introductions</b>	<b>Carole Yann</b>

Carole Yann welcomed the committee members. She stated there would be no public comment in this Rules Advisory Hearing. There will be two public hearings where the program will accept comments and will take written comments. Margaret Flerchinger stated information about the public comments will be posted on the OMMP website, [healthoregon.org/ommprules](http://healthoregon.org/ommprules). The public comment will occur in mid-July and at this time there are not specific dates or locations. The next RAC (Rules Advisory Committee) meeting is scheduled for May 7, 2018 and public comment information will be available on the website and at the next RAC meeting. Margaret stated this is the Rules Advisory Committee for the Medical Marijuana Program in relation to rules found in Division 8 regarding a Grow Site Administrator (GSA) and housekeeping changes related to SB 1544, which passed in the 2018 Legislative session. The next RAC meeting will be on May 7, 2018 from 1:00 pm to 4:00 pm here at PSOB in Room 1 D.

The committee members introduced themselves.

Agenda Topic	Person Responsible
<b>Rules Discussion: Division 8</b>	<b>Margaret Flerchinger</b>

Ms. Flerchinger stated to the members on the phone that she e-mailed them the additional rules that will be also be reviewed. She would go over those at the end of the meeting and would be starting with the larger packet that was sent earlier.

### **333-008-0020 New Registry Identification Card Application Process**

Ms. Flerchinger stated that she would discuss what has changed in each section. The committee will notice throughout the rule revision that the ORS numbers have been updated. The reason they were changed is the Medical Marijuana Act was renumbered and the renumbering will be seen throughout these rule changes. The rule numbering has occurred and can be submitted as a housekeeping change. That will be occurring before the next RAC and at that RAC all the ORS will be corrected and this draft will be updated. There is no public comment on the renumbering, it is law, and the rules must list the correct statute references. ORS numbers is the first change that we are seeing in this section. The second change has to do with grow site addresses and how they are submitted to the program. In SB 1544 a change was made as to how OMMP accepts the address and that is in Subsection 3 of the section. She asked the committee if they have any comments on this.

Jesse Sweet stated for the record and this may be coming later, is there any requirement in the rules to specify where on the address the grow is taking place. He stated, for example, they may have an address with three outbuildings and the grow is taking place in one of the outbuildings.

Ms. Flerchinger replied on the application the patient completes, if they have a grower and they indicate if there is a grow site address. That address is where the grow is occurring, they don't get into specifics regarding this is the address and it is this specific building. It is just the address of where the grow is happening.

Mr. Sweet stated perhaps consider this a request from OLCC (Oregon Liquor Control Commission). If the statutory authority exists, because commission inspectors will be doing field inspections in certain instances starting in July, it would be helpful to have some type of identification when staff arrive at a residence. Are they arriving at a residence or are they arriving at a commercial property? Where are they looking for the grow?

Anthony Taylor stated Mr. Sweet has a good point and it would narrow down the amount of property that can be inspected by OLCC inspectors when they are coming in to verify METRC™ compliance.

Sunnie Sanchez stated she agrees that there needs to be more of a real address for grow sites.

Ms. Flerchinger stated Page 2, Subsection 3 (d), we are indicating the grow site fee must be paid online as referenced in 333-008-0217 and that is only for the grow site fee.

### **333-008-0021 Patient and PRMG New and Renewal Fees**

Ms. Flerchinger stated Page 3, Subsection 3 (e) is a new section and she read that section.

Ms. Flerchinger stated Subsection 7 is clarification on the way fees can be paid to the program. In Subsection 7 (a) indicates that the application fee can be paid in any form. The patient can still mail in their application, pay by check, or money order. If they do want to apply online and use the online application system they can. In Subsection 7 (b) we are stating the grow site registration fee and the CTS (Cannabis Tracking System) user fee must be paid online. There will be not be an option for growers to pay in other form.

### **333-008-0025 Person Responsible for a Marijuana Grow Site Criteria: Grow Site Registration Application Review Process**

Ms. Flerchinger stated Page 4 is where we get into plant limits. She stated SB 1544 did indicate that the OHA (Oregon Health Authority) can set immature plant limits for plants that are less than 24 inches in height. What the Authority is proposing is that immature plant limit be three times what is allowed for mature plants. Mature plant limits for a grow

site that is within city limits and zoned residential is 12 mature plants, 24 immature plants that are 24 inches or more in height, and would be 36 immature plants that are less than 24 inches in height. It follows the same pattern for a grow site not zoned residential or outside city limits, there is a maximum of 48 mature plants, 96 immature plants that are 24 inches or more in height, as the new requirement of 144 immature plants that are less than 24 inches in height.

John Bayes stated 144 immature plants, is tight if someone wants to do any breeding of a strain, collecting or any type of nursery housing for certain genetics that are specific to certain ailments. He explained his process for the different type of plants and growing. The growers have gone from having an unlimited infinite ceiling to 144 plants and that can be difficult for some growers.

Ms. Sanchez asked Mr. Bayes what would he suggest.

Mr. Bayes stated there shouldn't be a limit for something under 12 inches.

Mr. Taylor stated during the workgroup for SB 1544 they were at 10 to 1 for the ratio or below 24 inches. Anything that is less than 10 to 1 is affecting the medical growers and that is where they should start.

Cheryl Smith asked how it is different than Section 560.

Mr. Taylor stated it is the same thing throughout and 3 to 1 is being used in every immature plant limit.

Ms. Yann stated they had to put something down to start and this is the start of the conversation. It is consistent throughout that it is a 3 to 1 ratio to begin the conversation, different components. She stated to Ms. Smith you were talking about Section 560, it pertains to another part and it is redundant in some ways, but it addresses different elements. She stated Section 560 talks more about what the PRMG must be able to produce. Throughout these few sections it does seem redundant because it continues to talk about it. It is addressing a different part of the statute.

Mr. Sweet stated for context for the growers in the room the statute says a and b, but it is really only c that can be established in rule, which are plants that are less than 24 inches in height. At less than 24 inches of height, are we talking about plants that will be used to preserve genetics or talking about mother plants at that size or are we talking about cuttings that are going to go to be the same in nature.

Mr. Bayes explained his process for growing and plant selection process.

Shannon O'Fallon stated there is no choice about it being unlimited or not, the Oregon Health Authority had to set a limit, it cannot say in rule that limited is unlimited. The OHA had to pick a number or ratio.

Mr. Taylor stated this is in the METRC™ system, every tray start and every plant over 8 inches tall or 24 inches tall will have to be tagged. He explained the process on how most growers start their planting and the issues they could have with the limitation of 10 to 1.

Ms. Sanchez stated she would like to suggest 24 instead of 10 to 1.

Sheri Ralston explained her growing and plant selection process. A 10 to 1 would be reasonable and at 3 to 1 they will not be able to operate.

Mr. Sweet asked a clarifying question if they are talking about mature/immature plants, is that defined separately in rule by flowering stage or are we talking about the height of the plant. He asked if the OHA has the same definition of flowering and mature that OLCC does.

Ms. Yann replied that they do.

Mr. Sweet stated that he worked on this issue in the legislature last session and there was a lot of difficulty with this particular number and that is how it ended up in the rule making here rather than in statute. He thinks there was some sentiment that it should be similar to what OLCC does for their licensees. Because they don't go by plant count, they go by square footage, for example it is impossible to make an apple to apple comparison. Some of the concern was like numbers around 600 or 1,200 immature starts. Although that may be normal business practice there was concern that people outside the system see a number that large, it catches the eye for lack of a better word.

Mr. Taylor stated that is a good point, but on the other hand a part of the problem is when it is written out and people see large numbers. If we use a ratio rather than spelling out what that might be, the optics would be better and this wouldn't be that much of an effort.

Ms. O'Fallon stated this is a number you can have at any one time. She asked the committee if you have small plants, planting seed, or cloning how long do they have to wait before they know if a plant is going to be successful and continue on.

Mr. Bayes stated for him it takes until the plant is 18 to 24 inches and before it starts flowering it has to be 12 inches or above and then he can see the parts with magnification. That is for seedlings only.

Ms. O'Fallon asked him how long it takes to get to foot height from planting with seed.

Mr. Bayes stated from seed at least one month. He thinks 10 to 1 is a good range they can work with for medical.

Mr. Bayes stated some plants are gradual, you won't be able to determine which plant you are bringing to maturing until it grows to 24 inches.

Ms. Ralston stated to clarify they will clone a tray of 50 strain, 20% could die, they aren't replaced because they are on a cycle and she explained their growing process.

Ms. Flerchinger stated we cannot change the amount of mature plants that someone can have or the amount of immature plants over 24 inches. When deciding this number, the immature plant less than 24 inches, when that crossover happens and the plant reaches 24 inches or more they are to stay within what is currently required in rule. That is statute, we need to make sure that ratio of the immature plants less than 24 inches isn't so large, you then end up being out of compliance on another level.

Mr. Bayes stated offering the freedom and clone capacity in that size. The reality is setting it in statute and that is attainable and offers some freedom at lower levels of plant growth so we can select. The 10 to 1 thing and eliminate the 144.

Ms. Flerchinger stated that she is hearing 10 to 1, she will let Troy Lemoine speak and she will summarize what they have heard.

Troy Lemoine stated that he agrees with 10 to 1, 144 is not enough especially when looking for that particular gem.

Ms. Flerchinger stated what she is hearing from the committee is they would like to see a 10 to 1 ratio. To summarize, some of the growth habits that we have heard we will take this back into consideration and bring forward a new proposal. It is not until a plant reaches 12 inches or slightly above that before a grower can determine whether the plant is going to be kept, takes about a month to get to that stage, and about 24 % of the immature plants under 24 inches do not make it. She asked the committee if that was an accurate summary.

Mr. Bayes stated it is not to say "make it" but better kept.

Mr. Lemoine stated the 12 inches to 24 inches range is hard to test a plant. There are times you can't tell until they get bigger.

Ms. Sanchez stated not everybody prefers to use cuttings, she prefers to use seeds.

Mr. Sweet asked if there were any comparators in other agriculture industries that do propagation, what do they do for this type of activity, and what their ratios are. For example, a 10 to 1 ratio he is onboard with that, it might be easier to get a skeptical person on board if you would say this is the same way that they breed tulips or something else.

Mr. Bayes stated if we go into that category we will be astonished at the numbers they actual source from and what they are doing. We are putting a tight ceiling on this industry by doing this. On a medical level, if we are talking medicine, the start number to what there are selecting is huge.

Ms. Flerchinger stated to follow-up on Mr. Sweet's questions, she will check with Department of Agriculture (DOA) to see if they have any numbers or any comparative crops that we can compare this to.

Mr. Taylor stated the problem is with finding a comparison, farmers don't cap their stuff. It is not an apples to apples comparison at all here because no other farming crop has caps on it like this.

Ms. Flerchinger stated that is a good point to make, there are caps for mature plants and immature plants that are over 24 inches. We do have to keep that in mind when we come to an agreement for the number of immature plants that are less than 24 inches. We will take these comments and when we meet next time we will put forth another proposal and see where that takes us.

### **333-008-0520 Approval of Petition for Grandfathered Grow Site**

Ms. Flerchinger stated this is regarding grandfathered grow sites and what we are doing here is adding immature plant limits that are less than 24 inches in height since we have already discussed the topic of ratio for plants we will take those same comments forward whenever we see plant limits.

### **333-008-0530 Denial of Petition for Grandfathered Grow Site**

Ms. Flerchinger stated the same changes to immature plant limits.

### **333-008-0540 Requirements for Grandfathered Grow Sites; Termination of PRMG Designation; Suspension or Revocation of PRMG Registration**

Ms. Flerchinger stated the same changes to immature plant limits.

Mr. Taylor stated he wanted to reiterate his earlier comment about spelling out how many of these and if we go to the ratio it will be neater.

Ms. Smith asked a question about 333-008-0520, Section 4 where it is added in that it cannot be a grandfathered grow site. She asked why that is added in, when you go to Page 5, Section 4 it says a grow site located at a patient address can no longer be grandfathered grow site. She asked Ms. Flerchinger, that she didn't need to add it in two places, do you.

Ms. Flerchinger responded that it was added there for clarity.

### **333-008-0550 General Person Responsible for a Marijuana Grow Site Requirements**

Ms. Flerchinger stated changes made to immature plants that are less than 24 inches.

### **333-008-0560 Grow Site Plant Limits**

Ms. Flerchinger stated the same thing there, she wants to indicate Subsection 1 (b) should be "and" instead of "or".

Ms. Sanchez stated in 333-008-0550, there is an "or" instead of "and". Shouldn't that be, so it keeps things consistent throughout the rules. She pointed it out in several places.

### **333-008-0600 PRMG Labeling, Packaging and Testing Requirements**

Ms. Flerchinger stated this is regarding PRMG Labeling, Packaging, and Testing requirements. In SB 1544 the labeling authority moved from OHA to OLCC, we are making that reference change here. We are indicating broadly that labeling and packaging requirements as adopted by the Commission in OAR 845, Division 25 must be followed. She stated in

Subsection 2 and Subsection 3 that the committee sees are actually rules that they had in Division 7 labeling rules that we needed to carry over into Division 8 when we repealed labeling in Division 7. The preapproval process for labels is still going to exist and the PRMG are going to need to keep any of the documents that were submitted to the Commission.

Mr. Taylor stated Subsection 3, a PRMG may not transfer a marijuana item that is subject to the Commission's packaging and labeling requirements. The only marijuana item a PRMG can transfer is usable seeds and immature plants, they can't transfer any other marijuana items. Maybe we should say that a PRMG can't transfer any usable seeds or immature plants unless packaged properly or however that works.

Mr. Sweet stated another small housekeeping item Subsection 3 states a PRMG may not transfer and it may also be helpful to say a dispensary or a receiving party may not or receive or possess the items unless they have been preapproved through the package label process and have the compliant package and labeling. That would make it parallel to what is done on the recreation side, it is a violation to send something that is out of compliance. It is also a violation for the receiving party if they receive it and offer it for sale to customers, if it is out of compliance.

Ms. O'Fallon stated that is a good point and it may not go here but someplace else.

Mr. Taylor stated when it comes to packaging for usable marijuana going from a PRMG into a dispensary or a processor it is either coming in a turkey bag or in a lab bag. There is no real packaging that goes along with it.

Mr. Sweet stated in most cases, the flower at least on the OLCC side is going to come in bulk and be packaged by the retailer. Where in the instance it is coming in prepackaged from a supplier that is where the preapproval is going to apply.

Mr. Taylor stated the PRMG aren't going to sell anything to the processors. It is going to be already prepackaged. The retailer is going to buy a whole lot and they will put it in the jars as they see fit.

Mr. Sweet stated that he understands that is the typical business practice but as he understands that is not what is required by the rules. The rules do allow flower to come in prepacks to a retailer. It seems like this hasn't been a real popular choice. For example, some retailers are receiving flower prepacked and cans with 3.5 grams or 7 grams and that is how it is arriving at the retailer. That is rare but it is the business reality, it is allowed.

Ms. Flerchinger stated they would make clarification to Subsection 3 indicating that transfers of marijuana, immature plants, or seeds to a dispensary that is subject to the Commission packaging and labeling requirements. This section only applies to labeling and packaging when it is subject to the Commission rules. If the Commission rules indicate that something is to be packaged and labeled in a certain way that is what we are trying to reference here to.

### **003-008-0635 Grow Site CTS Tracking**

Ms. Flerchinger stated for Grow Site CTS tracking, does anyone have comments about this section.

Mr. Taylor stated he has expressed concern over the full criteria in Subsection 7 being fulfilled before people can transfer out of their grow site. This is an issue because the patient owns the cannabis not the grower. If the patient wants to go in and take all six of their plants they can do it, it would have to be entered into the METRC™ system. If any change to an OMMP grow site that is required to be in the METRC™ system by July 1, 2018 and if they are not in they cannot transfer to a patient.

Ms. Sweet stated his question is for the entire rule here is, how much of this is dictated by statute and how much of it is within the Authority's purview to adopt rules.

Ms. O'Fallon stated who the tracking applies to is set in statute, the Oregon Health Authority does not have any leeway there. The statute requires tracking to begin by July 1, 2018.

Mr. Taylor stated he understands that, but if the grower it is not able to complete the process due to the process not being complete then it is going to be complicated.

Ms. Ralston stated a recreational grow has clear definitions on tracking that product. They are tracking to a dispensary, a processor, or a wholesaler, it is very clear and simple. She thinks this needs more work because the system in place for recreational right will need to be modified. If we are going to operate under these conditions, there is no spot in the system right now to track patient ounces and patient product. There are only three categories in the system that is processing, wholesaling, and dispensaries. That needs to be developed before July 1, 2018 as well. This is going to need to be modified if what we are trying to accomplish is track everything.

Ms. Yann stated this is the OMMP side of it and getting people into the tracking system. The OLCC is working with their seed to sale system which is METRC™ to modify the medical side. That is happening simultaneously to what we are doing. The part of the rules that we are addressing here is how does OHA get their people into the METRC™ system. The OLCC is working to develop and modify the system. They do realize they already have areas they need to address. She explained how the process works and the modifications being made. They are utilizing OMMP rules and implementing changes within the METRC™ system to address that.

Mr. Taylor stated in his conversations with OLCC they are expecting training to start mid-May and accreditation for the medical growers to begin that early, however there is no fail/safe on this particular section that allows for an OMMP grower that is slow on the uptake in meeting all the criteria, completing the training, paying the METRC™ user fee, purchase their tags, and getting everything identified, and into inventory by July 1, 2018 is going to be a push. We are only allowing a 30-day window for all the OMMP grow sites to get the GSA (Grow Site Administrators) approved. Then there is another 30 days to ensure all of those grow sites are fully invested in METRC™ or they can't transfer. He would like in Subsection 7 (c, d), eliminate those two because it is implicating in an active CTS user account.

Ms. Flerchinger stated she thought it would be helpful for the members of the RAC and anybody listening to be walked through the process of how a grower is going to get to CTS. In the rule that is being discussed 333-008-0635 is talking about who must do the tracking, what the statute is requiring is grow sites who have more than 12 plants or grow sites that there are more than two patients or two growers at are going to have to use CTS. If they don't fall into that bucket, they are falling back into using the OMMP monthly tracking system that they have unless it is a patient growing for themselves at their residence. For those going to CTS, the growers at that grow site are going to need to determine which one of those growers will be designated as the GSA. That is where we start to get into Rule 333-008-0638. The growers determine which one of them is going to be the GSA, that person logs into their online account that they have created with OMMP. They go to the GSA tab, they will go to the pay button next to the grow site that is required to go CTS. When they hit the pay button they are going to be asked a series of questions, that say they agree to be the GSA, they are going to be responsible for the tracking for the grow site, they are going to be OMMP's point of contact and OLCC's point of contact for that grow site. Once they hit the pay button and answer the questions and must pay the \$480.00 fee, and even though it is that one grower paying the fee, it is up to the grow site to determine how they are going to pay that grower back or what not. It is the avenue that payment is going to happen. Once that occurs, the program will push data over to start the credential process for accounts. The vendor, METRC™, the CTS vendor will be send out emails to the GSA, dispensary or the processing site with a link so they can activate their CTS account and this is where it falls out of OHA hands and into OLCC world. The rules are written up to that point and this is the only thing that OHA can make rules on is them creating a GSA and paying the fee. Once they are activated they will have to start tracking.

Ms. Ralston stated that when they had their recreational producer license finalized there was quite an influx of other producer licenses at the same time. She asked if OMMP has any idea of how many medical growers are going to be going into this on July 1, 2018.

Ms. Yann stated they have 2,400 grow sites and it fluctuates always because of registrations and renewals. There are 2,400 grow sites that need to be credentialed, one of the things that we worked with the vendor is how can we assist with speeding the process up. The data that is being pushed over is going to have all the components and the elements that are needed. The information that is needed so that it will speed up the credential process and we are automating some of that. Normally they would have to contact the grower, the grower would have to fill out the other information, we are pushing that over to try to speed that up. The email that is sent out to the grow site administrator gives them a link to finish this process. The vendor has been on the calls with us and are aware of the numbers that are coming. She stated she and Mr. Taylor have had conversations about the July 1, 2018 cutoff and his concern for patients not being able to get their product. The way that we are addressing this is if the GSA has done what they were supposed to do, applied to become the GSA, continue to track in OMMP's monthly tracking system, and continue to do that until OLCC is able to register them. They are complying with the law, it is out of their control. She doesn't think it is fair or equitable to be able to say to someone who has followed all the steps, did everything in the window, and that they cannot take care of your patients. What people must understand is they must use OMMP's monthly tracking system until this is taken care of. That is one of the bigger hurdles that we have, the compliance rate for OMMP growers to use the monthly tracking is about 40% a month. In that area there is a huge need and communication isn't working on that. As for taking care of the patients, if they have followed those steps, continue to do what they can, continue to track, they will be covered and protected.

Mr. Sweet stated Ms. Yann has outlined the process well, the only steps that haven't been addressed on the back end are a couple of time frames, they might both be 10-day time frames. Once the email is sent to the person responsible, the GSA, they are going to have to activate their account. After the account is activated and verified, they have 10-days to get tags and have everything entered. They are going to order the tags from METRC™, receive the tags, tag the inventory, and populate METRC™, the identical requirements for recreational growers. There will be challenges for agencies and growers to get people out there and get the community to understand this requirement. The fact that you have a simpler reporting requirement right now that only has 40% compliance is scary. The way he reads the language in Section 7, not only do they have to register for the system, they must use the system. If the registration email is sent and ignored, he doesn't know what can be done in rule to address that situation.

Mr. Taylor stated his concern is the way this is all written if for some reason they are not into METRC™ as required by July 1, 2018 they can't make transfers. There is a learning curve and not everybody is going to be up to speed. It could get to a point where a grower can't transfer to their patient through no fault of their own, it is going to have an effect on their patients who own the product that is being transferred back to them.

Mr. Sweet stated to Mr. Taylor if this system fails, because the state can't stand it up, he would assume Mr. Taylor would be seeing some emergency guidance coming out from the agencies. If the grower is unable to transfer to a patient because that grower is unwilling or unable to register for the system and use it, it is certainly a problem for the patient, but he doesn't think that is a problem that the agencies rules need to contemplate. In a way that is the system functioning as it is supposed to.

Ms. Ralston asked Mr. Sweet when recreational producers started coming online and they had the 10-day window to get their tags and get everything into the system in the beginning when there was a lot of them at one time, was that 10-day window realistic.

Mr. Sweet stated he felt it was realistic, frankly it wasn't consistently met, whether staffing levels weren't appropriate or because it was an unrealistic time frame.

Ms. Yann stated having participated in all of the conversations, METRC™ has learned a lot from that initial onset of people coming in. Those were questions we had, how do they make sure people get their tags, are you going to have enough tags, and are you going to have the manpower to mail them out. According to what they are saying, they are

anticipating that. Some of it they have learned, pushing the data over speeds up their process, and that is an enhancement that they didn't have then.

Ms. Ralston stated that she understands METRC™ is going to be ready to go, the agencies are going to be ready to go, and the system is going to be in place that is going to be usable for a grower. In the industry of both medical and recreational she sees a big disparity between how the people operate in those different markets and navigate through those things. There will be a bigger learning curve for the medical growers and she thinks that we shouldn't ignore that. Is it unreasonable to say in this situation that for this one time give them 14 days or 21 days? When she went through the process, she didn't understand that it could take seven days for the METRC™ tags to arrive and she then only had three days to get the tags on the plants.

Ms. Sanchez stated she as a grower and this notion that OMMP PRMGs are less smart or intelligent to take on METRC™ and the requirements of CTS is wrong, she thinks 10 days is sufficient.

Mr. Taylor stated another consideration is training on the switch over day when OHA begins sending over the approved GSAs for accreditation. He explained the process he went through to sign up with METRC™. It sounds like there is not much training being offered before the accreditation takes place. His concern is the accreditation is going to be a stumbling block for people to activate their user accounts and do not understand on how to get started. For inventory transfer, the stuff they have in OHA they have to transfer over to OLCC, he assumed that OHA would transfer that over when they sent GSA approval information over. He asked if he was incorrect on that assumption.

Ms. Yann stated he was, they would have no way of knowing what was being transferred over and given that they only have a 40 % compliance rate, they wouldn't have data on some of the people that would have that. It must be done by each GSA.

Ms. Flerchinger stated she wanted to bring it back to what the rules are actually saying and what they can't comment on. She understands there is concern about the 10 days, tagging plants, and getting new ID tags. The OHA does not hold those rules, those are OLCC rules, and they cannot change that. What they can discuss and modify is the GSA process and that process is designating a grower at that grow site to become the GSA starting May 1, 2018. That designation can begin if the grow site qualifies for CTS, that grow site will have until the end of May to designate a GSA. If that grow site does not designate a GSA by the end of May that is where the program can take action. That is only designating a GSA that is not them moving onto CTS. She wants to make sure people understand that there are two different systems there.

Ms. Ralston stated she wanted to clarify on the recreational side once you are designated an inspector, you get your number, you sign up for METRC™, and then you can start the training process. It could be months before you are approved and then you order your tags. During all that time you have that window to learn. That is not what is going to be happening here, correct.

Ms. Flerchinger stated correct, OLCC has already written those rules, so we can only talk about GSA and that process right now.

Mr. Sweet stated there are training resources available to the public right now through METRC™. They have You Tube videos, FAQ, different things like that. In addition to staff going out around the state doing in person trainings, there is a lot of online trainings available.

Ms. Flerchinger stated there is training available on the OLCC website, anybody can go there and look at the resources they have available. If there is no comment 333-008-0635 or 333-008-0638, we are going to move on to another section.

Mr. Taylor stated that he has a comment about 333-008-0638, you are saying that a PRMG that submits an application for a GSA, whoever is the first one in line that is the one the program is going to consider first. Is that correct, first come, first sign.

Ms. Flerchinger replied that is correct.

Mr. Taylor stated his concern is the 12-plant rule interpretation, none of the patients that live at the grow site are now PRMG, so none of the owners of the property where the grow site is located are allowed because they are not PRMG allowed to apply to be the GSA. He stated they need to look at that, they don't have to be PRMG, they could be the owner of the property that wants to be the GSA.

Ms. O'Fallon stated under the OMMP system, she understands his issue with some of these grow sites that have this plant limit, the strict 12-plant limit. What people are doing to get around that is they are naming other people as their grower so the patient not the grower so their grow site not so rigid to the 12-plant cap. That was a choice people made but she doesn't know how OMMP could allow a person that doesn't have a registration card to be a GSA.

Ms. Yann stated it isn't operational, they can't do that. In order for this process to work, the person who is the GSA must be a grower registered at that grow site, that is a requirement.

Mr. Taylor asked if statute designates that it has to be a PRMG and he doesn't think that is an issue. What we are saying again with the 12-plant rule that a patient can't grow at their own property. Now we are saying the patient that lives at the property can't be the person that administrators the grow site.

Ms. Flerchinger stated the GSA is responsible for activating a CTS account. That person can designate other people to report in the CTS system for the grow site. If a patient wants to track their own plants they can do that if the GSA allows them access to the reporting system.

Ms. Yann stated that happens on the METRC™ side. We have the GSA that is responsible for the CTS tracking and that person could designate others to assist with tracking.

Ms. Taylor stated the person who owns the grow site cannot be the administrator because under the 12-plant rule they can't be a PRMG. There is nothing in statute that requires the PRMG be the GSA.

Ms. Ralston stated she sent an email about this and it was a concern of hers as to why the owner of the property can't be an administrator.

Ms. O'Fallon stated there is nothing in law that talks about an owner of property having any particular status at a grow site unless they are a person responsible for a grow site. The only people that can be responsible on paper legally for the grow site requirements and compliance is the grower at the grow site. The owner of property could be a PRMG and is choosing not to be for other reasons, that is a choice. There is nothing the Medical Marijuana Program or Oregon is doing to prohibit those people from having the status of a grower and being the GSA. The situation that people are finding themselves in because of changes in the law with the 12-plant cap is a separate issue, there is nothing that prevents an owner of property who otherwise qualifies to be a grower at that property from being a grower at the property and then asking to be the GSA.

Mr. Taylor stated anybody that is growing at their own property is limited to 12 plants and therefore doesn't have to report, it doesn't matter. What does matter is when a grower who owns the property and until this interpretation was put forth was in complete control of their grow site, they oversaw what was going on. Now this person can no longer grow at their own grow site and while growing for others at their own property and they can no longer become the GSA because they are not a PRMG.

Ms. Flerchinger stated again that is a choice that person is choosing to make.

Mr. Taylor stated he disagrees because there is no other choice for them.

Ms. Smith stated to Mr. Taylor that they need to get the statute on this because something had ruled out the person at the grow site. We need to be able to cite the statute.

Mr. Taylor stated the interpretation of the rules say that if they are a patient growing on their own property, their grow site is restricted to 12 plants and is exempt from tracking. If they are not growing for themselves on their own property, they can grow for as many patients as they want but being they are not a PRMG they are not qualified to be an approved GSA.

Mr. Sweet stated his comment is a question and he didn't know if Ms. O'Fallon could answer it right now. Mr. Taylor is referring to an interpretation and he is not sure if they are talking about is the type of interpretation which is how you read statute or the type of interpretation how do you implement the statute in rule. He didn't know if Ms. O'Fallon could speak if is the former or latter.

Ms. O'Fallon stated it is a statutory interpretation issue and the rules reflect that. The statute is limiting how many other people a patient can grow for at their own grow site, that is the issue. She stated she would imagine as happens with a lot of these grow sites the owner of the property or the other people could have contractually relationships with the growers that is on paper so this could be worked out. As Ms. Yann stated it is not operationally possible and she doesn't think it is legally possible to have an owner who is just a land owner have responsibility for grow site tracking requirements.

Ms. Yann stated on the METRC™ side, they can give full administrative rights to other people. The owner of the property could be given the same rights as GSA in the METRC™ system.

### **333-008-1040 Medical Marijuana Dispensaries: Dispensary Application Review**

Ms. Flerchinger stated what ended up happening with this rule is an ORS reference change that was part of SB 1544 that had to do with dispensary distance from a school and if it is less than 500 feet but because of the geographically or other type of barrier separating the school from the dispensary. The OLCC was able to make that determination so the dispensary could be located closer and it is now OHA that can make that determination. The thought it was going to be a language change but it is an ORS change and will be removed from the rule package.

### **333-008-1200 Medical Marijuana Dispensaries: Operation of Registered Dispensaries**

Ms. Flerchinger stated the change seen on Page 16 and has to do with reference to labeling and packaging, this might actual answer or reference Mr. Sweet's comment earlier about a dispensary accepting product. We will add that language to this section, but it is updating packaging and labeling references.

### **333-008-1740 Medical Marijuana Processors: Operation of a Registered Processing Site**

Ms. Flerchinger stated the committee will see the same exact change being made on page 19, but in reference for processors. The labeling and packaging references to OLCC rules now.

### **333-008-1820 Medical Marijuana Processors: Registered Processing Site Recordkeeping**

Ms. Flerchinger stated this is like what happened with the earlier dispensary one, it is only an ORS change. This section of the rule refers to the definitions found in labeling currently in Division 7. The OHA thought they would be removing that section and we were trying to work out how we would rephrase that and they decided to keep that reference to the definition so this section will not be included in rulemaking.

### **333-008-2180 Violations**

Ms. Flerchinger stated this is making updates to labeling and packaging to reference OLCC rules.

Mr. Sweet stated a comment to anyone who may be listening. The OLCC called public hearing on packaging and labeling rules yesterday, April 16, 2018. If there are any comments on those rules the public comment period is open for next 13 days.

Mr. Taylor stated during the May period to become a GSA, pay the CTS user fee also, does it mean that every May or is it going to be prorated to the time the GSA would normally renew their card and grower status.

Ms. Yann stated it is an annual fee because it is for the grow site. It could be everybody's grower registration go throughout the whole year, it is an annual fee. It will have a reminder that will be sent out at 45 days to remind the GSA in the following year to make the payment.

Mr. Taylor stated the growers that become approved, the GSA approved in May will have to pay it every May.

Ms. Flerchinger stated that is correct.

### **333-008-0033 Approval of New or Renewal PRMG and Grow Site Application; Change of PRMG**

Ms. Flerchinger stated Subsection 7 at the bottom we are updating the rule to eliminate the reference to the election form that was required to be turned into OHA by January 1, 2018 and leaving the remaining language if the grow site fails to begin tracking in CTS on or before July 1, 2018 as provided by the statute reference. The Authority may not renew the registration of the grow site.

### **333-008-1070 Expiration and Renewal of Dispensary Registration**

Ms. Flerchinger stated dispensary registrations in Subsection 2 (a) just clarifying that dispensaries must submit no more than 90 days, but 30 days before the registration expires, the renewal fee and the CTS user fee if it is due at the time of renewal because of the day that we are implementing CTS and allowing everybody to sign up for it. The dispensary renewal fee may not fall at the same time as their CTS user fee is due. Any new dispensaries that come on board after CTS is implemented those two fees will coincide. For those already registered that may not coincide for them.

Ms. Flerchinger read Subsection 9, that is a reference to OLCC rules that outlines the requirement of CTS on a dispensary.

### **333-008-1690 Expiration and Renewal of Registration for Processing Site**

Ms. Flerchinger stated everything she said for dispensaries applies to processors.

Ms. Flerchinger stated those are all the rules and if there is no last comment, they are going to end the meeting. The next RAC is scheduled for May 7, 2018.