

March 3, 2021

## **MEDICAL MARIJUANA INFORMATION BULLETIN 2021-02**

**Subject: Temporary Rule Related to Performing Quality Control or R&D Testing**

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The Oregon Health Authority, Public Health Division, Oregon Medical Marijuana Program (OMMP) is temporarily amending OAR 333-007-0500. The agency recently modified this rule in its December 30, 2020 rule filing. Due to an unforeseen fiscal impact that was recently brought to the agency's attention, the rule language is being amended to revert to the original rule language.

The current rule language states that a pesticide test on any kind of marijuana item is considered a compliance test. This requires that any pesticide testing be performed following sampling and testing protocols outlined in rule. The rule as currently written would require that a processor making concentrates or extracts have multiple samples tested for pesticides, as required under a compliance test to ensure representative sampling, instead of only more limited sampling allowed under the prior rule. This resulted in an unintentional consequence of requiring additional samples be tested rather than just requiring that QC or R&D testing be tracked. The fiscal impact of this change was not discussed or captured in the fiscal impact statement filed as part of the notice of proposed rulemaking for the December 30, 2020 rule filing.

Due to this increase in cost because of the unintended consequence of additional samples needing to be tested, the temporary rule change will revert the rule to its original language which stated that no QC or R&D may occur on marijuana or usable marijuana. The temporary rule is in effect from March 3, 2021 through August 29, 2021.

This rule will be further evaluated in a future rulemaking to obtain feedback from licensed processors.

### **Quality Control (QC) and Research and Development (R&D) Testing Summary OAR 333-007-0500:**

- A registrant or licensee **may not** request a QC or R&D pesticide test on marijuana or usable marijuana.
- A grower, producer or wholesaler may request QC or R&D testing for potency, water activity/moisture content on marijuana or usable marijuana.
- A processor or wholesaler may request QC or R&D pesticide, solvent, or potency testing on a cannabinoid concentrate or extract.

- A processor or wholesaler may request QC or R&D potency test on a cannabinoid product.
- A QC or R&D test is not a compliance test and the certificate of analysis must clearly indicate the type of test that was order.
- A marijuana item that has only undergone a QC or R&D test may not be transferred or sold, unless the marijuana item is not required to have a compliance test before being transferred or sold.