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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

PH 12-2019

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Grow site tracking and designating a grow site administrator for the Cannabis Tracking System

EFFECTIVE DATE: 07/01/2019 THROUGH 12/27/2019

AGENCY APPROVED DATE: 06/21/2019

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NEED FOR THE RULE(S):

Section 41 of SB 1057 (Oregon Laws 2017, chapter 183) that passed in the 2017 legislative session created an exemption for medical grow sites that submitted an application to the OLCC prior to January 1, 2018 from using the Cannabis Tracking System. This section of the law is repealed on July 1, 2019. This rulemaking deletes the exemption language from Oregon Administrative Rule to align with statute.

JUSTIFICATION OF TEMPORARY FILING:

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, and medical marijuana growers. These rules need to be adopted promptly so that the Oregon Administrative Rules will align with the repeal language found in statute and eliminate confusion that may be caused by having conflicting language in the rules. It is the intention of the agency to make these rule changes permanent through a permanent rulemaking process prior to expiration.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

SB1057 - <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/SB1057/Enrolled>
Oregon Revised Statute, Chapter 475B - https://www.oregonlegislature.gov/bills_laws/ors/ors475B.html

RULES:

333-008-0630, 333-008-0635, 333-008-0638

AMEND: 333-008-0630

RULE SUMMARY: Amend OAR 333-008-0630: Section 7 of the rule is being deleted to remove the reference that grow sites that submitted an application to the OLCC prior to January 1, 2018 are exempt from using CTS.

CHANGES TO RULE:

PRMG Documentation Requirements ¶¶

(1) The reporting requirements in this rule do not apply to:¶¶

(a) A patient growing only for themselves at the patient's residence, unless the patient is transferring usable marijuana to a registered processing site or dispensary; or¶¶

(b) A PRMG that produces marijuana at a grow site that is subject to the CTS tracking requirements in ~~Oregon Laws 2017, chapter 183, sections 40-41~~RS 475B.895, as provided in OAR 333-008-0635. ¶¶

(2) No later than the 10th day of each month, a PRMG, who is not a person designated to produce marijuana by a patient, as that is defined in OAR 333-008-0010, must submit the following information to the Authority: ¶¶

(a) The number of immature and mature marijuana plants and amount of usable marijuana transferred to each patient for whom the PRMG is producing marijuana; ¶¶

(b) The amount of usable marijuana transferred to each registered marijuana processing site through an agreement with the patient; and ¶¶

(c) The number of seeds or immature plants and the amount of usable marijuana transferred to each registered dispensary through an agreement with the patient. ¶¶

(3) No later than the 10th day of each month, a person designated to produce marijuana by a patient as that term is defined in OAR 333-008-0010, must submit the following information to the Authority: ¶¶

(a) The number of mature marijuana plants and immature marijuana plants, the amount of marijuana leaves and flowers being dried, and the amount of usable marijuana, in the person's possession; ¶¶

(b) The number of mature marijuana plants and immature marijuana plants, and the amount of usable marijuana transferred to each patient for whom the person produces marijuana, or that patient's designated primary caregiver during the previous month; ¶¶

(c) The amount of usable marijuana transferred to each marijuana processing site during the previous month; and ¶¶

(d) The number of immature marijuana plants, and the amount of usable marijuana transferred to each medical marijuana dispensary during the previous month.¶¶

(4) The information required to be submitted under this rule must be submitted electronically in a manner prescribed by the Authority. ¶¶

(5) In addition to submitting the information as required in section (3) of this rule a person designated to produce marijuana by a patient must keep a record of the information described in section (3) of this rule for two years after the date on which the person submits the information to the Authority. ¶¶

(6) A person designated to produce marijuana by a patient, as that term is defined in OAR 333-008-0010, may delegate his or her duty to report information under section (3) of this rule to another person designated to produce marijuana by a patient if the marijuana grow site addresses are the same. ¶¶

(a) The person to whom the duty is delegated must submit a notice, on a form prescribed by the Authority, of the delegation. ¶¶

(b) A delegation under this section does not relieve a person designated to produce marijuana by a patient, who delegates the duty to report, from complying with any of these rules, except for the duty to report. ¶¶

(c) If a person to whom the reporting duty has been delegated fails to report in accordance with section (3) of this rule the Authority may suspend or revoke the registration of the person to whom the reporting duty was delegated. ¶¶

(d) If the person to whom the reporting duty has been delegated fails to report in accordance with section (3) of this rule for any person designated to produce marijuana by a patient the delegation is void and the person who delegated the reporting duty must report the information to the Authority within 10 business days of being informed by the Authority of the failure to report.¶¶

~~(7) A PRMG who has applied for licensure with the Commission under Oregon Laws 2017, chapter 183, section 41(1)(c), and whose application has not yet been considered incomplete, proposed for denial or granted, must continue to report under this rule until the Commission acts on the application.~~

Statutory/Other Authority: 475B.~~423816~~, 475B.525949, ORS 475B.42810

Statutes/Other Implemented: ORS 475B.42810, 475B.~~423816~~

AMEND: 333-008-0635

RULE SUMMARY: Amend OAR 333-008-0635: Section 4 of the rule is being deleted to remove the reference that grow sites that submitted an application to the OLCC prior to January 1, 2018 are exempt from using CTS.

CHANGES TO RULE:

333-008-0635

Grow Site CTS Tracking

- (1) A grow site location that meets the following criteria must track the transfer, propagation and production of marijuana in CTS in accordance with OAR chapter 845, division 25:
 - (a) The grow site has more than 12 mature medical marijuana plants and more than 24 immature medical marijuana plants; or
 - (b) There are more than two PRMGs registered at the grow site location; or
 - (c) There are more than two patients registered at the grow site location.
- (2) One PRMG at a grow site location must be approved as the designated grow site administrator by the Authority under OAR 333-008-0638 and is responsible for:
 - (a) Paying the CTS non-refundable user fee; and
 - (b) Ensuring compliance with the CTS tracking requirements for all PRMGs at the grow site location.
- (3) A grow site administrator at a grow site subject to tracking must activate the CTS account assigned by the Commission within 10 calendar days of notification by the Commission that activation is required and must enter all inventory within 10 calendar days of activating the CTS account.
- ~~(4) If a license application was submitted to the Commission for the grow site address on or before January 1, 2018, and the Commission has not yet acted on the application, the grow site is not required to comply with CTS tracking until the Commission acts on the application; however, the PRMGs at the grow site must continue to comply with reporting requirements under OAR 333-008-0630.~~
- ~~(5) The grow site administrator must comply with OAR 845-025-2110 and 845-025-2120 and any additional instructions provided by the Authority or the Commission regarding the following:~~
 - ~~(a) Setting up and activating a CTS user account;~~
 - ~~(b) Successfully completing all required CTS training; and~~
 - ~~(c) Ordering Unique Identification Tags and tagging all marijuana items.~~
- ~~(6) A grow site administrator and each PRMG at a grow site must cooperate with an inspection or investigation conducted by the Commission under ORS 475B.895(6).~~
- ~~(7) A PRMG producing marijuana at a grow site location that is subject to CTS tracking may not transfer a marijuana item, unless the grow site has:~~
 - ~~(a) An approved grow site administrator capable of entering required information into CTS;~~
 - ~~(b) An active CTS user account;~~
 - ~~(c) UID tags; and~~
 - ~~(d) All medical marijuana items tagged with UID tags and all inventory recorded in accordance with OAR 845-025-2110.~~
- ~~(8) If a grow site administrator or any PRMG at a grow site location that is subject to CTS tracking under this rule does not comply with this rule, the Authority may revoke the registration of the grow site and the registration of all PRMGs registered at that grow site location.~~
- ~~(9) A grow site administrator is legally responsible for compliance with this rule and all CTS tracking requirements as described in OAR 845-025-2110 and 845-025-2150.~~
- ~~(10) Each PRMG at a grow site location must cooperate with the approved grow site administrator to ensure that the grow site and the grow site administrator complies with this rule and the Commission's CTS rules that apply to registrants. Failure to cooperate with a grow site administrator is a violation of this rule and may result in a PRMG's registration being revoked.~~
- ~~(11) The Authority may revoke the grow site registration and the registration of all PRMGs at a grow site if the grow site does not have a GSA or is not using CTS tracking as is required by these rules.~~

(121) Nothing in this rule is intended to prohibit the Commission from permitting other authorized users from entering information into CTS for a grow site location in accordance with its own rules and policies.

Statutory/Other Authority: ORS 475B.895

Statutes/Other Implemented: ORS 475B.895, 475B.949

AMEND: 333-008-0638

RULE SUMMARY: Amend OAR 333-008-0638: Subsection (1)(b) of the rule is being deleted to remove the reference that grow sites that submitted an application to the OLCC prior to January 1, 2018 are exempt from using CTS.

CHANGES TO RULE:

333-008-0638

Grow Site Administrators for CTS Tracking

(1) Designation of Grow Site Administrator for CTS.¶

(a) On and after May 31, 2018, a grow site that is subject to CTS tracking under OAR 333-008-0635(1) must have a designated grow site administrator. ¶

~~(b) If a grow site that is subject to CTS tracking under OAR 333-008-0635(1) applied for a producer license with the Commission on or before January 1, 2018, and the Commission on or after August 17, 2018 declares the license application incomplete or proposes to deny a grow site's application for a producer license, a PRMG at the grow site must submit a request to be designated the grow site administrator to the Authority in a form and manner prescribed by the Authority, along with the required CTS non-refundable user fee, within 15 calendar days of the date of the Commission's action finding the application incomplete or proposing denial.¶~~

(c) If a patient submits an application listing a grow site and the new application makes the grow site subject to CTS tracking criteria under OAR 333-008-0635(1) the Authority will notify all PRMGs at the grow site that a grow site administrator must be designated. The PRMG designated as the grow site administrator has 15 calendar days from the date of the Authority's notice to submit a grow site administrator request to the Authority in a form and manner prescribed by the Authority, along with the CTS non-refundable user fee.¶

(2) If a grow site administrator request is not submitted to the Authority by the deadlines established in this rule the Authority may revoke the registration of each PRMG at the grow site location and revoke the grow site registration.¶

(3) If more than one grow site administrator request is received for the same grow site location, and the Authority approves a request, the Authority will not review any additional requests.¶

(4) The Authority shall review and act on grow site administrator requests in the order they are received.¶

(5) The Authority will approve a request to be designated the grow site administrator if:¶

(a) The request is complete;¶

(b) The PRMG is in good standing with the Authority and the Commission. For purposes of this section "in good standing" means the PRMG has not been subjected to discipline by the Authority or the Commission within the previous three years; and¶

(c) The PRMG requesting approval as the grow site administrator has authorized the Authority to provide the administrator's contact information to all other PRMGs registered at the grow site or who become registered at the grow site and all patients for whom a PRMG is producing marijuana at the grow site, upon approval.¶

(6) The Authority will notify the approved grow site administrator of the approval or denial and will notify the Commission of all approved grow site administrators so the Commission can begin the process of setting up the grow site's CTS account.¶

(7) Withdrawal of grow site administrator approval.¶

(a) If the approved grow site administrator fails to remain registered with the Authority, fails to remain in good standing with the Authority or the Commission, or if the administrator's registration has been suspended or revoked by the Authority, the Authority shall withdraw the administrator's approval. The Authority shall notify the administrator of the withdrawal and cite the reasons for the withdrawal, in writing. The Authority shall notify the Commission when a grow site administrator approval is withdrawn.¶

(b) If the Authority withdraws its approval of the administrator it shall notify all PRMGs at the grow site location that a new grow site administrator must be designated. The PRMG designated as the grow site administrator has 15 calendar days from the date of the Authority's notice to submit a grow site administrator request to the Authority in a form and manner prescribed by the Authority, along with the CTS non-refundable user fee, if applicable. The request for approval of a new grow site administrator shall be conducted in accordance with

sections (5) and (6) of this rule.¶

(8) Change of grow site administrator.¶

(a) An approved grow site administrator may submit a notice of resignation in a form and manner prescribed by the Authority, that the administrator is resigning as the administrator. The administrator may, at the same time, request a replacement grow site administrator for the grow site location. The PRMG designated as the grow site administrator has 15 calendar days from the date of the Authority's notice to submit a grow site administrator request to the Authority in a form and manner prescribed by the Authority, along with the CTS non-refundable user fee, if applicable. The Authority will act on the new request in accordance with sections (5) and (6) of this rule.¶

(b) Any PRMG at a grow site location may submit a request to the Authority to change the approved grow site administrator, in a form and manner prescribed by the Authority.¶

(A) The request to change the grow site administrator must include the reasons for the requested change. The requestor must provide the approved grow site administrator a copy of the request.¶

(B) In addition to the request to change the approved grow site administrator, at least one PRMG at the grow site must submit a request to be approved as the grow site administrator to the Authority in a form and manner prescribed by the Authority, along with the required CTS non-refundable user fee, if needed.¶

(C) The Authority will notify the approved grow site administrator of the change request and allow the grow site administrator 15 calendar days to submit a written response to the change request, to the Authority.¶

(D) If the approved grow site administrator does not respond to the Authority or does not object to the change and if the PRMG requesting to become the new grow site administrator is qualified for approval under section (5) of this rule, the Authority will notify the administrator that the administrator's approval has been withdrawn and notify the new grow site administrator of the approval in accordance with section (6) of this rule. If the PRMG requesting to become the new grow site administrator is not qualified for approval under section (5) of this rule the request to change the approved grow site administrator will be denied.¶

(E) If the approved administrator responds to the change request in a timely manner and objects to the change the Authority will review all of the information submitted and determine if there is good cause to withdraw approval of the current administrator and approve a new administrator. For purposes of this rule "good cause" means the approved administrator is not complying with the rules of the Authority or the Commission with regard to CTS tracking or cannot for other legal reasons comply with such rules.¶

(i) If the Authority determines there is not good cause to withdraw approval of the approved grow site administrator the Authority shall notify the person who submitted the change request and the approved grow site administrator, in writing, of the Authority's decision and the reasons for the decision.¶

(ii) If the Authority determines there is good cause to withdraw approval of the currently approved grow site administrator the Authority shall notify the approved grow site administrator of the withdrawal in writing and the reasons for the withdrawal, and notify the Commission. The request for approval of a new grow site administrator shall be conducted in accordance with sections (5) and (6) of this rule.¶

(c) The Authority may, but is not required, to accept a grow site administrator's notice of resignation. The resignation is not effective until the authority informs the grow site administrator, in writing, that the resignation has been accepted. ¶

(9) No PRMG at a grow site that is subject to OAR 333-008-0635 may transfer any seeds, immature medical plants or usable medical marijuana unless the grow site has an approved grow site administrator and an active CTS account.¶

(10) The CTS non-refundable user fee must be paid by the approved grow site administrator on an annual basis. A request to be designated the grow site administrator under section (8) of this rule must be accompanied by a CTS nonrefundable user fee if the request is made within 45 days of the due date for the annual CTS non-refundable user fee.

Statutory/Other Authority: ORS 475B.895, 475B.949

Statutes/Other Implemented: ORS 475B.895

