

OFFICE OF THE SECRETARY OF STATE

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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 845
OREGON LIQUOR AND CANNABIS COMMISSION

FILED

09/26/2023 12:43 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amend and adopt marijuana and hemp rules to implement 2023 legislation and make technical updates.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/31/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Nicole Blosse
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/17/2023

TIME: 9:00 AM - 10:00 AM

OFFICER: Nicole Blosse

REMOTE MEETING DETAILS

PHONE NUMBER: 323-553-3576

CONFERENCE ID: 185495682

SPECIAL INSTRUCTIONS:

This public hearing will be held virtually.

Meeting access will be available at https://www.oregon.gov/olcc/Pages/public_meetings.aspx or by contacting olcc.rulemaking@oregon.gov.

NEED FOR THE RULE(S)

The Oregon Legislature passed House Bill 2931 which requires new administrative rules in chapter 845 division 25:

1. House Bill 2931 directs the State Department of Agriculture (ODA) to establish a cannabis reference laboratory in consultation with the Oregon Liquor and Cannabis Commission (OLCC) and Oregon Health Authority (OHA). The bill requires agencies to work together to provide regulatory and technical support in the enforcement of cannabis regulations. The OLCC is adopting OAR 845-025-5765 to clarify the use of the cannabis reference lab as it relates to testing of marijuana items and hemp items.

Additionally, OLCC is proposing to adopt, amend, and correct rules in OAR chapter 845, divisions 25 and 26 to address technical issues, including but not limited to:

2. Amending or consolidating definitions of terms, correcting errors, making minor clarifications, removing language that no longer applies, updating references to rules and statutes, and correcting language to conform to administrative rule conventions. These changes are needed to improve readability and consistency of OAR chapter 845, divisions 25 and 26. The changes meet this need by directly correcting, clarifying, and updating affected rules. Rules that include amendments of this nature include but are not limited to: OAR 845-025-1015, 845-025-1030, 845-025-1115, 845-025-1190, 845-025-1405, 845-025-2070, 845-025-2090, 845-025-5590, 845-025-5720, 845-025-5730, 845-025-5740, 845-025-5760, 845-025-5840, 845-025-7000, 845-025-8580, 845-026-7000, and 845-026-7010.

3. Recategorizing certain rule violations, expanding avenues of revocation for undisclosed interest, expanding time period for suspension or revocation of worker permits under some scenarios. These changes are needed to address serious rule violations and improve consistency of OAR chapter 845, divisions 25 and 26. Rules that include amendments of this nature include but are not limited to: OAR 845-025-1045, 845-025-2020, 845-025-2070, 845-025-2800, 845-025-3215, 845-025-5060, and 845-025-5590.

4. OAR 845-025-1015, 845-025-1115, and 845-025-1230 are being amended to define "at the same location or address" for the purpose of rules prohibiting the co-location of certain types of facilities, including co-location with psilocybin manufacturing and service centers. This is needed to provide greater clarity and certainty to licensees and maintain clear separation between differently regulated substances. OAR 845-025-1230 is being amended to add a prohibition on a premises being co-located with a psilocybin product manufacturer or psilocybin service center. This is needed to align license premises location restrictions with existing license denial criteria.

5. OAR 845-025-1030 is being amended to require documentation from the Oregon Water Resources Department of legal access to water for producer initial license applications and changes of ownership. This is needed to provide a consistent mechanism for OLCC to confirm producers are able to comply with water use laws.

6. OAR 845-025-5045 is being amended to require laboratory licensees to report analyte detections for all OHA-established compliance tests in the Cannabis Tracking System (CTS). Currently, this information for specific analytes is only required for detection above the action levels set by OHA. This rule is needed to give OLCC the ability to see when an analyte is present to inform approaches to regulating contaminants within regulated products. The amendments meet this need by improving data tracking to allow the OLCC to know which contaminants are being detected within regulated products and enabling OHA and OLCC to better analyze which contaminants need to be tested for in compliance testing panels.

7. OAR 845-025-5740 is being clarified to allow licensees to transfer marijuana items and hemp items that have failed a compliance test to a wholesaler or processor licensee for the purposes of remediation. This change is needed to provide licensees with greater flexibility to remediate failed products. The amendments accomplish this by increasing flexibility while also providing necessary safeguards against diversion.

8. OAR 845-025-7520 is being amended to define what "different potency" means for the purposes of combining products under one UID tag. This amendment is needed because the meaning of this rule currently is difficult to understand. This proposed amendment meets this need by creating a more concrete standard for the term that already exists in this rule while also ensuring consistency and clarity of the standard that is applied. This change will reduce OLCC staff time and allow licensees to develop expanded offerings of "multi-pack" products.

9. OAR 845-025-1030, 845-025-1165, 845-025-1170, 845-025-1190 are being amended to require proof of tax compliance from the Oregon Department of Revenue (DOR) for marijuana retailer licensees or applicants at initial

licensure, annually at renewal, when changing ownership, and when changing business structure. This follows the adoption of temporary rules on June 16, 2023 to begin implementing this requirement. These amendments are needed to ensure that marijuana retailer licensees and applicants demonstrate financial responsibility by complying with their tax obligations, and to ensure that programs funded by marijuana retailers' taxes, including programs that protect the public health and safety, are receiving that funding.

In early 2023, it became clear some marijuana businesses are not meeting their obligations to pay taxes established in both Ballot Measure 91 and by law. According to DOR, the delinquency rate of the marijuana retail tax that marijuana retailer licensees owe on marijuana sales is 9%. This has resulted in approximately \$18.7 million in potential lost revenue for various Oregon programs including cities, counties, and public health and safety programs. The lost potential revenue is even greater when non-marijuana taxes (general income and corporate taxes, among others) are factored in.

Prior to the temporary rule, OLCC's marijuana regulations did not require proof of compliance with individual or business tax obligations prior to renewal, changes of ownership, additions of license holders, and/or new applications for retailer licenses. This is distinct from several other Oregon licensing programs, such as the Oregon Lottery and Department of Human Services Child Care licensing, which do require such proof of tax compliance.

On May 16, 2023, Governor Kotek directed OLCC and DOR to immediately take steps to require proof of tax compliance for retailers as part of the renewal, change of ownership, addition of license holders, and/or new licensure process. Requiring proof of tax compliance before such licensing actions will ensure only those up-to-date on tax obligations, or making timely payments under a DOR-approved payment plan, will be permitted to operate in the marijuana industry.

10. The retail daily sales limits in OAR 845-025-2800 have been amended to increase daily sales limits from five grams to ten grams for cannabinoid concentrates, cannabinoid extracts, and inhalable cannabinoid products. This change is necessary to allow consumers to purchase a larger amount of these products within the statutory possession limits, to reduce packaging waste and labor costs. The amendments meet this need by increasing daily sales limits while retaining barriers on the diversion of marijuana items.

11. OAR 845-026-0210 and 845-026-0220 were amended to increase the container, concentration, and serving size limits for certain products for both the medical and recreational markets. A new definition of "mixed concentrate and extract" was added to OAR 845-026-0100 to provide greater clarity to this rule. These changes were needed to harmonize the container and serving size limits with similar products.

12. The net weight definition in OAR 845-025-7000 was amended to remove the filter or tip from the net weight for products labeled according to OAR 845-025-7120 (i.e. infused pre-rolls). This update was necessary to align with the testing practices of OLCC laboratories for infused pre-rolls and provide more accurate information regarding potency on the label.

13. OAR 845-025-7160 was amended to remove license applicants from being able to submit package and label applications prior to licensure. This modification was necessary to reduce OLCC staff time and this privilege was no longer being widely used. License applicants may still receive informal review from OLCC staff via email and telephone. Additionally, a new section was added to this rule that provides for the inactivation of package and label applications that have been reviewed by the OLCC or have been unlocked by the OLCC pursuant to a request by the licensee but have not had any action taken on them after the review after 365 days. This addition is necessary to reduce OLCC staff time and reduce burdens on data storage and collection.

14. OAR 845-025-7575 was amended to make a technical correction to account for scenarios where input and output weight are exactly equal. This does not substantively modify tracking obligations for licensees, and simply clarifies which of the two classifications licensees should use in cases of equal input/output weights while processing.

15. OAR 845-025-7700 was amended to add a prohibition regarding transferring or transporting marijuana without a manifest, to an unknown or undisclosed location, or to an unlicensed location. This addition was needed to address marijuana being transported or transferred outside the regulated system.

16. The advertising rules in OAR 845-025-8000 through 845-025-8040 were amended to include hemp items. These changes were necessary because the advertising prohibitions did not apply to hemp items, which created unequal treatment of marijuana and hemp items. Additionally, OAR 845-025-8040 was modified to create clearer standards for advertising that claims marijuana or hemp items have curative or therapeutic effects. The language reflects the same language in OAR 845-025-7030 for claims made on pre-approved labels. This was necessary to better protect the public health and safety and provide greater clarity to licensees on what claims are allowable.

17. The industrial hemp-derived vapor item rules in OAR 845-025-7000 and 845-026-7010 were amended to remove the applicability of the packaging and labeling rules to retailers only. The rules now applies to any sale of an industrial hemp-derived vapor item to a consumer in Oregon. This was necessary to align with the language of 2021 SB 96.

18. OAR 845-025-1300, 845-025-2070, and 845-025-8540 were amended to consolidate all violations for adulterating marijuana under a single rule. This change was needed to increase clarity and reduce complexity in the rules. It meets this need by eliminating duplicative prohibitions.

19. OAR 845-025-2025, 845-025-2090, 845-025-8540, and 845-025-8580 were amended to change certain phrases to refer to "marijuana" instead of "usable marijuana." This was necessary to clarify which provisions apply to marijuana regardless of whether it has been dried.

20. OAR 845-026-4100 is repealed and the definition of "presumptive test" removed from OAR 845-026-0100. These changes were necessary because the sections of 2021 HB 3000 that authorized these rules are repealed effective January 1, 2024.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

House Bill 2931 (available from Legislative Counsel)

ORS 475C (available from Legislative Counsel)

OLCC rulemaking files (available upon request from the OLCC)

Governor Kotek's May 16, 2023 Press Release (available from Governor's Office)

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Because many OLCC retailers are small businesses, it is conceivable that compliance with tax certificate requirements may have an impact on racial equity given the potential need to hire additional professionals to ensure compliance and work with DOR. However, the OLCC does not have precise data regarding the racial makeup of its marijuana retailer licensees and cannot fully assess an impact on racial equity.

At this time, the Commission does not have data to suggest that other amendments or adoption of rules will impact racial equity in the state.

FISCAL AND ECONOMIC IMPACT:

This statement takes into account the fiscal impact on (a) Marijuana Licensees; (b) Local Government; (c) State Agencies; (d) the Public; and (e) Industrial Hemp-derived Vapor Item Manufacturers.

(a) Marijuana Licensees:

The fiscal impact for laboratory licensees is expected to be minimal. Laboratory licensees already generally report analyte detection as a common practice, so this change is expected to not impact most licensee's current business practices. However, the Commission is aware that some laboratory licensees may need to work with their third-party report writing software companies to change when analytes are reported through an application programming interface (API) into CTS.

The fiscal impact for tax compliance may have a negative fiscal impact on retailer licensees and applicants who are delinquent in tax payments, requiring them to enter payment plans or pay taxes owed to the State. However, tax compliance has always been a part of the adult use marijuana market. The rule should have no fiscal impact for licensees and applicants who are current on tax payments. Retailer licensees who do not come into compliance with tax payments will be unable to renew their license, and applicants who do not come into compliance with tax payments will be unable to obtain a retailer license. This inability to renew or obtain new retailer licenses will result in a negative fiscal impact as affected licensees and applicants will not be able to operate their business or generate revenue for the State of Oregon. This could also result in loss of jobs for the employees of those businesses and loss of work for ancillary businesses that service the affected business. There may also be a negative fiscal impact for retailer licensees experiencing delays in obtaining their certificates of tax compliance from DOR, resulting in them not being able to submit their renewal application prior to the late fee deadlines. This could result in a late fee of either \$150 or \$300 depending on the length of the delay.

The fiscal impact for technical fixes to the rules surrounding "at the same location," producers obtaining an Oregon Water Resources Department Marijuana Producer Water Use Form and clarifying psilocybin product manufacturer or psilocybin service centers are not anticipated to have a fiscal impact.

The fiscal impact for violation amendments will affect a small amount of licensees and permittees who commit serious violations and the potential magnitude of these additional costs cannot be quantified at this time.

The new package or label inactivation rule in OAR 845-025-7160 is forecasted to have a minor negative fiscal impact because the application fee of \$100 per application will be forfeited due to application inactivation. However, this potential fiscal impact is within the control of marijuana licensees, registrants, and hemp certificate holders.

Changes made to the net weight definition in OAR 845-025-7000 as it relates to infused pre-rolls is forecasted to have a net positive fiscal impact in providing greater clarity and stability to licensees regarding the labeling of these products. However, there may be a short-term negative fiscal impact associated with licensees having to update the net weight on pre-printed labels. The potential magnitude of these additional costs cannot be quantified at this time.

The amendments to the advertising rules in OAR 845-025-8000 through 845-025-8040 may have a negative fiscal impact to licensees with hemp advertising by having to correct, destroy, or remove existing advertising. However, the potential magnitude of these additional costs cannot be quantified at this time.

Changes made to the retailer daily sales limits in OAR 845-025-2800 and concentration and serving size limits in OAR 845-026-0210 and 845-026-0220 are forecasted to have a positive fiscal impact to licensees who can sell greater

quantities of marijuana items to consumers and patients as well as potentially reduce packaging and labor costs.

The clarification of "different potency" under one UID tag in OAR 845-025-7520 may have a positive impact for licensees who wish to expand product lines and reduce packaging and labor costs.

(b) Local Government: The rules related to tax compliance will most likely have a positive fiscal impact on local governments and the public by collecting tax money that funds essential services throughout the state. The Commission does not anticipate that the rest of the proposed amendments will not have a positive or negative fiscal impact on local governments.

(c) State Agencies: Several state agencies will continue to be impacted by the continued emergence and consolidation of the recreational market. At this time, the Commission cannot estimate whether licensing fees and taxes will offset the costs of regulation as the market continues to evolve. The Commission anticipates that DOR will incur costs related to staff time to fulfill requests for certificates of tax compliance. However, DOR did not provide a fiscal impact statement and as a result OLCC is unable to quantify the potential magnitude of these impacts.

(d) The Public: The Commission anticipates a positive impact the public related to the proposed rule changes. The rules related to tax compliance will most likely have a positive fiscal impact on local governments and the public by collecting tax money that funds essential services throughout the state. The amendments to the daily sales limits and concentration limits will allow consumers to purchase more items at once resulting in fewer trips to OLCC licensed retailers.

(e) Industrial Hemp-derived Vapor Item Manufacturers: Amendments made to the industrial hemp-vapor item rules in 845-025-7000 and 845-026-7010 may have a negative fiscal impact for industrial hemp-derived vapor item manufacturers in expanding the number of persons that must comply with the OLCC's packaging and labeling rules for sales to consumers in Oregon. However, the potential magnitude of these additional costs cannot be quantified at this time.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The Commission anticipates that DOR will incur costs related to staff time to fulfill requests for certificates of tax compliance. However, DOR did not provide a fiscal impact statement and as a result OLCC is unable to quantify the potential magnitude of these impacts.

Regarding the reference laboratory, ODA has not provided a financial impact statement and as a result OLCC is unable to quantify the potential magnitude of these impacts. In the future, OLCC will be conducting testing with the Cannabis Reference Laboratory which will provide some amount of revenue for ODA resulting in a potential positive fiscal

impact.

The Commission largely anticipates no new costs of compliance to comply with the proposed amendments for other state agencies, local governments, or the public.

2. Cost of compliance on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries subject to the rule:

As of September 21, 2023, there are approximately 2,800 licenses holding a recreational marijuana license (producer, processor, wholesaler, laboratory, or retailer) and 56 hemp certificate holders (grower or handler). In addition, approximately 250 medical marijuana sites (grow sites with 3 or more patients, processing sites, and dispensaries) are subject to CTS tracking rules. The Commission estimates that 85% of these would qualify as small businesses. The Commission cannot estimate the number of other hemp businesses, but it is likely most would qualify as small businesses.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

In order to comply with ORS 475C and legislation passed by the 2023 Oregon Legislature, marijuana licensees, industrial hemp certificate holders, and other hemp businesses may incur costs relating to reporting, recordkeeping, and other administrative activities required for compliance. The Commission has continued to listen and work with various interests to create rules that meet the legal requirements while sensibly establishing compliance standards.

In order to comply with the requirement to obtain certificates of tax compliance with DOR, licensees may incur an increase in labor as well as administration cost. Licensees will need to submit requests for certificates for each natural person and legal entity required by rule, and work with DOR to address any issues that arise in the course of obtaining these certificates, which could require an increase in administrative activities. Impacted natural persons or legal entities may need to work with DOR to enter into a payment plan. The complexity of these issues may require licensees to hire accountants, attorneys, or consultants to navigate the process of obtaining certificates of tax compliance from DOR or enter into payment plans in order to be eligible for these certificates.

The new analyte reporting may require licensees to work with their third-party report writing software companies to change when analytes are reported through an API into the CTS. Laboratories that report data into CTS manually will require more staff time to enter these results, however these costs are estimated to be minimal.

c. Equipment, supplies, labor and increased administration required for compliance:

In order to comply with the requirement to obtain certificates of tax compliance with DOR, licensees may incur an increase in labor hours as well as administration cost. Licensees will need to submit requests for certificates for each natural person and legal entity required by rule, and work with DOR to address any issues that arise in the course of obtaining these certificates, which could require an increase in administrative activities. Impacted natural persons or legal entities may need to work with DOR to enter into a payment plan. The complexity of these issues may require licensees to hire accountants, attorneys, or consultants to navigate the process of obtaining certificates of tax compliance from DOR or enter into payment plans in order to be eligible for these certificates.

For laboratory licensees, the requirement to report additional analyte detections may require licensees to work with their third-party report writing software companies to change when analytes are reported through an API into CTS. Laboratories that report data into CTS manually will require more staff time to enter these results, however these costs

are estimated to be minimal.

The addition of hemp items to the advertising rules may require updated advertising to comply with the updated rule. At this time, the OLCC cannot quantify the number of licensees or hemp-certificate holders that would be impacted by these changes and as a result cannot quantify any additional costs of compliance or professional services. Changes made to the net weight definition in OAR 845-025-7000 may require licensees to incur modest fees for professional services for label redesign, however, the cost for this is expected to be minimal.

The Commission does not anticipate any other additional costs of compliance for equipment, supplies, labor and increased administration required for compliance.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The OLCC held two Rules Advisory Committee meetings to assist in the development of these proposed changes and invited representatives of small businesses impacted by these rules, including cannabis licensees, medical marijuana representatives and permit holders.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

845-025-1015, 845-025-1030, 845-025-1045, 845-025-1115, 845-025-1165, 845-025-1170, 845-025-1190, 845-025-1230, 845-025-1300, 845-025-1405, 845-025-2020, 845-025-2025, 845-025-2070, 845-025-2090, 845-025-2800, 845-025-3215, 845-025-5045, 845-025-5060, 845-025-5590, 845-025-5720, 845-025-5730, 845-025-5740, 845-025-5760, 845-025-5765, 845-025-5840, 845-025-7000, 845-025-7160, 845-025-7520, 845-025-7575, 845-025-7700, 845-025-8000, 845-025-8020, 845-025-8040, 845-025-8540, 845-025-8580, 845-026-0100, 845-026-0210, 845-026-0220, 845-026-4100, 845-026-7000, 845-026-7010

AMEND: 845-025-1015

RULE SUMMARY: This rule sets the definitions for terms used in Division 25 and Division 26 rules. The proposed amendments add definitions for "at the same physical location or address" and "cannabis reference laboratory,"; permanently adopt the temporary definition of "certificate of tax compliance"; make technical clarifications including amending "licensee" to conform with statutory changes; and harmonize and consolidate definitions from OAR 845-025-7000.

CHANGES TO RULE:

845-025-1015

Definitions ¶¶

For the purposes of OAR 845-025-1000 to 845-025-8590 and OAR 845-026-0100 to 845-026-7070, unless otherwise specified, the following definitions apply: ¶¶

(1) "Added substance" means any component or ingredient added to marijuana, usable marijuana, a cannabinoid concentrate, ~~or a~~ cannabinoid extract, a cannabinoid product, industrial hemp, or a hemp item during or after processing that is present in the final cannabinoid product, including but not limited to flavors, non-marijuana derived terpenes, and any substances used to change the viscosity or consistency of the cannabinoid product. ¶¶

(2) "Adulterated" means to make a marijuana item or hemp item impure by adding foreign or inferior ingredients or substances. A marijuana item or hemp item may be considered to be adulterated if: ¶¶

(a) In the Commission's judgment, it bears or contains any poisonous or deleterious substance in a quantity rendering the marijuana item or hemp item injurious in a manner that may pose a risk to human 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. ¶
- (3)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant Cannabis family Cannabaceae. ¶
- (b) "Artificially derived cannabinoid" does not include: ¶
- (A) A naturally occurring chemical substance that is separated from the plant Cannabis family Cannabaceae by a chemical or mechanical extraction process; ¶
- (B) Cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst; or ¶
- (C) Any other chemical substance identified by the Commission, in consultation with the authority and the department, by rule. ¶
- (4) "Assign and affix a UID tag" means to designate a UID number to a marijuana item in CTS and to also physically attach the corresponding UID tag to a marijuana plant or a receptacle holding a marijuana item. ¶
- (5) "Attractive to minors" means packaging the same physical location or address" means: ¶
- (a) Any portion of a licensed premises or premises proposed to be licensed that is within or that overlaps with another licensed premises; or ¶
- (b) The physical address of a licensed premises or premises proposed to be licensed is identical with the physical address of another business, including the unit, suite, or other similar differentiating address information. ¶
- (6) "Attractive to minors" means packaging, containers, inhalant delivery devices, labeling, and advertismarketing 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) Symbols or celebrities that are commonly used to market products to minors; ¶
- (d) Images of minors; or ¶
- (e) Words that refer to products that are commonly associated with minors or marketed by minors. ¶
- (67) "Authority" means the Oregon Health Authority. ¶
- (78) "Business day" means Monday through Friday excluding legal holidays. ¶
- (89) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana or industrial hemp. ¶
- (910) "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 solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure; or ¶
- (d) Any other process identified by the Commission, in consultation with the Authority, by rule. ¶
- (101) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated. ¶
- (112) "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 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. ¶
- (123) "Cannabinoid product" ¶
- (a) 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) Includes: ¶

- (A) Usable marijuana, cannabinoid extracts, or cannabinoid concentrates that have been combined with an added substance; or ¶
- (B) Any combination of usable marijuana, cannabinoid extracts, or cannabinoid concentrates. ¶
- (c) 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 571.269. ¶
- (134) "Cannabinoid tincture" means a liquid cannabinoid product packaged in a container of four fluid ounces or less that consists of either: ¶
- (a) A non-potable solution consisting of at least 25 percent non-denatured alcohol, in addition to cannabinoid concentrate, extract, or usable marijuana, and perhaps other ingredients intended for human consumption or ingestion, that is exempt from the Liquor Control Act under ORS 471.035; or ¶
- (b) A non-potable solution comprised of glycerin, plant-based oil, or concentrated syrup; cannabinoid concentrate, extract, or usable marijuana; and other ingredients that does not contain any added sweeteners and is intended for human consumption or ingestion. ¶
- (145) "Cannabinol" or "CBN" means 6,6,9-trimethyl-3-pentyl-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 521-35-7. ¶
- (156) "Cannabis reference laboratory" means the Oregon Department of Agriculture cannabis testing laboratory. ¶
- (17) "Cannabis Tracking System" or "CTS" means the system for tracking the transfer of marijuana items and other information as authorized by ORS 475C.117. ¶
- (168) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature ~~which may exhibit~~ 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. ¶
- (179) "Certificate of tax compliance" means a certificate issued by the Oregon Department of Revenue in accordance with OAR 150-305-0304 but does not include a written statement described in OAR 150-305-0304(4). ¶
- (20) "Commission" means the Oregon Liquor and Cannabis Commission. ¶
- (218) "Commission-certified hemp grower" means a hemp grower certified by the Commission under OAR 845-025-2700 to deliver industrial hemp to processors or wholesalers. ¶
- (1922) "Commission-certified hemp handler" means a hemp handler certified by the Commission under OAR 845-025-2705 to deliver industrial hemp or hemp items to processors, wholesalers, or retailers. ¶
- (203) "Commissioner" means a member of the Oregon Liquor and Cannabis Commission. ¶
- (214) "Common ownership" ¶
- (a) Means any commonality between individuals or legal entities named as applicants or persons with a financial interest in a license or business proposed to be licensed that have a financial interest or management responsibilities for an additional license or licenses. ¶
- (b) Does not mean the leasing of the property to another licensee at a commercially reasonable rate if there is no other financial interest in the other licensed business. ¶
- (225) "Compliance test" means a laboratory test required by OAR ~~chapter 333, division 7~~ or OAR 845-025-5800 to 845-025-5850 conducted by a laboratory licensee or the cannabis reference laboratory to allow the transfer or sale of a marijuana item, hemp item, or industrial hemp. ¶
- (236) "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. ¶
- (247) "Consumer" means a person who purchases, acquires, owns, holds, or uses marijuana items other than for the purpose of resale. ¶
- (258) "Container" ¶
- (a) Means a sealed, hard or soft-bodied receptacle in which a marijuana item or hemp item is placed and any outer receptacle intended to display a marijuana item or hemp item for ultimate sale to a consumer. ¶
- (b) Does not mean: ¶
- (A) Inner wrapping or lining; ¶
- (B) An exit package; or ¶
- (C) A shipping container used to transfer marijuana items or hemp items in bulk from one licensee or registrant to

another.

(269) "Contractor" means a person, other than a licensee representative, who temporarily visits the licensed premises to perform a service, maintenance, or repair.

(2730) "CTS administrator" means a CTS user who may add, edit or disable access for other CTS users.

(2831) "CTS user" means an individual with online access to CTS.

(329) "Date of harvest" means the day the last mature marijuana plant in the harvest lot was harvested.

(303) "Delta-8-tetrahydrocannabinol" or "delta-8-THC" means (6aR, 10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 5957-75-5.

(314) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 1972-08-3.

(325) "Delta-9-tetrahydrocannabinolic acid" or "delta-9-THCA" means (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid, Chemical Abstracts Service Number 23978-85-0.

(336) "Designated primary caregiver" has the meaning given that term in ORS 475C.777.

(347) "Elementary school"

(a) Means a learning institution containing any combination of grades kindergarten through 8.

(b) Does not mean a learning institution that includes only pre-kindergarten, kindergarten, or a combination of pre-kindergarten and kindergarten.

(358)(a) "Financial consideration" means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions, or donations.

(b) "Financial consideration" does not include marijuana, cannabinoid products, or cannabinoid concentrates that are delivered within the scope of and in compliance with ORS 475C.305.

(369) "Financial interest" means having an interest in an applicant, licensee, or laboratory licensee, 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.

(a) Financial interest includes but is not limited to:

(A) Receiving, as an employee or agent, out-of-the-ordinary compensation, either in the form of overcompensation or under compensation;

(B) Lending money, real property, or personal property to an applicant, licensee, or laboratory licensee for use in the business that constitutes a substantial portion of the business cost or is lent at a commercially unreasonable rate;

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

(D) Being the spouse or domestic partner of an applicant, licensee, or laboratory licensee. For purposes of this subsection paragraph, "domestic partners" includes adults who share the same regular and permanent address and would be financially impacted by the success or failure of the business as well as adults who qualify for a "domestic partnership" as defined under ORS 106.310; or

(E) Having an ownership interest as described in OAR 845-025-1045.

(b) Financial interest does not include any investment that the investor does not control in nature, amount, or timing.

(3740) "Flowering" means a marijuana plant that has formed a mass of pistils measuring greater than two centimeters wide at its widest point.

(3841) "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 under ORS 475C.792.

(3942)(a) "Harvest" means the physical act of cutting or picking flowers or leaves from a marijuana plant or removing mature marijuana plants from the soil or other growing media.

(b) "Harvest" does not include pruning or removing waste material from a marijuana plant remaining in soil or other growing media.

(403) "Harvest lot" has the meaning given that term in OAR 333-007-0310.

(414) "Harvested industrial hemp"

(a) Means industrial hemp that has been harvested, including:

(A) Industrial hemp that has not been processed in any form; and

(B) Industrial hemp that has been minimally processed, for purposes of transfer or storage including chopping, separating, or drying.

(b) Does not mean:

(A) Usable hemp as defined in OAR 603-048-2310;

(B) An industrial hemp commodity or product as defined in OAR 603-048-0010;

(C) Living industrial hemp plants; or

(D) Industrial hemp seed.

- (i) That is part of a crop, as that term is defined in ORS 571.269;¶
 - (ii) That is retained by a hemp grower for future planting;¶
 - (iii) That is agricultural hemp seed;¶
 - (iv) That is for processing into or for use as agricultural hemp seed; or¶
 - (v) That has been processed in a manner or to an extent that the Cannabis seed is incapable of germination.¶
- (425) "Hemp cannabinoid product" ¶
- (a) Means a hemp edible or any other industrial hemp commodity or product intended for human consumption or use, including a hemp topical or hemp transdermal patch, that contains cannabinoids from industrial hemp or the dried leaves or flowers of hemp.¶
 - (b) Includes:¶
 - (A) Usable hemp, industrial hemp extracts, or industrial hemp concentrates that have been combined with an added substance; or¶
 - (B) Any combination of usable hemp, industrial hemp extracts, or industrial hemp concentrates.¶
 - (c) Does not include:¶
 - (A) Usable hemp by itself;¶
 - (B) Hemp stalk by itself;¶
 - (C) A hemp concentrate or extract by itself;¶
 - (D) Hemp seed incapable of germination by itself;¶
 - (E) Other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients; or¶
 - (F) A cannabinoid product.¶
- (436) "Hemp edible" ¶
- (a) Means a food or potable liquid into which industrial hemp, an industrial hemp concentrate, an industrial hemp extract, or the dried leaves or flowers of hemp have been incorporated.¶
 - (b) Does not mean:¶
 - (A) Hemp seed incapable of germination by itself;¶
 - (B) Other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients; or¶
 - (C) A cannabinoid edible.¶
- (447) "Hemp grower" means a person or entity that is a "grower" as that term is defined in OAR 603-048-0010 and is licensed with the Oregon Department of Agriculture under ORS 571.281 to grow industrial hemp.¶
- (458) "Hemp handler" means a person or entity that is a "handler" as that term is defined in OAR 603-048-0010 and is licensed with the Oregon Department of Agriculture under ORS 571.281 to handle industrial hemp.¶
- (469) "Hemp item" ¶
- (a) Means:¶
 - (A) Usable hemp as defined in OAR 603-048-2310;¶
 - (B) Hemp stalk as defined in OAR 603-048-2310;¶
 - (C) A hemp cannabinoid product; or¶
 - (D) A hemp concentrate or extract as defined in OAR 603-048-2310.¶
 - (b) Does not mean:¶
 - (A) Industrial hemp processed through retting or other processing such that it is suitable fiber for textiles, rope, paper, hempcrete, or other building or fiber materials;¶
 - (B) Industrial hemp seed processed such that it is incapable of germination and processed such that is suitable for human consumption; or¶
 - (C) Industrial hemp seed pressed or otherwise processed into oil.¶
- (47) ¶
- (50) "Hemp tincture" ¶
- (a) Means a liquid hemp cannabinoid product packaged in a container of four fluid ounces or less that consists of either:¶
 - (A) A non-potable solution consisting of at least 25 percent non-denatured alcohol, in addition to an industrial hemp concentrate, industrial hemp extract, or usable hemp, and perhaps other ingredients, intended for human consumption that is exempt from the Liquor Control Act under ORS 471.035; or¶
 - (B) A non-potable solution comprised of glycerin, plant-based oil, or concentrated syrup; industrial hemp concentrate, industrial hemp extract, or usable hemp; and other ingredients that does not contain any added sweeteners and is intended for human consumption or ingestion.¶
 - (b) Does not mean a cannabinoid tincture.¶
- (51) "Immature marijuana plant" means a marijuana plant that is not flowering.¶
- (4852) "Industrial hemp" has the meaning given that term in ORS 571.269.¶
- (4953) "Industrial hemp-derived vapor item" means an industrial hemp concentrate or industrial hemp extract, as

those terms are defined in ORS 571.269, whether alone or combined with non-cannabis additives that is intended for use in an inhalant delivery system.¶

(504) "Inhalable cannabinoid product" means a cannabinoid product or hemp cannabinoid product that is intended for human inhalation.¶

(515) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.¶

(526) "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 or human use.¶

(537) "Intended for human use" means intended to be used by applying it to a person's skin or hair, inhalation, or otherwise consuming the product except through the mouth.¶

(548) "Inventory tracking" means activities and documentation processes to track marijuana items from seed to sale, including establishing an accurate record from one marijuana item to another, in the cannabis tracking system.¶

(559) "Invited guests" means family member and business associates of the licensee, not members of the general public.¶

(560) "Laboratory licensee" or "Laboratory" means a laboratory in this state licensed under ORS 475C.548 and includes each applicant listed on an application that the Commission has approved and each person who is added to the license as described in OAR 845-025-1165.¶

(5761) "License year" means the period of time for which a license is issued.¶

(a) For a producer, processor, wholesaler, retailer, or laboratory license, the license year is a one year period beginning on the effective date of the license, or that same period of time for each subsequent year.¶

(b) For a research certificate the license year is a three year period beginning on the effective date of the license, or that same period of time for each subsequent three year period.¶

(5862) "Licensee" means any person who holds a license issued under ORS 475C.065, 475C.085, 475C.093, or 475C.097, or 475C.548 and includes each applicant listed on an application that the Commission has approved and each person who is added to the license as described in OAR 845-025-1165.¶

(5963) "Licensee of record" means a licensee listed on the license certificate as a license holder for a producer, processor, wholesaler, retailer, or laboratory license. There will be more than one licensee of record for the same license if:¶

(a) The business is operated as a joint venture or other similar arrangement between two or more persons; or¶

(b) A person who qualifies as an applicant for the license has no direct or indirect ownership or control of any other licensee of record on the same license.¶

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

(615) "Limit of quantification" or "LOQ" means the minimum levels, concentrations, or quantities of a target variable, for example, an analyte that can be reported by a laboratory with a specified degree of confidence.¶

(626) "Limited access area" means a building, room, or other contiguous area on a licensed premises where a marijuana item is present, but does not include a consumer sales area on a licensed retailer premises.¶

(637) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. "Marijuana" does not include:¶

(a) Industrial hemp, as defined in ORS 571.269; or¶

(b) Prescription drugs, as that term is defined in ORS 689.005, including those containing one or more cannabinoids, that are approved by the United State Food and Drug Administration and dispensed by a pharmacy, as defined in ORS 689.005.¶

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

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

(6670) "Marijuana leaves" means the leaves of the plant genus Cannabis within the plant family Cannabaceae.¶

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

(6872) "Marijuana producer" means a person who produces marijuana in this state.¶

(6973) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.¶

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

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

(726) "Medical grade cannabinoid product, cannabinoid concentrate, or cannabinoid extract" means a cannabinoid product, cannabinoid concentrate, or cannabinoid extract that has a concentration of tetrahydrocannabinol that is permitted under ORS 475C.620 for consumers who hold a valid registry identification card issued under ORS 475C.783.¶

(737) "Micro-wholesaler" means a marijuana wholesaler licensed by the Commission that only purchases or

receives seeds, immature marijuana plants, or usable marijuana from a micro tier I or micro tier II producer. ¶

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

(759) "Non-cannabis additive" means a substance or group of substances that are derived from a source other than marijuana or industrial hemp. ¶

(a) "Non-cannabis additive" includes but is not limited to purified compounds, essential oils, oleoresins, essences or extractives, protein hydrolysates, distillates, or isolates. ¶

(b) "Non-cannabis additive" does not include plant material that is in the whole, broken, or ground form. ¶

(7680) "Non-profit dispensary" means a medical marijuana dispensary registered under ORS 475C.833, owned by a nonprofit corporation organized under ORS chapter 65, and that is in compliance with the Authority's rules governing non-profit dispensaries in OAR chapter 333, division 8. ¶

(7781) "Non-toxic" means not causing illness, disability or death to persons who are exposed. ¶

(782) "ORELAP" means the Oregon Environmental Laboratory Accreditation Program administered by the Authority pursuant to ORS 438.605 to 438.620. ¶

(7983) "Patient" has the same meaning as "registry identification cardholder." ¶

(804) "Permittee" means any person who holds a Marijuana Workers Permit. ¶

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

(826) "Person Responsible for a Marijuana Grow Site" or "PRMG" has the meaning given that term in OAR 333-008-0010. ¶

(837) "Points of ingress and egress" means any point that may be reasonably used by an individual to enter into an area and includes but is not limited to doors, gates, windows, crawlspace access points, and openings whether or not those points are secured by a locked door, window, or means capable of being unlocked or unsealed by a key, code, or other method intended to allow access. ¶

(848) "Premises" or "licensed premises" ¶

(a) Means all areas of a location licensed under sections ORS 475C.005- to 475C.525 or 475C.548 and includes: ¶

(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 ¶

(b) Does not include a primary residence. ¶

(859) "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. ¶

(8690) "Principal officer" includes the president, any vice president with responsibility over the operation of a licensed business, the secretary, the treasurer, or any other officer designated by the Commission. ¶

(8791) "Process lot" means: ¶

(a) Any amount of cannabinoid concentrate, cannabinoid extract, industrial hemp concentrate, or industrial hemp extract of the same type and processed using the same extraction methods, standard operating procedures, and batches from the same or different harvest lots; or ¶

(b) Any amount of cannabinoid product or hemp cannabinoid product of the same type and processed using the same ingredients, standard operating procedures, and batches from the same or different harvest lots or process lots of cannabinoid concentrate, cannabinoid extract, industrial hemp concentrate, or industrial hemp extract. ¶

(8892) "Processes" ¶

(a) Means the processing, compounding, or conversion of: ¶

(A) Marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts; or ¶

(B) Pursuant to ORS 571.336, industrial hemp or industrial hemp commodities or products into hemp items. ¶

(b) Does not include packaging or labeling. ¶

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

(904) "Produces" ¶

(a) Means the manufacture, planting, propagation, cultivation, growing, or harvesting of marijuana. ¶

(b) 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 wholesaler or marijuana retailer if the marijuana wholesaler or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer. ¶

(915) "Propagate" means to grow immature marijuana plants or to breed or produce seeds. ¶

(926) "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. ¶

(937) "Registry identification cardholder" or has the meaning given that term in ORS 475C.777.¶

(948) "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 ORS chapter 471, ORS 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586, and 475C.600 to 475C.644, Commission rules, and any other statutes the Commission considers related to regulating liquor or marijuana.¶

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

(96100) "Sampling laboratory" means a laboratory that only has an ORELAP accredited scope item for sampling under ORS 438.605 to 438.620 and is not accredited to perform cannabis testing.¶

(97101) "Secondary school" means a learning institution containing any combination of grades 9 through 12 and includes junior high schools that have 9th grade.¶

(98102) "Security plan" means a plan as described by OAR 845-025-1030, 845-025-1400, and 845-025-1405 that fully describes how an applicant will comply with applicable laws and rules regarding security.¶

(99103) "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.¶

(1004) "These rules" means OAR chapter 845, division 25.¶

(1015) "Tissue culture plantlet" or "plantlet" means plant cells or tissues introduced into a culture from nodal cutting and cultivated under sterile conditions. A tissue culture plantlet from a marijuana plant is an immature marijuana plant.¶

(1026) "Total delta-9-tetrahydrocannabinol" or "total delta-9-THC" means the sum of the concentration or mass of delta-9-THCA multiplied by 0.877 plus the concentration or mass of delta-9-THC.¶

(1037) "UID number" means the 24-digit number on the UID tag.¶

(1048) "UID tag" means a unique identification tag ordered and received from the Commission's designated vendor for CTS for the purpose of tracking marijuana items in CTS.¶

(1059) "Usable hemp" ¶

(a) Means the flowers and leaves of industrial hemp intended for human consumption or use that does not fall within meaning of industrial hemp concentrate or industrial hemp extract as those terms are defined in ORS 571.269, hemp edible, or hemp cannabinoid product.¶

(b) Includes, for purposes of these rules, pre-rolled hemp as long as the pre-roll consists of only dried hemp leaves and flowers, an unflavored rolling paper and a filter or tip.¶

(1106) "Usable Marijuana" ¶

(a) Means the dried leaves and flowers of marijuana and includes pre-rolled marijuana as long as the pre-roll consists of only dried marijuana leaves and flowers, an unflavored rolling paper, and a filter or tip.¶

(b) 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.¶

(10711) "Wholesaler" means a marijuana wholesaler licensed by the Commission.

Statutory/Other Authority: ORS 475C.017

Statutes/Other Implemented: ORS 475C.017, ORS 475C.009

AMEND: 845-025-1030

RULE SUMMARY: This rule describes the process and requirements for applying for a recreational marijuana license. The proposed amendments implement certificate of tax compliance requirements for Retailers, change the standards for producer applicants to demonstrate proof of a legal source of water, and conform language to conventions.

CHANGES TO RULE:

845-025-1030

Application Process ¶

- (1) 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 any requirements of this rule must be submitted in a manner specified by the Commission. The application fee specified in OAR 845-025-1060 must also be paid in a manner specified by the Commission. ¶
- (3) An application must include the following: ¶
 - (a) The names and other required information for all individuals and legal entities who are applicants as described in OAR 845-025-1045. ¶
 - (b) Any forms required by the Commission and any information identified in the form that is required to be submitted; ¶
 - (c) A map or sketch of the premises proposed for licensure, including the defined boundaries of the premises, the location of any primary residence located on the same tax lot as the licensed premises, and a scaled floor or plot plan sketch of all enclosed areas with clear identification of walls, all areas of ingress and egress, and all limited access areas; ¶
 - (d) An operating plan in a form prescribed by the Commission 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. ¶
 - (e) For producers: ¶
 - (A) The proposed production tier and producer type as described in OAR 845-025-2040. ¶
 - (B) A report describing the applicant's electricity and water usage, on a form prescribed by the Commission. ¶
 - (i) For initial licensure, the report must describe the estimated electricity and water usage, taking into account all portions of the premises and expected requirements of the operation for the next twelve months. ¶
 - (ii) For renewal, the report must describe the actual electricity and water usage for the previous year, taking into account all portions of the premises. ¶
 - (C) An attestation that Oregon Water Resources Department (OWRD) Marijuana Producer Water Use Form showing the applicant has a legal source of water. ¶
 - (D) If the applicant is not the owner of the premises proposed to be licensed, a form, prescribed by the Commission, signed by the owner of the premises that states the owner consents to the production of marijuana on the premises. ¶
 - (f) For processors, on a form prescribed by the Commission, the proposed endorsements as described in OAR 845-025-3210. ¶
 - (g) For retailers, a certificate of tax compliance for each applicant, as described in OAR 845-025-1045. The certificate has been issued no earlier than 90 calendar days prior to the date the initial application was submitted. ¶
- (4) In addition to submitting the application form and the items described in section (3) of this rule, the Commission may require the following to be submitted: ¶
 - (a) For applicants: ¶
 - (A) ~~i~~Information or fingerprints in order to perform a criminal background check in accordance with OAR 845-025-1080. ¶
 - (B) Any forms required by the Commission and any information identified in the form that is required to be submitted. ¶
 - (b) The names and other required information for all individuals and legal entities with a financial interest in the business. ¶
 - (c) For an individual identified as a person with a financial interest: ¶

(A) Information or fingerprints for a criminal background check in accordance with OAR 845-025-1080; and ¶
 (B) Any forms required by the Commission and any information identified in the form that is required to be submitted. ¶

(d) For a legal entity that is identified as having a financial interest: ¶
 (A) Information or fingerprints for any individual within the legal entity for a criminal background check in accordance with OAR 845-025-1080; and ¶
 (B) Any forms required by the Commission and any information identified in the form that is required to be submitted. ¶

(e) Proof of the right to occupy the premises proposed for licensure. ¶

(f) For producers: ¶
 (A) A designation of the proposed canopy area within the licensed premises. ¶
 (B) Proof that the applicant has a legal source of water as evidenced by: ¶
 (i) ~~A copy of a water right permit, certificate, or other water use authoriz~~ documentation from the Oregon Water Resources Department; ¶
 (ii) ~~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 ¶~~
 (iii) ~~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. (OWRD) that the source of water described on the completed OWRD Marijuana Producer Water Use Form does or does not require a water use permit or certificate from the OWRD and is intended for use in the cultivation of marijuana for commercial purposes. ¶~~

(g) Any additional information if there is a reason to believe that the information is needed to determine the merits of the license application. ¶

(5) The Commission must review an application to determine if it is complete. An application may be considered incomplete if an application form is not complete, the full application and license fee has not been paid, or some or all of the additional information required under these rules is not submitted. ¶

(6) An application will be considered incomplete if all certificates of tax compliance are not submitted with the application as described in subsections (3)(g). ¶

(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 sent 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.

Statutory/Other Authority: ORS 475BC.02517, ORS 475BC.04033
 Statutes/Other Implemented: 2019 OL CH. 145, ORS 475BC.04033, 475BC.04537, 475BC.06049, 475BC.07065, 475BC.09085, 475B.100, 475B.105C.093, 475C.097, 475BC.56048

AMEND: 845-025-1045

RULE SUMMARY: This rule details how entities and individuals must be listed on a license, and which entities and individuals qualify as applicants. The proposed amendments allow for a license to be revoked for the same reasons that a license could be refused based on ownership interest.

CHANGES TO RULE:

845-025-1045

True Name on Application; Interest in Business ¶

(1) True name on application. An application for a license must specify the real and true names of all individuals and legal entities required to be disclosed in the application under OAR 845-025-1030 and this rule. ¶

(2) License privileges. License privileges are available only to licensees or laboratory licensees and licensee representatives and only for the premises designated on the license. ¶

(3) The following individuals and legal entities are applicants: ¶

(a) Any individual or legal entity who holds or controls a direct or indirect interest of 20 percent or more in the business proposed to be licensed; ¶

(b) Any individual or legal entity who is entitled to receive a portion of revenue, proceeds, or profits from the business proposed to be licensed totaling 20 percent or more; ¶

(c) Any individual or legal entity that has an ownership interest in the business as described in OAR section (5) of this rule; and ¶

(d) Any individual or entity required to be listed as applicants under section (4) of this rule. ¶

(4) If a legal entity is an applicant, the following individuals within a legal entity are also applicants: ¶

(a) If an applicant is a limited partnership, each general partner in the limited partnership; ¶

(b) If an applicant is a manager-managed limited liability company, each manager of the manager-managed limited liability company as those terms are defined in ORS 63.001; and ¶

(c) If an applicant is a corporation, each principal officer of the corporation. ¶

(5) Ownership interest. The Commission may refuse to issue a license if the applicant or may revoke a license which has already been issued, if the Commission determines any individual or legal entity who meets or would meet the definition of applicant under sections (3) and (4) of this rule is not the actual owner of the business proposed to be licensed, a person with an ownership interest is not identified as an applicant, or an undisclosed or unapproved ownership interest exists other than as provided in OAR 845-025-1165. For purposes of these rules, an "ownership interest" is indicated by the following behaviors, benefits, or obligations: ¶

(a) Any individual or legal entity, other than an employee acting under the direction of an applicant, licensee, or laboratory licensee, that exercises control over, or is entitled to exercise control over, the business; ¶

(b) Any individual or legal entity, other than an employee acting under the direction of an applicant, licensee, or laboratory licensee, that has the authority to bind the applicant, licensee, or laboratory licensee to contracts or other legal obligations, including the authority to cause the applicant, licensee, or laboratory licensee to incur debt or similar obligations on behalf of the business; or ¶

(c) Any individual or legal entity identified as a lessee, tenant, or renter (or similar term) of the premises proposed to be licensed; ¶

(d) Any individual or legal entity owning the real or personal property of the premises proposed to be licensed, unless the owner of the property has given control over the property to another party via a lease or rental agreement or similar agreement; or ¶

(e) When an applicant is a legal entity, any individual or legal entity required to be listed as an applicant under sections (3) or (4) of this rule. ¶

(6) Violations. An undisclosed ownership interest under this rule is a Category I violation.

Statutory/Other Authority: ORS 475C.017, ORS 475C.033

Statutes/Other Implemented: ORS 475C.033, 475C.037, 475C.049, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548, 475C.265

AMEND: 845-025-1115

RULE SUMMARY: This rule details criteria for the Commission to deny an initial or renewal application. The proposed amendments define the license types held under ORS 475A.290 or 475A.305 and conform language to conventions.

CHANGES TO RULE:

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. ¶

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

(c) The proposed licensed premises is located: ¶

(A) Outside of the State of Oregon. ¶

(B) On federal property. ¶

(C) On reservation or tribal trust land of a federally recognized Indian tribe unless that tribe has entered into an agreement with the State of Oregon which allows licensing of recreational marijuana businesses. ¶

(d) 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. ¶

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

(A) Except as provided in ORS 475C.101, 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. ¶

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

(g) A city or county has prohibited the license type for which the applicant is applying, in accordance with ORS 475C.950. ¶

(2) The Commission may deny an initial or renewal application, unless the applicant shows good cause to overcome the denial criteria, if the Commission 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 ORS 475C.005 to 475C.525 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 ORS 475C.333; ¶

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

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

(iv) Violations of local ordinances adopted under ORS 475C.449, pending or adjudicated by the local government that adopted the ordinance. ¶

(F) Does not have a good record of compliance with ORS chapter 471 or any rules adopted thereunder. ¶

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

(H) Is unable to understand the laws of this state related to marijuana or these rules. This may be demonstrated by violations documented by the Oregon Health Authority. ¶

(I) For license renewal, has not submitted all fees, forms, documents, and information required to act on the renewal application within the time period prescribed by the Commission. ¶

(J) Has, or previously had, an unapproved ownership interest in a license issued by the Commission other than as provided in OAR 845-025-1165. ¶

(K) Has diverted marijuana to the interstate market or an illicit market or has diverted resources to a criminal enterprise. ¶

(L) Has introduced into the marijuana industry regulated under ORS 475C.005 to 475C.525 cannabinoids or marijuana not produced or processed by a licensee and not tracked in the system developed and maintained under ORS 475C.177. ¶

- (M) Has operated as a hemp grower registered or licensed under ORS 571.281 and grown cannabis that was found to be presumptively marijuana under OAR 845-026-4100. ¶
- (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 ORS 475C.037(3). The Commission may consider factors set forth in section (8) of this rule to determine if this refusal basis is supported or overcome. ¶
- (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. ¶
- (d) The business proposed to be licensed is located: ¶
- (A) At the same physical location or address as a premises licensed under ORS chapter 471 or as a retail liquor agent appointed by the Commission; ¶
- (B) At the same ~~location~~ physical location or address as a producer, retailer, processor, wholesaler, or laboratory license, unless the licenses are of different types and all of the licenses at the location are held or sought by identical applicants. ~~For the purpose of this paragraph, "at the same location" means that any area of the proposed licensed premise; or ¶~~
- ~~(C) At the same address as a producer, retailer, processor, wholesaler, or laboratory license, unless the licenses are of different types and all of the licenses at the location or address are held or sought by identical applicants; or ¶~~
- ~~(D) At the same physical location as a premises~~ the premises of a psilocybin product manufacturer or psilocybin service center licensed under ORS 475A.290 or 475A.305. ¶
- (e) The location proposed to be licensed is prohibited under OAR 845-025-1230. ¶
- (f) The proposed licensed premises of a producer applicant is on the same tax lot as another producer licensee under common ownership. ¶
- (g) The proposed licensed premises of a producer is located on the same tax lot as a site registered with Oregon Department of Agriculture for the production of industrial hemp, unless the applicant submits and the Commission approves a control plan describing how the registered site shall be separated from the premises proposed to be licensed and how the applicant shall prevent transfer of industrial hemp to the licensed premises. ¶
- (h) The applicant proposed to be licensed does not have access to the proposed license premises. ¶
- (i) The proposed licensed premises of the producer applicant is on the same tax lot as another producer licensee and the presence of multiple producers on the same tax lot creates a risk of non-compliance with any of these rules. ¶
- (j) The applicant is a business entity that is required to be registered with the Oregon Secretary of State but has failed to register. ¶
- (3) The Commission may refuse to issue a license to any license applicant or refuse to renew the license of any licensee or laboratory 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, licensee, or laboratory licensee. ¶
- (4)(a) The Commission may deny any initial or renewal application and may revoke any license if medical marijuana items are produced, processed, stored, sold, or transported, to or from the same address or location of licensed business or business proposed to be licensed. ¶
- (b) The Commission will not deny an initial application under this subsection if: ¶
- (A) The applicant surrenders any registration issued by the Authority for the address or location of the business proposed to be licensed; ¶
- (B) If applicable, the applicant notifies all other growers registered by the Authority at the location or address proposed to be licensed, in a form and manner prescribed by the Commission, that the grower is no longer permitted to produce medical marijuana at the address or location proposed to be licensed, and must surrender their registration at that address or location; and ¶
- (C) All medical marijuana activity at the location or address proposed to be licensed ceases 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) The Commission may revoke a license for any of the reasons that it may deny a license. ¶
- (7) A notice of denial must be issued in accordance with ORS 183. ¶
- (8) Factors that may support or overcome license denial pursuant to subsection (2)(b) of this rule. These factors may have occurred before or after the incident or incidents that are relevant to the specific criterion. The factors may be weighed in favor of the applicant, weighed against the applicant, or weighed neither for nor against the applicant. ¶

(a) Definitions. For purposes of this subsection: ¶

(A) "Administrative violation" means an administrative agency has taken a final action finding that an individual, or a legal entity that the individual is part of, violated a regulation of that administrative agency. ¶

(B) "Compliance risk factors" means factors that show the individual's tendency to disobey laws, rules, and regulations; including but not limited to probation and parole violations, non-relevant convictions, and administrative violations. ¶

(C) "Relevant conviction" means a conviction, other than those listed in ORS 475C.037(3), that involved violence or the threat of violence; dishonesty or deception; drugs, alcohol, or other regulated substances; or a conviction as a felon in possession of a weapon. ¶

(D) "Successful treatment" means: ¶

(i) The Commission receives written confirmation from the individual's licensed treatment provider that the individual completed treatment that is related to a relevant conviction and the Commission has determined that the individual has not had another conviction for a similar incident since the completion of the treatment; or ¶

(ii) The individual is still in a treatment program that is related to a relevant conviction; however, the Commission receives written confirmation from the individual's licensed treatment provider that the individual has demonstrated sufficient success towards stopping the behavior that led to the conviction and the Commission has determined that the individual has not had another conviction for a similar incident since the date the provider determined that the individual demonstrated sufficient success towards stopping the behavior that led to the conviction. ¶

(b) Upon the Commission's determination that a basis to refuse the application has been established under this criterion, the Commission may consider the following factors and may consider other factors, depending on the facts of the case: ¶

(A) Passage of time, whichever date is later: ¶

(i) Since the date of the most recent incident that led to a relevant conviction, but not counting time spent incarcerated or other factors the Commission determines affect the passage of time; or ¶

(ii) Since the date of the most recent compliance risk factor, but not counting time spent incarcerated or other factors the Commission determines affect the passage of time. ¶

(B) Compliance risk factors. ¶

(C) Successful treatment. ¶

(D) The severity of the individual's relevant conviction record as shown by the number of convictions, whether a conviction was a felony or non-felony, and whether a conviction involved violence or the manufacture or delivery of controlled substances. ¶

(E) The individual's record of compliance with the Commission.

Statutory/Other Authority: ORS 475C.017

Statutes/Other Implemented: ORS 475C.033, 475C.037, 475C.053, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548, 475C.950, 475C.189

AMEND: 845-025-1165

RULE SUMMARY: This rule describes processes and requirements for changes of business structure. The proposed amendments implement into permanent rule, the requirement for retailer licensees to submit a DOR certificate of tax compliance for any new applicant when submitting a change in business structure.

CHANGES TO RULE:

845-025-1165

Change of Business Structure

(1) For the purposes of this rule, "change of business structure": ¶

(a) Means a change in a licensee's or laboratory licensee's ownership structure by adding an individual or legal entity who meets the qualifications of an applicant as described in OAR 845-025-1045 or by removing an individual or legal entity that is a licensee or laboratory licensee. ¶

(b) Does not mean a "change of ownership" as described in OAR 845-025-1170. ¶

~~(2) Until March 31, 2023; Process for a change of business structure: ¶~~

~~(a) A licensee or laboratory licensee that undergoes proposing a change of business structure must, prior to making the change, submit: ¶~~

~~(A) A form in a manner prescribed by the Commission; and: ¶~~

~~(BA) Any information identified in the form to be submit form prescribed to by the Commission.: ¶~~

~~(bB) The Commission must review the form and other information submitted under subsection (a) of this section. ¶~~

~~(c) If the Commission determines that the addition of For a retailer proposing a change of business structure by adding an individual or legal entity who meets the qualifications of an applicant as described in OAR 845-025-1045 would result in an initial or renewal application denial under OAR 845-025-1115, or serve as the basis of a license suspension or revocation, the licensee may remove that individual or legal entity from the business. If the licensee does not remove that individual or legal entity from the business, the Commission shall propose license suspension or revocation under OAR 845-025-1115. ¶~~

~~(d) Notwithstanding subsection (a) of this section, a licensee or laboratory licensee does not need to notify the Commission prior to the following changes occurring, but must notify the Commission within 60 calendar days of the following change occurring: ¶~~

~~(A) A shareholder of a publicly traded corporation acquiring or accumulating twenty percent or more of the voting stock; or ¶~~

~~(B) A publicly traded corporation adding or removing principal officers. ¶~~

~~(3) On or after April 1, 2023: ¶~~

~~(a) A licensee or laboratory licensee proposing a change of business structure must, prior to making the change, submit in a manner prescribed by the Commission, a certificate of tax compliance for each proposed new applicant, issued no earlier than 90 calendar days prior to the date that the form required in paragraph (A) of this subsection is submitted: ¶~~

~~(AC) A form prescribed by the Commission; and ¶~~

~~(B) Any information identified in the form to be submitted to the Commission. ¶~~

~~(b) The Commission must review the form and other information submitted under subsection (a) of this section. ¶~~

~~(A) If the Commission determines that the submission appears to be complete, the Commission will notify the licensee or laboratory licensee that the change is conditionally approved. ¶~~

~~(B) If the Commission does not notify the licensee or laboratory licensee that the submission is incomplete within five business days of receiving the submission, the change is conditionally approved, except as provided in paragraph (C) of this subsection. ¶~~

~~(C) If the licensee has not submitted the information required in paragraph (2)(a)(B) of this rule, as applicable, the change request is deemed incomplete and must be resubmitted. ¶~~

~~(c) Notwithstanding subsection (a) of this section: ¶~~

~~(A) A licensee or laboratory licensee must notify the Commission within 60 calendar days, but does not need to notify the Commission prior to making the following changes: ¶~~

~~(i) A shareholder of a publicly traded corporation acquiring or accumulating twenty percent or more of the voting stock; or ¶~~

~~(ii) A publicly traded corporation adding or removing principal officers. ¶~~

~~(B) Except as provided in subsection (2)(d) of this rule, the changes described in paragraph (A) of this subsection are considered conditionally approved if, within 60 calendar days of the changes occurring, the licensee or laboratory licensee submits: ¶~~

~~(i) A form prescribed by the Commission; and ¶~~

~~(ii) For a retailer proposing a change of business structure by adding an individual or legal entity who meets the~~

qualifications of an applicant as described in OAR 845-025-1045, a certificate of tax compliance for each proposed new applicant, issued no earlier than 90 calendar days prior to the date that the form required in subparagraph (i) of this paragraph is submitted; ¶

(iii) Any information identified in the form to be submitted to the Commission. ¶

(C) The Commission must review the form and other information submitted under paragraph (B) of this subsection. If the Commission determines that the submission does not include all information required by paragraph (B) of this subsection, the Commission will notify the licensee or laboratory licensee. ¶

(d) If a licensee does not submit a change of business structure notice with the information required under subparagraphs (2)(c)(B)(ii) of this rule, as applicable, within 60 calendar days of the changes occurring, the notice is deemed incomplete and is not conditionally approved. ¶

(e) The Commission may withdraw the conditional approval and deny a change requested under subsections (a) or (c) of this section if: ¶

(A) The requested change constitutes a "change of ownership" as described in OAR 845-025-1170; or ¶

(B) The Commission has reason to believe that the addition of an individual or legal entity who meets the qualifications of an applicant as described in OAR 845-025-1045 would result in an initial or renewal application denial under OAR 845-025-1115, or serve as the basis of a license suspension or revocation; or ¶

(C) The Commission determines that the form or information submitted under subsection (3)(a) or paragraph (3)(c)(B) of this rule are incomplete; or ¶

(D) The form or information submitted under subsection (3)(a) or paragraph (3)(c)(B) of this rule contains false or misleading information; or ¶

(E) The licensee fails to pay the fee specified in OAR 845-025-1060(8)(a) within 30 days if the Commission requires a criminal background check for any persons that the licensee or laboratory licensee requests to add to the license. ¶

(ef) If the Commission denies a change requested under this rule, the licensee or laboratory licensee has a right to a hearing under the procedures of ORS chapter 183. ¶

~~(fg) If the Commission determines that there is no basis to deny a change requested under this rule, the Commission shall notify the applicant in writing that the change has been approved. ¶~~

~~(43) Violations. Failure to notify the Commission of changes in business structure as described in this rule is a Category III violation.~~

Statutory/Other Authority: ORS 475C.017

Statutes/Other Implemented: ORS 475C.037, 475C.189, 475C.548

AMEND: 845-025-1170

RULE SUMMARY: This rule describes processes and requirements for changes of ownership. The proposed amendments implement into permanent rule, the requirement for retailer licensees to submit a DOR certificate of tax compliance for each current licensee and each new applicant when submitting a change of ownership application.

CHANGES TO RULE:

845-025-1170

Change of Ownership

(1) For the purposes of this rule, "change of ownership": ¶

(a) Means a licensee or laboratory licensee proposes to: ¶

(A) Add a licensee of record; ¶

(B) Replace a current licensee of record; or ¶

(C) Change its ownership structure such that natural persons who did not hold a direct or indirect interest in the business at the start of the license year will collectively hold a direct or indirect interest of 51 percent or greater. ¶

(b) Does not mean a "change of business structure" as described in OAR 845-025-1165. ¶

(2) To submit a change of ownership request: ¶

(a) The proposed licensee or laboratory licensee must submit a new application in accordance with OAR 845-035-1030; ~~and~~ ¶

(b) Within 14 calendar days of the date the application described in subsection (a) of this section is submitted, the current licensee or laboratory licensee must submit a completed change of ownership notification form, as prescribed by the Commission, signed by the current licensee or laboratory licensee; ~~and~~ ¶

(c) For a retail license, a certificate of tax compliance issued no earlier than 90 calendar days prior to the date the change of ownership request was submitted, must be submitted for each current licensee, as described in OAR 845-025-1015 and each new applicant, as that term is described in OAR 845-025-1045. ¶

(3) The Commission shall review a change of ownership application in accordance with OAR 845-025-1090 and 845-025-1115. ¶

(4) A change of ownership application must comply with the timeframes described in OAR 845-025-1135 to complete the application process. ¶

(5) The Commission may refuse to process a change of ownership application if the change of ownership notification form is submitted by: ¶

(a) A person other than the licensee or licensee representative of the licensed business for which the change of ownership is proposed; or ¶

(b) A business that is not currently licensed. ¶

(6) The Commission shall deem a change of ownership application that does not include all of the information required under section (2)(c) of this rule to be incomplete. ¶

(7) Submission of a change of ownership request under this rule does not confer the privileges of a licensee to the applicant until the license is issued. ¶

(78) Violations.-/Allowing a person other than the licensee to/obtain an ownership interest as described in OAR 845-025-1045 or operate the licensed business before the Commission approves the change of ownership application is a Category I violation.

Statutory/Other Authority: ORS 475C.017, 475C.033, 475C.185

Statutes/Other Implemented: ORS 475C.037, 475C.045, 475C.548

RULE SUMMARY: This rule describes license processes and requirements for license renewal. The proposed amendments implement into permanent rule, the requirement for retailer licensees to submit DOR certificate of tax compliance for each applicant with their annual renewal application; grant 60 day extensions for retailer licensees to obtain their certificates of tax compliance and reconsiderations of incomplete renewal applications.

CHANGES TO RULE:

845-025-1190

License Renewal ¶¶

(1) Renewal Applications. A licensee must annually submit a renewal application and the applicable fees regardless of whether the Commission has acted on a previous renewal application. A research certificate holder must submit a renewal application and the applicable renewal fees every three years, regardless of whether the Commission has acted on a previous renewal. ¶¶

(a) Any licensee who ~~annually submits the required~~ and timely submits a renewal application with the Commission as described in section (2) of this rule with the Commission on or before the license expiration date may continue to operate, pending a decision by the Commission. ¶¶

(b) Any licensee who ~~does not submit the required renewal application~~ fails to annually and timely submit a renewal application with the Commission as described in section (2) of this rule on or before the license expiration date must stop engaging in any licensed activity when the license expires. ¶¶

(c) ~~If the licensee annually submits the required~~ a renewal application with the Commission as described in section (2) of this rule within 30 days after the license expiration date, the licensee may resume operation pending a decision by the Commission on the renewal application. ¶¶

(d) Retailers who annually and timely submit a renewal with the Commission as described in section (2) of this rule may continue to operate for an additional 30 days after the expiration of their license without supplying all required certificates of tax compliance from the Oregon Department of Revenue if: ¶¶

(A) The retailer has submitted an otherwise complete renewal application on or before the license expiration date or within 30 days after the license expiration date; and ¶¶

(B) Can provide documentation, in a form and manner prescribed by the Commission, that the retailer is actively engaged in the process of obtaining the required certificates of tax compliance from the Oregon Department of Revenue. ¶¶

(e) The Commission may grant an additional 60-day extension to the timeframe in subsection (1)(d) of this rule, if the Commission determines the extension is reasonably necessary in order for the retailer to obtain the certificates of tax compliance. ¶¶

(f) The Commission will not accept a renewal application that is received more than 30 days after the license expiration date. In this circumstance, a person: ¶¶

(A) May submit a new application, if permitted by law, including the application fee, license fee, documents, and information required by the Commission; and ¶¶

(B) Must not engage in any licensed activity unless and until granted a new license by the Commission. ¶¶

(g) A person who engages in any activity that would require a license but who is not licensed or who is not otherwise authorized to operate under this rule may be subject to administrative and criminal sanctions. ¶¶

(2) For purposes of this rule: ¶¶

(a) An application is considered submitted when it is: ¶¶

(A) S "license expiration date" means: ¶¶

(A) The date of expiration on a license; or ¶¶

(B) If the Commission has not acted on a pending license renewal application, the date the pending license would expire if the application had been approved. ¶¶

(2) For purposes of this rule, in order for a renewal application to be considered submitted all of the following must be received by the Commission: ¶¶

(a) A fully completed renewal application signed by an applicant and includes: ¶¶

(b) The appropriate renewal application and license and renewal fees described in OAR 845-025-1060 and 845-025-1070; and ¶¶

(Bc) Received by the Commission. ¶¶

(b) "License expiration date" means: ¶¶

(A) The date of expiration on a license; or ¶¶

(B) If the Commission has not acted on a pending license renewal application, the dFor retailers, a certificate of tax compliance issued within no earlier than 90 calendar days prior to of the license expiration date for each applicant

as that the pending license would expire if the application had been approved term is described in OAR 845-025-1045.¶

(3) The Commission may require a licensee with a pending renewal application to submit forms, documents, and information described in OAR 845-025-1030 in order to complete an investigation of a renewal application. Failure to submit fees, forms, documents, or information requested by the Commission under this subsection within a time period prescribed by the Commission may result in denial of the renewal application.¶

(4) If the Commission approves a renewal application, the Commission must notify the licensee in writing that the renewal application has been approved and provide the licensee 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. The renewed license is effective for a license year beginning the date following the license expiration date for the previous license year.¶

(5) 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 is sent to the applicant. The Commission shall give an applicant the opportunity to be heard if an application is rejected. A hearing under this section is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.¶

(6) Except as provided in OAR 845-025-1060(6), the Commission will refund a renewal license fee to an applicant whose application is not timely submitted and whose license expires, within 180 calendar days of when the license renewal fee was paid.

Statutory/Other Authority: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548

Statutes/Other Implemented: ORS 475C.033

AMEND: 845-025-1230

RULE SUMMARY: This rule details licensed premises restrictions and requirements. The proposed amendments adds language to restrict marijuana businesses from co-locating at the same physical location or address of a psilocybin facility and bring consistency between OAR 845 Division 25 (Marijuana) and OAR 333 Division 333 (Psilocybin).

CHANGES TO RULE:

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 475C.792; ¶

(B) Medical marijuana processing site registered under ORS 475C.815; ¶

(C) Medical marijuana dispensary registered under ORS 475C.833; or ¶

(D) Liquor license licensed under ORS chapter 471 or as a retail liquor agent appointed by the Commission. ¶

(E) Psilocybin product manufacturer or psilocybin service center licensed under ORS 475A.290 or 475A.305. ¶

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

(a) Public land; or ¶

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

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

(a) Except as provided in ORS 475C.101, 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. A processor, wholesaler, or laboratory licensee may be exempt from this requirement if the processor, wholesaler, or laboratory licensee can show in its security plan how the licensee will maintain security within an unenclosed area, and the Commission determines it does not present a risk to public health and safety. ¶

(6) A licensee may not permit: ¶

(a) Any minor to work or be on a licensed premises except as described in this rule; or ¶

(b) On-site consumption of a marijuana item, alcohol, or other intoxicant by any individual, except that a licensee representative who has a current registry identification card issued under ORS 475C.783 may consume marijuana during their work shift on the licensed premises as necessary for their medical condition, if the employee is alone, in a closed room and not visible to others outside the room. A licensee representative who consumes a marijuana item as permitted under this section may not be intoxicated while on duty. For purposes of this section allowable on-site consumption in an enclosed area, as that as defined in OAR 333-015-0030 does not include smoking, combusting, inhaling, vaporizing, or aerosolizing a marijuana item. ¶

(7) A licensee may permit a minor to be on the licensed premises, if the minor: ¶

(a) Has a legitimate business purpose for being on the licensed premises. For example, a minor plumber may be on the premises in order to make a repair; ¶

(b) Passes through the licensed area of an outdoor producer in order to reach an unlicensed area, so long as the minor is not present in areas that contain marijuana items; ¶

(c) Resides on the tax lot where a marijuana producer is licensed, so long as the minor is not present in areas of a producer's licensed premises that contain usable marijuana or cut and drying marijuana plants; or ¶

(d) Is a current Oregon Medical Marijuana Program cardholder or designated primary caregiver and is over 18 years of age. ¶

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

(9) Log. A licensee must keep a daily log of all employees and permitted visitors who perform work on the licensed premises, except for Commission employees and other state or local government officials acting in an official capacity who have jurisdiction over some aspect of the licensed premises or operation. ¶

(a) In CTS, a licensee must record the following information for each current employee and licensee representative: ¶

(A) For an employee or licensee representative required to have a marijuana worker permit, the permit number

and name of the individual as they appear on the marijuana worker permit.¶

(B) For an employee or licensee representative not required to have a marijuana worker permit, the name and date of birth of the individual as this information is displayed on valid government-issued ID.¶

(b) All employees and permitted visitors, present on the licensed premises must wear clothing or a badge issued by the licensee that easily identifies the individual as an employee or permitted visitors. A visitor badge is not required for government officials.¶

(c) All permitted visitors must be accompanied by a licensee representative at all times.¶

(d) On the daily log, a licensee must record the name and date of birth as this information is displayed on valid government-issued ID for every contractor who performs work on the licensed premises. If the contractor is licensed by the State of Oregon, the licensee must also record the contractor's license number.¶

(e) A licensee must maintain a copy of the daily log required by this rule for a period of at least 90 days.¶

(10) Permitted Visitors. The general public is not permitted in limited access areas on a licensed premises, except for the consumer sales area of a retailer. In addition to licensee representatives, the following visitors are permitted to be present in limited access areas on a licensed premises, subject to the requirements of this rule and other pertinent rules:¶

(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) Invited guests as defined in OAR 845-025-1015 subject to requirements of this rule; or¶

(e) Tour groups as permitted by this rule.¶

(11) Producer Tours. A marijuana producer or research certificate holder may offer tours of the licensed premises, including limited access areas, to the general public. All members of a tour group must sign in on the daily log.¶

(12) 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. When Commission employees identify themselves, these employees shall present Commission-issued identification while performing their job duties, but are not required to provide a date of birth or any form of identification listed ORS 475C.217.¶

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

(14) 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 or as otherwise provided by these rules.¶

(15) 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.¶

(16) Violations.¶

(a) A violation of section (6) of this rule is a Category III violation.¶

(b) A violation of subsection (9)(a) of this rule is a Category IV violation. All other violations of section (9) of this rule are Category V violations.

Statutory/Other Authority: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548

Statutes/Other Implemented: 475C.085, 475C.093, 475C.097, ORS 475C.001, 475C.225, 475C.317, 475C.377, 475C.548

AMEND: 845-025-1300

RULE SUMMARY: This rule details licensee prohibitions. The proposed amendment removes a provision related to adulteration that is duplicative of OAR 845-025-8540.

CHANGES TO RULE:

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 or hemp 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 or transfer marijuana items to any consumer off the licensed premises or to any unlicensed location except as permitted by OAR 845-025-2500, 845-025-2880, or 845-025-2885; ¶

(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 all 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 themselves 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 section. ¶

(3) Violations. ¶

(a) A violation of subsection (1)(a), (1)(d), (1)(f), or (1)(h) to (1)(j) of this rule is a Category I violation. ¶

(b) A violation of subsection (1)(c), (1)(e) or (1)(g) or section (2) of this rule is a Category II violation. ¶

(c) A violation of subsection (1)(b) of this rule is a Category III violation.

Statutory/Other Authority: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

Statutes/Other Implemented: ORS 475C.229, 475C.233, 475C.237, 475C.245, 475C.329, 475C.333

AMEND: 845-025-1405

RULE SUMMARY: This rule details security waivers. The proposed amendments cause security waivers to remain in effect until amended or withdrawn and conform language to conventions.

CHANGES TO RULE:

845-025-1405

Security Waivers ¶¶

(1) An applicant or 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 waiver request for Commission approval. The waiver request must include: ¶¶

(a) ~~The~~Each specific rules ~~and subject or provisions~~ 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; and ¶¶

(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 waiver if it finds that the alternative safeguard that is proposed meets the goals of the security rules. ¶¶

~~(3) Approved security waivers expire at the same time as the underlying license.~~

Statutory/Other Authority: ORS 475BC.02517, 475BC.07065, 475BC.09085, 475B.100, 475B.110C.093, 475C.097

Statutes/Other Implemented: ORS 475BC.02517, 475BC.07065, 475BC.09085, 475B.100, 475B.110C.093, 475C.097

AMEND: 845-025-2020

RULE SUMMARY: This rule details producer privileges and prohibitions. The proposed amendments recategorizes certain rule violations.

CHANGES TO RULE:

845-025-2020

Producer Privileges; Prohibitions ¶

(1) A producer may: ¶

(a) Possess, plant, cultivate, grow, harvest, and dry marijuana in the manner approved by the Commission and consistent with ORS chapter 475C and these rules; ¶

(b) Engage in indoor or outdoor production of marijuana, or a combination of the two; ¶

(c) Produce kief as that term is defined in ORS 475C.089 and possess kief produced by the producer. ¶

(A) A producer who produces kief is not a marijuana processor for the purposes of OAR 845-025-3215. ¶

(B) Kief produced under this rule may not be used in a cannabinoid edible unless the producer complies with all provisions set forth in OAR 845-025-3250. ¶

(d) Sell, transfer, transport, and deliver: ¶

(A) Usable marijuana to the licensed premises of a producer under common ownership, a processor, wholesaler, retailer, laboratory, non-profit dispensary, or research certificate holder; ¶

(B) Whole, non-living marijuana plants that have been entirely removed from any growing medium to the licensed premises of a producer under common ownership, a processor, wholesaler, non-profit dispensary, or research certificate holder; ¶

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

(D) Mature marijuana plants or kief to the licensed premises of a producer under common ownership; ¶

(E) Kief, as that term is defined in ORS 475C.089, manufactured by the producer, to the licensed premises of a marijuana processor, producer under common ownership, wholesaler, retailer, laboratory, or research certificate holder; ¶

(F) Cannabinoid concentrates manufactured by the producer to the licensed premises of a marijuana processor, wholesaler, retailer, laboratory, or research certificate holder if the producer holds a concentrate endorsement under OAR 845-025-2025; ¶

(G) Cannabinoid products, cannabinoid extracts, and cannabinoid concentrates that were made using only marijuana produced by the producer to the licensed premises of a processor, wholesaler, or retailer; ¶

(H) Marijuana waste to a producer, processor, wholesaler, or research certificate holder; ¶

(I) Trade samples to a producer, processor, wholesaler, or retailer licensee, only as allowed under OAR 845-025-1330; and ¶

(J) Quality control samples to a license representative of the producer licensee, only as allowed under OAR 845-025-1360. ¶

(e) Purchase and receive: ¶

(A) Immature marijuana plants and seeds from a producer, wholesaler, retailer, or research certificate holder; ¶

(B) Marijuana waste from a producer, processor, wholesaler, retailer, laboratory, or research certificate holder; ¶

(C) Usable marijuana produced by the licensee that has been stored by a wholesaler on the producer's behalf; ¶

(D) Marijuana, mature marijuana plants, and kief from a producer under common ownership; ¶

(E) Marijuana produced by the licensee that was not processed by a processor; ¶

(F) Cannabinoid products, cannabinoid extracts, and cannabinoid concentrates from a marijuana processor that were made using only marijuana produced by the receiving producer; ¶

(G) Up to 200 marijuana seeds in total per month from any sources within the State of Oregon other than a licensee, laboratory licensee, or research certificate holder; and ¶

(H) Trade samples from a producer or processor licensee, as allowed under these rules. ¶

(f) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR chapter 333, division 7. ¶

(g) Accept or make returns, as long as the producer: ¶

(A) Accepts or returns usable marijuana, kief, immature marijuana plants, seeds and whole non-living marijuana plants; ¶

(B) Accepts or returns cannabinoid concentrates, if the producer holds a concentrate endorsement under OAR 845-025-2025; ¶

(C) Only accepts or returns eligible items listed in paragraph (A) or (B) of this subsection from the original licensee who received or purchased the item; and ¶

(D) Accurately records the transaction in the CTS.¶

(2) A producer may not:¶

(a) Possess, plant, cultivate, grow, harvest, dry, sell, deliver, transfer, transport, purchase, or receive any marijuana item other than as provided in:¶

(A) Section (1) of this rule;¶

(B) OAR 845-025-2025, if the producer has an approved concentrate endorsement; or¶

(C) OAR 845-025-2550, if the producer has been properly registered by the Commission.¶

(b) Process marijuana items other than as provided in:¶

(A) Section (1) of this rule; or¶

(B) OAR 845-025-2025, if the producer has an approved concentrate endorsement.¶

(c) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana item or hemp item containing artificially derived cannabinoids except as allowed under OAR 845-025-1310 and in accordance with section (1) of this rule.¶

(3) Violations.¶

(a) A violation of section (2) of this rule based on paragraph (1)(c)(B), (1)(d)(I), (1)(d)(J), (1)(e)(G), or (1)(e)(H), subsection (1)(f), or (1)(g), or section (2) of this rule is a Category III violation.¶

(b) All other violations of this rule are Category I violations.

Statutory/Other Authority: ORS 475C.017, 475C.065, 475C.077, 475C.089

Statutes/Other Implemented: ORS 475C.017, 475C.065, 475C.077, 475C.089, ORS 475C.117, 475C.489

AMEND: 845-025-2025

RULE SUMMARY: This rule details micro tier producer processing privileges and prohibitions. The proposed amendment changes a reference from "usable marijuana" to "marijuana."

CHANGES TO RULE:

845-025-2025

Micro Tier Processing. Privileges; Prohibitions ¶

- (1) In addition to the privileges in OAR 845-025-2020, Micro Tier I and Micro Tier II producer licensee may process marijuana concentrates, as long as: ¶
- (a) The process involves separating cannabinoids from marijuana by: ¶
 - (A) A mechanical process; or ¶
 - (B) An extraction process using water as the solvent. ¶
 - (b) The producer applies for a concentrate endorsement. ¶
 - (c) The producer only sells or transports marijuana concentrates to the licensed premises of a processor, wholesaler, retailer, or research certificate holder. ¶
 - (d) Follows all the provisions relating to the processing of concentrates set forth within OAR 845-025-3210, 845-025-3220, 845-025-3230, 845-025-3240, 845-025-3250, 845-025-3290, and 845-025-7575. ¶
 - (e) If using water or ice in processing, the producer uses only potable water and ice made from potable water. ¶
 - (f) If using dry ice, the producer uses or stores the dry ice in a well-ventilated room to prevent against the accumulation of dangerous levels of carbon dioxide. ¶
 - (g) If making a concentrate intended to be used in a cannabinoid edible, the producer follows all provisions set forth within OAR 845-025-3250. ¶
- (2) In addition to the prohibitions in OAR 845-025-2020, a micro producer may not: ¶
- (a) Make cannabinoid extracts; or ¶
 - (b) Make a concentrate using steam. ¶
- (3) Concentrate Endorsement. ¶
- (a) In order to apply for an endorsement, a micro producer applicant or micro producer licensee must submit a form prescribed by the Commission that includes: ¶
 - (A) A description of the process the micro producer intends to implement to process ~~usable~~ marijuana into a concentrate; and ¶
 - (B) A description of equipment to be used. ¶
 - (b) In order to be eligible for a concentrate endorsement, a micro producer applicant or micro producer licensee must submit a land use compatibility statement showing that processing concentrates is not a prohibited use. ¶
 - (c) The Commission may deny a producer's request for an endorsement under this rule if the producer does not meet the applicable requirements for the concentrate endorsement. If the Commission denies approval the producer has a right to a hearing under the procedures of ORS chapter 183. ¶
- (4) A producer who processes cannabinoid concentrates under this rule is not a marijuana processor for the purposes of OAR 845-025-3215. ¶
- (5) Violations. A violation of this rule is a Category I violation.
- Statutory/Other Authority: ORS 475C.065, ORS 475C.089
Statutes/Other Implemented: ORS 475C.089, 475C.017

AMEND: 845-025-2070

RULE SUMMARY: This rule sets parameters for allowed pesticide and agricultural chemical usage. The proposed amendments remove a provision related to adulteration that is duplicative of OAR 845-025-8540, reduce the category of certain violations, update terminology related to safety data sheets, and conform language to conventions.

CHANGES TO RULE:

845-025-2070

Pesticides, Fertilizers and Agricultural Chemicals ¶

(1) Pesticides. A producer may only use pesticides in accordance with ORS ~~chapter~~ 634 and OAR chapter 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. ¶

~~(54)~~ 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. ¶

~~(65)~~ A producer must make the records required under this rule immediately available during a 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. ¶

~~(76)~~ Violations. ¶

~~(a)~~ A violation of sections (1) ~~to~~ (3) of this rule is a Category ~~4~~ I violation and could result in license revocation. ¶

~~(8b)~~ A violation of section (2) of this rule is a Category II violation. ¶

~~(c)~~ Notwithstanding ~~(7)~~ subsection (a) of this ~~rule~~ section, if a licensee accepts responsibility for an illegal pesticide application through Department of Agriculture's Marijuana Compliance Assistance Program and successfully completes the program, the licensee will receive a notice of warning for their first violation. Any subsequent violations are Category I violations. ¶

~~(9d)~~ A ~~f~~ Failure to keep complete records as required by section (4) rule is a Category III violation. A ~~f~~ Failure to keep records on the licensed premises, or failure to timely produce records, is a Category III violation.

Statutory/Other Authority: ORS 475BC.025,17, ORS 475BC.07065

Statutes/Other Implemented: ORS 475BC.07065, 475B.160C.205

AMEND: 845-025-2090

RULE SUMMARY: This rule details the requirements for notifying the Commission of a harvest. The proposed amendments change a reference from "usable marijuana" to "marijuana" and conform language to conventions.

CHANGES TO RULE:

845-025-2090

Harvest Notification

(1) Notice Requirement. A producer licensee must file a harvest notice before harvesting ~~usable~~ marijuana from any mature plant located in an outdoor canopy area.¶

(2) Notices required under this rule must:¶

(a) Be filed no later than 9:00 a.m. on the day of the harvest activity;¶

(b) Identify the dates of the proposed harvest; and¶

(c) Be filed in a form and manner prescribed by the Commission.¶

(3) Alteration of Dates. If the harvest does not take place as described in the notice, a harvest notice may be rescinded or amended within 24 hours of the harvest date~~(s)~~ or dates identified in the harvest notice.¶

(4) Tracking. Filing a harvest notice does not relieve the producer from recording harvest data and other information in CTS as required by these rules.¶

(5) Violations.¶

(a) Failure to file a harvest notice is a Category III violation.¶

(b) Failure to properly amend a notice is a Category IV violation.¶

(b) Failure to properly amend a notice is a Category IV violation.

Statutory/Other Authority: ORS 475BC.154Z, ORS 475BC.63528

Statutes/Other Implemented: ORS 475BC.154Z, ORS 475BC.63528

AMEND: 845-025-2800

RULE SUMMARY: This rule details retailer privileges and prohibitions. The proposed amendments increase the daily sales limits for cannabinoid concentrate, cannabinoid extracts, and cannabinoid products intended for inhalation; raise the category of certain violations involving diversion or inversion of marijuana.

CHANGES TO RULE:

845-025-2800

Retailer Privileges; Prohibitions ¶

- (1) A retailer is authorized to sell, transfer, or deliver a marijuana item or hemp item to a consumer. ¶
- (2) A retailer may: ¶
 - (a) Between the hours of 7 a.m. and 10 p.m. local time, sell marijuana items and hemp items from the licensed premises to a consumer 21 years of age or older; ¶
 - (b) Sell, transfer, or deliver: ¶
 - (A) Marijuana items or hemp items to a consumer 21 years of age or older pursuant to a bona fide order as described in OAR 845-025-2880. ¶
 - (B) Marijuana items or hemp items to a patient or designated primary caregiver between ages 18-21, so long as: ¶
 - (i) The registry identification cardholder has a valid OMMP card; and ¶
 - (ii) The retailer has registered to sell marijuana items for medical purposes as described in OAR 845-025-2900. ¶
 - (C) Marijuana seeds to a producer. ¶
 - (D) Marijuana items and hemp items to a retailer under common ownership. ¶
 - (E) Marijuana waste to a producer, processor, wholesaler, or research certificate holder. ¶
 - (F) Hemp waste to a wholesaler, processor with an industrial hemp endorsement, or research certificate holder. ¶
 - (c) Accept or make returns, as long as the retailer: ¶
 - (A) Only accepts or returns usable marijuana, marijuana items, hemp items, immature marijuana plants, and seeds; ¶
 - (B) Only accepts or returns eligible items listed in paragraph (A) of this subsection from either the original licensee that supplied the item or the customer or registry identification cardholder that purchased or was given the item; ¶
 - (C) Accurately records the transaction in the CTS; and ¶
 - (D) Does not resell any items returned by customers. ¶
 - (d) Purchase, possess, or receive: ¶
 - (A) Usable marijuana, immature marijuana plants, seeds, and kief from a producer or from a research certificate holder; ¶
 - (B) Cannabinoid concentrates from a micro tier producer with a concentrate endorsement issued under OAR 845-025-2025; ¶
 - (C) Cannabinoid products, cannabinoid extracts, and cannabinoid concentrates from a marijuana producer that were made using only marijuana produced by the producer; ¶
 - (D) Cannabinoid concentrates, cannabinoid extracts, and cannabinoid products from a processor with an endorsement to manufacture the type of product received or from a research certificate holder; ¶
 - (E) Any marijuana item, except for whole, non-living marijuana plants, from a wholesaler; ¶
 - (F) Any marijuana item from a laboratory licensee; ¶
 - (G) Trade samples as allowed by 845-025-1330; ¶
 - (H) Marijuana items and hemp items from a retailer under common ownership; and ¶
 - (I) Hemp items from a Commission-certified hemp handler, a wholesaler, a laboratory licensee, or a processor with an industrial hemp endorsement. ¶
 - (e) Refuse to sell marijuana items or hemp items to a consumer; ¶
 - (f) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR chapter 333, division 7; ¶
 - (g) Accept returned marijuana items or hemp items that the retailer sold to a consumer and provide a refund or exchange with a product of equal or lesser value as long as the product is not resold; and ¶
 - (h) Sell marijuana items for medical purposes, as long as the retailer follows the provisions set forth in 845-025-2900. ¶
- (3) Hemp items sold, transferred, or delivered under section (2) of this rule must have been received from a Commission-certified hemp handler, a processor with an industrial hemp endorsement, a wholesaler, or a retailer under common ownership in accordance with these rules. ¶
- (4) A retailer may not: ¶

- (a) Knowingly sell more than the following amounts to an individual at any one time or within one day: ¶
- (A) Two ounces of usable marijuana; ¶
 - (B) 16 ounces of a cannabinoid product in solid form; ¶
 - (C) 72 fluid ounces of a cannabinoid product in liquid form; ¶
 - (D) ~~Five~~10 grams of cannabinoid extracts or concentrates; ¶
 - (E) ~~Five~~10 grams of cannabinoid products intended for inhalation; ¶
 - (F) Four immature marijuana plants; and ¶
 - (G) 10 marijuana seeds. ¶
- (b) Knowingly provide more than the following amounts to registry identification cardholders or designated primary caregivers: ¶
- (A) Eight ounces of usable marijuana at any one time or within one day per patient; and ¶
 - (B) No more than 32 ounces in one calendar month per patient. ¶
- (c) Transfer, sell, transport, purchase, possess, accept, return, or receive any hemp item that exceeds the THC limits specified in OAR 845-025-2760. ¶
- (d) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana item or hemp item containing artificially derived cannabinoids except as allowed under OAR 845-025-1310 and in accordance with sections (2) and (3) of this rule. ¶
- (e) Provide free marijuana items to a consumer. ¶
- (f) Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts. ¶
- (g) Sell or give away any non-marijuana items, including hemp items, that are attractive to minors as defined by these rules. ¶
- (h) Discount a marijuana item if the retail sale of the marijuana is made in conjunction with the retail sale of any other items, including other marijuana items or hemp items. ¶
- (i) Discount a marijuana item contingent on the purchase of a non-marijuana item. ¶
- (j) Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10 p.m. and 7 a.m. local time the following day. ¶
- (k) Permit a licensed representative to handle an unpackaged marijuana item or hemp item without the use of protective gloves, tools, or instruments that prevent the marijuana item from coming into contact with the licensed representative's skin. ¶
- (l) Sell or transfer a returned marijuana item or hemp item to another consumer. ¶
- (m) Sell, transfer, deliver, purchase, possess, accept, return, or receive any marijuana item or hemp item other than as provided in this rule. ¶
- (n) Permit a consumer to open or alter a package containing a marijuana item or hemp item or otherwise remove a marijuana item or hemp item from packaging required by these rules within the licensed premises or in an area that the licensee controls. ¶
- (o) Permit a consumer to bring marijuana items or hemp items onto the licensed premises except for being returned for refund or exchange as allowed by this rule. ¶
- (p) Sell a marijuana item to an individual that exceeds the concentration limits in OAR 845-026-0210 and 845-026-0220. ¶
- (q) Sell any item not allowed under OAR 845-025-3220 or any of the following items: ¶
- (A) Pet or animal food, treats, or other pet or animal products containing hemp or marijuana; ¶
 - (B) Injectable marijuana items or hemp items; or ¶
 - (C) Any other marijuana items not meant for human consumption or use. ¶
- (r) Impose or collect a tax on the retail sale of a marijuana item to a patient or designated primary caregiver who is purchasing a marijuana item for a registry identification cardholder. ¶
- (s) Prior to the application of a discount or the retail marijuana tax, require a registry identification cardholder to pay a higher price for the same marijuana item than is charged to a person without a registry identification card. ¶
- (t) Process marijuana items. ¶
- (u) Produce marijuana. ¶
- (5) Notwithstanding paragraph (2)(c)(B) of this rule, a retailer may transfer its entire inventory of marijuana items and hemp items to a single wholesaler if all requirements in OAR 845-025-7700 are met. ¶
- (6) Violations. ¶
- (a) A violation of subsection (4)(m) of this rule is a Category I violation if there are reasonable grounds to believe there is diversion or inversion of marijuana. All other violations of subsection (4)(m) are Category III violations. ¶
- (b) A violation of subsection (2)(d), (4)(a) to (4)(d), (4)(t), or (4)(u) or section (3) of this rule is a Category II violation. ¶
- (b) c) A violation of subsection (2)(a) or paragraph (2)(b)(A) or (2)(b)(B) of this rule is a Category II(b) violation. ¶
- (e) d) A violation of paragraph (2)(b)(C) to (2)(b)(F) or subsection (2)(c), (2)(e) to (2)(h), (4)(e) to (4)(l), (4)(n), (4)(o), or

(4)(q) to (4)(s) of this rule is a Category III violation.¶

~~(4)~~ A violation of subsection (4)(p) of this rule is assessed as described in OAR 845-025-8590(3)(b)(B).

Statutory/Other Authority: ORS 475C.017, ~~ORS 475C.097~~, 571.336

Statutes/Other Implemented: ORS 475C.017, ~~ORS 475C.097~~, 571.336, 475C.674

AMEND: 845-025-3215

RULE SUMMARY: This rule details processor privileges and prohibitions. The proposed amendments raise the category of certain violations involving diversion or inversion of marijuana and license privileges.

CHANGES TO RULE:

845-025-3215

Processor Privileges; Prohibitions ¶¶

(1) A processor may: ¶¶

(a) Transfer, sell, or transport: ¶¶

(A) Cannabinoid concentrates, extracts, and products for which the processor has an endorsement to a processor, wholesaler, retailer, non-profit dispensary, or research certificate holder; ¶¶

(B) Cannabinoid products, cannabinoid extracts, and cannabinoid concentrates to a marijuana producer that were made using only marijuana produced by the receiving producer; ¶¶

(C) Marijuana or industrial hemp waste to a producer, processor, wholesaler, or research certificate holder; ¶¶

(D) Trade samples to a producer, processor, wholesaler, or retailer licensee, only as allowed under OAR 845-025-1330; and ¶¶

(E) Quality control samples to a license representative, only as allowed under OAR 845-025-1360. ¶¶

(b) Purchase, possess, or receive as allowed by these rules: ¶¶

(A) Whole, non-living marijuana plants that have been entirely removed from any growing medium from a producer, wholesaler, patient or designated primary caregiver, or a research certificate holder; ¶¶

(B) Usable marijuana from a producer, wholesaler, patient or designated primary caregiver, or a research certificate holder; ¶¶

(C) Kief from a producer; ¶¶

(D) Cannabinoid concentrates from a producer that holds a concentrate endorsement under OAR 845-025-2025; ¶¶

(E) Cannabinoid products, cannabinoid extracts, and cannabinoid concentrates from a marijuana producer that were made using only marijuana produced by the producer; ¶¶

(F) Cannabinoid concentrates, extracts, and products from a processor with an endorsement to manufacture the type of product received, or from a research certificate holder; ¶¶

(G) Trade samples as allowed by 845-025-1330; ¶¶

(H) Marijuana or industrial hemp waste from a producer, processor, wholesaler, retailer, laboratory, or research certificate holder; and ¶¶

(I) Cannabinoid concentrates, extracts, and products produced by the licensee that have been held in bailment by a wholesaler. ¶¶

(c) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR chapter 333, division 7. ¶¶

(d) Accept or make returns of marijuana items, as long as the processor: ¶¶

(A) Only accepts or returns usable marijuana, marijuana items, immature marijuana plants, seeds, and whole non-living marijuana plants; ¶¶

(B) Only accepts or returns eligible items listed in paragraph (A) of this subsection from the original licensee that supplied or purchased the item; and ¶¶

(C) Accurately records the transaction in the CTS. ¶¶

(2) A processor with an industrial hemp endorsement may: ¶¶

(a) Transfer, sell, or transport: ¶¶

(A) Hemp items to a wholesaler, a retailer, or a processor with an industrial hemp endorsement; and ¶¶

(B) Hemp items to a person that is not a processor, retailer, or wholesaler only as allowed under OAR 845-025-3320. ¶¶

(b) Purchase, possess, or receive as allowed by these rules: ¶¶

(A) Hemp items from a wholesaler, a processor with an industrial hemp endorsement, or a Commission-certified hemp handler; and ¶¶

(B) Harvested industrial hemp from a wholesaler, a Commission-certified hemp handler, or a Commission-certified hemp grower. ¶¶

(c) Process industrial hemp and hemp items into any hemp item in compliance with all rules for processing marijuana. ¶¶

(d) Use industrial hemp and hemp items as an ingredient in the processing of marijuana items. ¶¶

(3) A processor may not: ¶¶

(a) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana item, industrial hemp, or

hemp item other than as provided in this rule.¶

(b) Use any unapproved process set forth in OAR 845-025-3200 to 845-025-3305;¶

(c) Allow minors on any portion of the licensed premises except as allowed by OAR 845-025-1230. A violation of this is a Category I violation;¶

(d) Make any product that is prohibited from sale in a retail store, as set forth in OAR 845-025-2800;¶

(e) Transfer, sell, transport, purchase, accept, return, or receive any industrial hemp or hemp item that exceeds the THC limits specified in OAR 845-025-2760;¶

(f) Process any kief received from a producer into a cannabinoid edible, unless the producer has complied with all provisions set forth in OAR 845-025-3250; or¶

(g) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana item or hemp item containing artificially derived cannabinoids except as allowed under OAR 845-025-1310 and in accordance with sections (1) and (2) of this rule.¶

(h) Produce marijuana.¶

(4) Notwithstanding paragraph (1)(d)(B) of this rule, a processor may transfer its entire inventory of marijuana items and hemp items to a single wholesaler if all requirements in OAR 845-025-7700 are met.¶

(5) A processor must be licensed by the Commission and obtain the proper endorsement for the type of processing they perform per OAR 845-025-3210.¶

(6) Violations.¶

(a) A violation of subsection (3)(e) of this rule is a Category II violation.¶

(b) A violation of subsection (3)(a) if there are reasonable grounds to believe there is diversion or inversion of marijuana, subsection (3)(h), or section (5) of this rule is a Category I violation.¶

(c) All other violations of this rule are Category III violations.

Statutory/Other Authority: ORS 475C.017, ~~ORS 475C.085~~, 571.336, 571.337

Statutes/Other Implemented: ORS 475C.017, ~~ORS 475C.085~~, 571.336, 571.337

AMEND: 845-025-5045

RULE SUMMARY: This rule details laboratory tracking and reporting. The proposed amendments clarifies the expectation that laboratories report results for each required analyte in a compliance test that exceeds the limit of quantification.

CHANGES TO RULE:

845-025-5045

Laboratory Tracking and Reporting ¶

(1) A laboratory licensee is required to utilize CTS for sampling or testing conducted for medical marijuana grow sites subject to CTS tracking, medical marijuana processing sites, medical marijuana dispensaries, licensees, research certificate holders, Commission-certified hemp growers, Commission-certified hemp handlers, and persons manufacturing industrial hemp-derived vapor items and follow all requirements established by OAR 845-025-7500 to 845-025-7590. ¶

(2) A laboratory licensee conducting sampling or testing for licensees, research certificate holders, Commission-certified hemp growers, Commission-certified hemp handlers, medical marijuana grow sites subject to CTS tracking, medical marijuana processing sites, or medical marijuana dispensaries 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 the licensee, research certificate holder, Commission-certified hemp grower, Commission-certified hemp handler, grow site administrator, person responsible for the marijuana processing site, or person responsible for a medical marijuana dispensary 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; ¶

(D) Results of all testing performed; and ¶

(E) For compliance tests, any result above the LOQ for any analyte that is required to be tested under OAR chapter 333, division 7; and ¶

~~(E)~~ An electronic copy of the report provided under OAR 333-064-0110 to the licensee, research certificate holder, Commission-certified hemp grower, Commission-certified hemp handler, grow site administrator, processing site, or dispensary. ¶

(c) Disposition of any testing sample material. ¶

(3) A laboratory licensee conducting sampling or testing of industrial hemp-derived vapor items 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 the person manufacturing industrial hemp-derived vapor items from whom the sample was obtained; ¶

(C) Date the sample was collected; and ¶

(D) Identifying information about the 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; ¶

(D) Results of all testing performed; and ¶

(E) For compliance tests, any result above the LOQ for any analyte that is required to be tested under OAR chapter, 333 division 7; and ¶

~~(E)~~ An electronic copy of the report provided under OAR 333-064-0110 to the person who manufactured the industrial hemp-derived vapor item. ¶

(c) Disposition of any testing sample material. ¶

(4) A laboratory licensee receiving a sample from another laboratory licensee for the purposes of performing a subcontracted compliance test, as described in is responsible for tracking and entering information into CTS as described in paragraphs (2)(b)(A) and (2)(b)(B) of this rule. ¶

(5) A laboratory licensee must also comply with any recordkeeping requirements in OAR chapter 333, divisions 7 and 64.¶

(6) The Oregon Health Authority or the Commission may request records at any time of a laboratory licensee.¶

(7) Violations. A violation of this rule is a Category III violation.

Statutory/Other Authority: ORS 475C.548

Statutes/Other Implemented: ORS 475C.548

AMEND: 845-025-5060

RULE SUMMARY: This rule details laboratory transportation and waste disposal. The proposed amendments recategorize rule violations for laboratory licensees to mirror those of other licensees.

CHANGES TO RULE:

845-025-5060

Laboratory Transportation and Waste Disposal ¶

(1) A laboratory licensee must follow OAR 845-025-7700 and any applicable rules in OAR chapter 333, divisions 7 and 64 regarding transportation of marijuana items. ¶

(2) A laboratory licensee must follow all rules regarding disposal of samples from marijuana items established in OAR 845-025-7750. ¶

(3) Violations. A. ¶

(a) A violation of section (1) of this rule for failure to follow OAR 845-025-7700(1) is a Category I violation. ¶

(b) A violation of section (1) of this rule for failure to follow OAR 845-025-7700(2), (3), or (4) is a Category III violation. ¶

(c) Any other violation of this rule is a Category IV violation.

Statutory/Other Authority: ORS 475C.548

Statutes/Other Implemented: ORS 475C.548

AMEND: 845-025-5590

RULE SUMMARY: This rule details suspension and revocation of marijuana worker permits. The proposed amendments expands the time period that a worker permit can be suspended or revoked if the permittee is convicted of a felony or an offense under ORS 475C and conform language to conventions.

CHANGES TO RULE:

845-025-5590

Suspension or Revocation ¶

- (1) The Commission may suspend or revoke the permit of any marijuana worker if the worker: ¶
- (a) Is convicted of a felony or is convicted of an offense under ORS ~~475BC.0105~~ to 475BC.545, ~~within two years of the application or renewal;~~ 25; ¶
 - (b) Has violated a provision of ORS ~~475BC.0105~~ to 475BC.5425 or these rules; or ¶
 - (c) Makes a material false statement to the Commission. ¶
- (2) The Commission shall revoke a marijuana worker permit if a permittee knowingly sells, delivers, transfers, or makes available a marijuana item to a person under 21 years of age. This section does not apply to sales, deliveries, or transfers to registry identification cardholders who are 18 years of age or older. ¶
- (3) The Commission may suspend or revoke the permit for any marijuana worker for any reasons that would be the basis for denying a permit application under OAR 845-025-5540. ¶
- (4) If an individual's permit is revoked under subsections (1)(b) or (1)(c) of this rule, future applications will be denied if received within two years of the date the final order of revocation was issued. ¶
- (5) A notice of suspension or revocation must be issued by the Commission in accordance with ORS 183. ¶
- (6) A permittee is subject to discipline for a violation of any rule of this ~~C~~chapter in the same manner as a licensee. ¶
- Statutory/Other Authority: ORS ~~475BC.266, ORS 73, 475BC.2619~~
- Statutes/Other Implemented: ORS ~~475BC.266, ORS 73, 475BC.2619~~

AMEND: 845-025-5720

RULE SUMMARY: This rule details labeling, storage, and security requirements for marijuana items that have been submitted for testing. The proposed amendment updates statutory authority references.

CHANGES TO RULE:

845-025-5720

Labeling, Storage, and Security of Pre-Tested Marijuana Items ¶

(1) Following samples being taken from a harvest or process lot batch a licensee must: ¶

(a) Label the batch with the following information: ¶

(A) The licensee's license number; ¶

(B) The harvest or process lot unique identification number; ¶

(C) The name and accreditation number of the laboratory that took samples and the name and accreditation number of the laboratory that will perform the testing, if different; ¶

(D) The test batch or sample unique identification numbers supplied by the laboratory personnel; ¶

(E) The date the samples were taken; and ¶

(F) In bold, capital letters, no smaller than 12 point font, "PRODUCT NOT TESTED." ¶

(b) Store and secure the batch in a manner that prevents the product from being tampered with or transferred or sold prior to test results being reported. ¶

(c) Be able to easily locate a batch stored and secured under subsection (b) of this section and provide that location to the Commission or a laboratory upon request. ¶

(2) A batch 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 or transferred in accordance with the applicable Commission rules. ¶

(4) If the samples do not pass testing the licensee must comply with OAR 845-025-5740 and 333-007-0450, as applicable. ¶

(5) Violations. A violation of this rule is a Category III violation.

Statutory/Other Authority: ORS 475C.540, 475C.544, ORS 475C.017

Statutes/Other Implemented: ORS 475C.540, 475C.544

AMEND: 845-025-5730

RULE SUMMARY: This rule details wholesaler coordination of sampling and testing. The proposed amendment updates statutory authority references.

CHANGES TO RULE:

845-025-5730

Wholesaler Coordination of Sampling and Testing ¶

A wholesaler: ¶

- (1) May accept a batch, as that term is defined in OAR 333-007-0310 from a producer or processor that: ¶
 - (a) Has not been sampled or tested in accordance with OAR chapter 333, divisions 7 and 64 and may order tests and arrange for the sampling and testing of the batch in accordance with OAR chapter 333, divisions 7 and 64 as specified in those rules. ¶
 - (b) Has been sampled but has not yet been tested in accordance with OAR chapter 333, divisions 7 and 64. ¶
- (2) Must secure, label, and store pre-tested marijuana items in accordance with OAR 845-025-5720. ¶
- (3) May not transfer or sell a marijuana item unless that marijuana item: ¶
 - (a) Has been sampled and tested in accordance with OAR chapter 333, divisions 7 and 64. ¶
 - (b) Has passed all the required tests in OAR chapter 333, division 7. ¶
- (4) Is jointly and severally responsible for ensuring compliance with OAR chapter 333, divisions 7 and 64 with the licensee that produced or processed the marijuana item. ¶
- (5) Violations. A violation of this rule is a Category III violation.

Statutory/Other Authority: ORS 475C.093, 475C.544, ORS 475C.017

Statutes/Other Implemented: ORS 475C.093, 475C.544

AMEND: 845-025-5740

RULE SUMMARY: This rule details requirements for marijuana items that fail compliance testing. The proposed amendments specify conditions where a batch with a failed compliance test may be transferred without permission from the Commission.

CHANGES TO RULE:

845-025-5740

Failed Test Samples ¶¶

- (1) For the purposes of this rule, "batch" has the meaning given that term in OAR 333-007-0310. ¶¶
- (2) If a sample fails a compliance test the licensee must comply with OAR 333-007-0450. ¶¶
- (3) If a batch or a sample from a batch fails a compliance test under these rules a licensee: ¶¶
 - (a) Must store and segregate the batch in a secure area and label the batch indicating it has failed a test. ¶¶
 - (b) May not remove the batch from the premises without permission from the Commission; unless it is being directly transferred to a wholesaler or processor for the purposes of remediation in compliance with these rules. ¶¶
- (4) Violations. A violation of this rule is a Category II violation.

Statutory/Other Authority: ORS 475C.540, 475C.544, 571.337, ORS 475C.017

Statutes/Other Implemented: ORS 475C.540, 475C.544, 571.337

AMEND: 845-025-5760

RULE SUMMARY: This rule details audit, compliance, and random testing. The proposed amendments update statutory authority references and conform language to conventions.

CHANGES TO RULE:

845-025-5760

Audit, Compliance, and Random Testing ¶¶

- (1) The Commission may require a licensee or laboratory licensee to submit samples identified by the Commission to one or more laboratories of the Commission's choosing to be tested in order to determine whether a licensee is in compliance with the cannabis testing rules found in OAR chapter 333, division 7 or any other rules of the Commission and may require additional testing that is not required by these rules. ¶¶
- (2) A laboratory doing audit testing must comply with these rules, to the extent they are applicable, and if conducting testing not required by these rules, may only use Authority approved methods, unless otherwise authorized by the Commission. ¶¶
- (3) The Commission may, at any time, require a licensee or laboratory licensee to permit the sampling of or submit a sample of a marijuana item, industrial hemp, or a hemp item-~~of the Commission's choosing-~~to the Commission for testing. Such testing may include testing for: ¶¶
- (a) Anything that is required to be tested under OAR chapter 333, division 7 of the Oregon Administrative Rules. ¶¶
 - (b) Any microbiological contaminant. ¶¶
 - (c) Heavy metals. ¶¶
 - (d) Other adulterants, pesticides, solvents, additives, or contaminants that may pose a risk to public health and safety, or are prohibited by law. ¶¶
- (4) When audit testing for potency pursuant to this rule, the Commission may require any portion of a batch with a compliance test for potency on or after December 1, 2022, to be relabeled with the mean average result from laboratories conducting audit testing if the Commission determines that there is a statistically significant difference at a 99 percent confidence interval between the audit testing result of samples from the batch and the original compliance testing result of the same batch. ¶¶
- (a) The Commission shall use the Shapiro-Wilk test to determine if the audit testing results are normally distributed at a 95 percent confidence interval. ¶¶
 - (b) For audit testing results that are normally distributed, the Commission shall use the one-sample Student's t-test to determine statistical significance. ¶¶
 - (c) For audit testing results that are not normally distributed, the Commission shall use the one-sample Wilcoxon Signed-Rank test to determine statistical significance. ¶¶
 - (d) For purposes of this subsection, "batch" has the meaning given that term in OAR 333-007-0310. ¶¶
- (5) A licensee shall submit all samples required for testing under this rule within a timeframe established by the Commission. ¶¶
- (6) Violations. Failure to submit requested samples to OLCC as described in this rule is a Category II violation. Statutory/Other Authority: ORS 475C.540, 475C.544, 571.275, 475C.612, 571.337, ORS 475C.017
Statutes/Other Implemented: ORS 475C.540, 475C.544, 571.337

ADOPT: 845-025-5765

RULE SUMMARY: This rule describes the cannabis reference laboratory. The proposed adoption of this rule establishes that the cannabis reference laboratory can be utilized by the Commission to conduct audit testing pursuant to OAR 845-025-5760 and describes the method by which results from the cannabis reference laboratory can be used as a compliance test result.

CHANGES TO RULE:

845-025-5765

Cannabis Reference Laboratory

(1) The cannabis reference laboratory may conduct audit testing as described in OAR 845-025-5760 on behalf of the Commission. ¶

(2) Based on an audit test conducted by the cannabis reference laboratory, the Commission may: ¶

(a) Consider the test to be a compliance test; and ¶

(b) Invalidate a compliance test result issued by a laboratory licensee. ¶

(A) Results of the testing conducted under this subsection shall: ¶

(i) For potency, subject to the concentration limits established in OAR Chapter 845, Division 26; ¶

(ii) For all other tests, subject to the action levels established in OAR Chapter 333, Division 7; and ¶

(iii) Subject to the procedures for failed test samples in OAR 333-007-0450.

Statutory/Other Authority: 2023 OL Ch. 519 Sec. 2 & 3

Statutes/Other Implemented: 2023 OL Ch. 519 Sec. 2

AMEND: 845-025-5840

RULE SUMMARY: This rule details wholesaler coordination of sampling and testing for industrial hemp and hemp items. The proposed amendment updates statutory authority references.

CHANGES TO RULE:

845-025-5840

Wholesaler Coordination of Sampling and Testing for Industrial Hemp and Hemp Items

A wholesaler: ¶

(1) May accept a batch, as that term is defined in OAR 333-007-0310, from a processor that: ¶

(a) Has not been sampled or tested in accordance with OAR chapter 333, divisions 7 and 64 and these rules and may order tests and arrange for the sampling and testing of the batch in accordance with OAR chapter 333, divisions 7 and 64 and these rules. ¶

(b) Has been sampled but has not yet been tested in accordance with OAR chapter 333, divisions 7 and 64, and these rules. ¶

(2) Must secure, label, and store pre-tested hemp items in accordance with OAR 845-025-5720. ¶

(3) May not transfer or sell a hemp item unless that hemp item: ¶

(a) Has been sampled and tested in accordance with OAR chapter 333, divisions 7 and 64 and these rules. ¶

(b) Has passed all the required tests in OAR 845-025-5820. ¶

(4) Is jointly and severally responsible for ensuring compliance with OAR chapter 333, divisions 7 and 64 and these rules with the licensee that processed the hemp item.

Statutory/Other Authority: ORS 475C.093, 475C.544, 571.336, 571.337, ORS 475C.17

Statutes/Other Implemented: ORS 475C.093, 475C.544, 571.336, 571.337

AMEND: 845-025-7000

RULE SUMMARY: This rule sets definitions for the purposes of packaging and labeling. The proposed amendments clarify certain definitions, clarify how the term "net weight" applies to infused pre-rolls, and remove definitions that are duplicative with OAR 845-025-1015.

CHANGES TO RULE:

845-025-7000

Packaging and Labeling - Definitions ¶¶

For the purposes of OAR 845-025-7000 to 845-025-7190, unless otherwise specified: ¶¶

(1) "Activation time" means the amount of time it is likely to take for an individual to begin to feel the effects of ingesting or inhaling a marijuana item or hemp item. ¶¶

(2) "~~Added substances~~" means ~~any component or ingredient added to usable marijuana, a cannabinoid concentrate, a cannabinoid extract, industrial hemp, or a hemp item during or after processing that is present in the final cannabinoid product or hemp cannabinoid product, including but not limited to added flavors, non-marijuana derived terpenes, and any substances used to change viscosity or consistency of the cannabinoid product.~~ ¶¶

(3) "~~Attractive to minors~~" means ~~packaging, receptacles, inhalant delivery devices, 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) Symbols or celebrities that are commonly used to market products to minors;~~ ¶¶

~~(d) Images of minors; and~~ ¶¶

~~(e) Words that refer to products that are commonly associated with minors or marketed by minors.~~ ¶¶

(4) "Authority" means the Oregon Health Authority. ¶¶

(5) "Cannabinoid" for the purposes of labeling means any of the chemical compounds that are the active constituents of marijuana or industrial hemp. ¶¶

(6) "Cannabinoid capsule" means a small, soluble pill, tablet, or container that contains liquid or powdered cannabinoid product, concentrate, or extract and is intended for human ingestion. ¶¶

~~(7) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process.~~ ¶¶

~~(8)~~(a) "Cannabinoid edible" means: ¶¶

~~(A) Food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or the dried leaves or flowers of marijuana have been incorporated; or~~ ¶¶

~~(B) For purposes of labeling, includes any marijuana, cannabinoid concentrate, cannabinoid extract, or cannabinoid product that is intended for human consumption or marketed in a manner that implies the item is for human consumption.~~ ¶¶

~~(b) For purposes of labeling "cannabinoid edible" does not include a cannabinoid tincture or capsule.~~ ¶¶

~~(9) "Cannabinoid product" means:~~ ¶¶

~~(a) 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; or~~ ¶¶

~~(b) Usable marijuana, cannabinoid extracts, and cannabinoid concentrates that have been combined with an added substance.~~ ¶¶

~~(c) "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 571.269.~~ ¶¶

(10) "Cannabinoid tincture" means a liquid cannabinoid product packaged in a container of four fluid ounces or less that consists of either: ¶¶

~~(a) A non-potable solution consisting of at least 25 percent non-denatured alcohol, in addition to cannabinoid concentrate, extract, or usable marijuana, and perhaps other ingredients intended for human consumption or ingestion, that is exempt from the Liquor Control Act under ORS 471.035; or~~ ¶¶

~~(b) A non-potable solution comprised of glycerin, plant-based oil, or concentrated syrup; cannabinoid concentrate, extract, or usable marijuana; and other ingredients that does not contain any added sweeteners and is intended for human consumption or ingestion.~~ ¶¶

- (11) "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.¶
- (12) "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.¶
- (13)¶
- (4) "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair. ¶
- (5) "CBD" means total cannabidiol as calculated pursuant to OAR 333-064-0100.¶
- (146) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly.¶
- (15) "Commission" means the Oregon Liquor and Cannabis Commission.¶
- (16)¶
- (7) "Consumer" has the meaning given that term in ORS 475C.009 and does not include a patient or designated primary caregiver.¶
- (178) "Container"¶
- (a) Means a sealed, hard or soft-bodied receptacle in which a marijuana item or hemp item is placed and any outer receptacle intended to display a marijuana item or hemp item for ultimate sale to a consumer, patient, or designated primary caregiver.¶
 - (b) Does not mean:¶
 - (A) Inner wrapping or lining;¶
 - (B) An exit package; or¶
 - (C) A shipping container used to transfer marijuana items or hemp items in bulk from one licensee or registrant to another.¶
- (18) "Date of harvest" means the day the last mature marijuana plant in the harvest lot was removed from the soil or other growing media.¶
- (19)(a) "Designated primary caregiver" means an individual:¶
- (A) Who is 18 years of age or older;¶
 - (B) Who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition; and¶
 - (C) Who is designated as the person responsible for managing the well-being of a person who has been diagnosed with a debilitating medical condition on that person's application for a registry identification card or in other written notification submitted to the Authority.¶
- (b) "Designated primary caregiver" does not include a person's attending physician.¶
- (20) "Exit Package" means a sealed, child-resistant certified receptacle into which marijuana items or hemp items already within a container are placed at the point of sale.¶
- (210) "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 and includes beverages.¶
- (2211) "Generic label"¶
- (a) Means a label that does not have any graphics, pictures, or logos, other than symbols required by these rules and has:¶
 - (A) Only the information required by rule;¶
 - (B) Additional test information not required by rule; or¶
 - (C) Additional information described in OAR 845-025-7160(8)(c).¶
 - (b) Does not mean:¶
 - (A) A label for an inhalable cannabinoid product with a non-cannabis additive that is processed or manufactured on or after April 1, 2021.¶
 - (B) A label for a marijuana item or hemp item that contains an artificially derived cannabinoid allowed by OAR 845-025-1310 that is sold or transferred on or after July 1, 2022.¶
- (123) "Grower" has the same meaning as "person responsible for a marijuana grow site."¶
- (24) as defined in OAR 845-025-1015.¶
- (13) "Health claim" means any claim made on the label that expressly states or implies a relationship between a substance and a disease or health-related condition.¶
- (25) "Hemp cannabinoid product"¶
- (a) Means a hemp edible or any other industrial hemp commodity or product intended for human consumption or use, including a hemp topical or hemp transdermal patch, that contains cannabinoids from industrial hemp or the dried leaves or flowers of hemp.¶

(b) Includes:¶¶

(A) Usable hemp, industrial hemp extracts, and industrial hemp concentrates that have been combined with an added substance; or¶¶

(B) Any combination of usable hemp, industrial hemp extracts, or industrial hemp concentrates.¶¶

(c) Does not include:¶¶

(A) Usable hemp by itself;¶¶

(B) Hemp stalk by itself;¶¶

(C) A hemp concentrate or extract by itself;¶¶

(D) Hemp seed incapable of germination by itself;¶¶

(E) Other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients; or¶¶

(F) A cannabinoid product.¶¶

(26 ¶¶

(14) "Hemp capsule" ¶¶

(a) Means a small, soluble pill, tablet, or container that contains liquid or powdered hemp cannabinoid product, industrial hemp concentrate, or industrial hemp extract and is intended for human ingestion. ¶¶

(b) Does not mean a cannabinoid capsule. ¶¶

(2715) "Hemp concentrate or extract" means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269. ¶¶

(2816) "Hemp edible" ¶¶

(a) Means a food or potable liquid into which industrial hemp, an industrial hemp concentrate, an industrial hemp extract, or the dried leaves or flowers of hemp have been incorporated. ¶¶

(b) Does not mean: ¶¶

(A) Hemp seed incapable of germination by itself; ¶¶

(B) Other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients; or ¶¶

(C) A cannabinoid edible. ¶¶

(29) "Hemp item" has the meaning given that term in OAR 845-025-1015.¶¶

(30c) For purposes of labeling, does not include a hemp tincture or hemp capsule. ¶¶

(17) "Hemp symbol" means the image, established by the Commission and made available to licensees, indicating the item is a hemp item. ¶¶

(318) "Hemp tincture" ¶¶

(a) Means a liquid hemp cannabinoid product packaged in a container of four fluid ounces or less that consists of either:¶¶

(A) A non-potable solution consisting of at least 25 percent non-denatured alcohol, in addition to an industrial hemp concentrate, industrial hemp extract, or usable hemp, and perhaps other ingredients, intended for human consumption that is exempt from the Liquor Control Act under ORS 471.035; or¶¶

(B) A non-potable solution comprised of glycerin, plant-based oil, or concentrated syrup; industrial hemp concentrate, industrial hemp extract, or usable hemp; and other ingredients that does not contain any added sweeteners and is intended for human consumption or ingestion.¶¶

(b) Does not mean a cannabinoid tincture.¶¶

(32) "Hemp topical" ¶¶

(a) Means a hemp cannabinoid product intended to be applied to skin or hair. ¶¶

(b) Does not mean a cannabinoid topical.¶¶

(33) "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.¶¶

(34) "Intended for human use" means intended to be used by applying it to a person's skin or hair, inhalation or otherwise consuming the product except through the mouth.¶¶

(35 ¶¶

(19) "Label" means any display of written, printed, or graphic matter printed on or affixed to any container, wrapper, liner, or insert accompanying the marijuana item or hemp item. ¶¶

(36) "Licensee" has the meaning given that term in ORS 475C.009.¶¶

(3720) "Major food allergen" means an ingredient that contains any of the foods or food groups listed in subsections (a) to (i) of this section or an ingredient that contains protein derived from one of the foods listed in subsections (a) to (i) of this section. ¶¶

(a) Milk; ¶¶

(b) Egg; ¶¶

(c) Fish; ¶¶

(d) Crustacean shellfish; ¶¶

- (e) Tree nuts; ¶
- (f) Wheat; ¶
- (g) Peanuts; ¶
- (h) Soybeans; and ¶
- (i) On and after July 1, 2023, sesame. ¶
- (38)(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 571.269. ¶
- (39) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product, or a cannabinoid concentrate or extract. ¶
- (40) "Medical grade cannabinoid product, cannabinoid concentrate, or cannabinoid extract" means a cannabinoid product, cannabinoid concentrate, or cannabinoid extract that has a concentration of THC that is permitted under ORS 475C.620 in a single serving of the cannabinoid product, cannabinoid concentrate, or cannabinoid extract for a patient. ¶
- (4 ¶
- (21) "Medical grade symbol" means the image established by the Commission and made available to licensees indicating the cannabinoid product, concentrate, or extract may only be sold or transferred to a designated primary caregiver or patient, for use only by a patient. ¶
- (422) "Medical marijuana dispensary" means a facility registered under ORS 475C.833. ¶
- (423) "Net quantity of contents" means a statement on the principal display panel of the net weight or net volume of the product expressed in the terms of weight, measure, or numerical count. ¶
- (424) "Net volume" means the fluid measure of a liquid product expressed as milliliters and fluid ounces. ¶
- (425) "Net weight" ¶
- (a) Means the gross weight minus the tare weight of the packaging expressed as ounces and grams or milligrams. ¶
- (b) Includes, as applied to pre-rolled marijuana, the dried marijuana leaves and flowers, the rolling paper, and the filter or tip. ¶
- (46) "Patient" has the same meaning as "registry identification cardholder." ¶
- (47) "Person responsible for ac) For 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." ¶
- (48) items and hemp items labeled according to OAR 845-025-7120, the net weight does not include the filter or tip. ¶
- (26) "Place of address" means the name, mailing address, city, state, and zip code of the processor who made the cannabinoid edible or other cannabinoid product. ¶
- (4927) "Principal display panel" means the part of a label on a package or container that is most likely to be displayed, presented, shown, or seen under customary conditions of display for sale or transfer. ¶
- (5028) "Processor" means a person: ¶
- (a) Licensed by the Commission to process marijuana under ORS 475C.085; ¶
- (b) Licensed by the Commission under ORS 475C.065 who produces kief; ¶
- (c) Licensed with the Oregon Department of Agriculture under ORS 571.281 who manufactures hemp items; or ¶
- (d) Registered with the Authority under ORS 475C.815 as a processing site and who is not exempt from labeling requirements under ORS 475C.604. ¶
- (5129) "Producer" means a person: ¶
- (a) Licensed by the Commission to produce marijuana under ORS 475C.065; and ¶
- (b) Registered with the Authority under ORS 475C.792 as a grower and who is not exempt from labeling requirements under ORS 475C.604. ¶
- (5230) "Product identity" means a truthful or common name of the product that is contained in the package. ¶
- (531) "Registrant" means a person registered with the Authority under ORS 475C.770 to 475C.919. ¶
- (54) "Registry identification cardholder" means a person to whom a registration card has been issued under ORS 475C.783. ¶
- (55 ¶
- (32) "Serving" or "serving size" means an amount of product that is suggested for use by a consumer or patient trying the item for the first time. ¶
- (56 and cannot exceed the applicable concentration and serving size limits in OAR 845-026-0210 and 845-026-0220. ¶
- (33) "THC" means total delta-9-tetrahydrocannabinol as calculated pursuant to OAR 333-064-0100. ¶
- (5734) "These rules" means OAR 845-025-7000 to 845-025-7190. ¶
- (58) "UID number" means the unique identification number generated by CTS at the time the marijuana item or hemp item was packaged and labeled for ultimate sale to a consumer, patient, or designated primary caregiver. ¶

~~(59)~~

~~(35) "Ultimate sale" means the final sale from a retail location or dispensary to a consumer, patient, or designated primary caregiver.~~

~~(360) "Universal symbol" means the image, established by the Authority and made available to licensees and registrants, indicating the marijuana item contains marijuana.~~

~~(61) "Usable hemp"~~

~~(a) Means the flowers and leaves of industrial hemp intended for human consumption that does not fall within meaning hemp concentrate or extract, hemp edible, or hemp cannabinoid product.~~

~~(b) Includes pre-rolled hemp as long as the pre-roll consists of only dried hemp leaves and flowers, an unflavored rolling paper and a filter or tip.~~

~~(62) "Usable marijuana"~~

~~(a) Means the dried leaves and flowers of marijuana and includes pre-rolled marijuana as long as the pre-roll consists of only dried marijuana leaves and flowers, an unflavored rolling paper, and a filter or tip.~~

~~(b) 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.~~

~~Statutory/Other Authority: ORS 475C.604, ORS 475C.608, 571.337~~

~~Statutes/Other Implemented: ORS 475C.604, 571.337~~

AMEND: 845-025-7160

RULE SUMMARY: This rule details the packaging and labeling pre-approval process. The proposed amendments remove the ability for license applicants to submit packaging and label applications prior to receiving a license and provide a timeframe for inactivating packaging and label applications that are not acted upon.

CHANGES TO RULE:

845-025-7160

Packaging and Labeling Pre-approval Process

(1) Prior to selling, offering for sale, or transferring a marijuana item or hemp item that is for ultimate sale to a consumer, patient, or designated primary caregiver, a licensee, ~~a license applicant~~, registrant, or Commission-certified hemp handler must submit both a package and a label application to and receive approval from the Commission.¶

~~(a) The initial submission shall be made electronically if required by the Commission. The licensee, ~~license applicant~~, registrant, or Commission-certified hemp handler must submit a physical prototype upon request by the Commission.¶~~

~~(b) If a license applicant submits packages and labels for pre-approval, final determination for packages and labels will not be made until the applicant has been issued a license.¶~~

(2) Except as provided in sections (5) to (7) of this rule, the packaging and label applications 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) Documentation that the package has been certified as child resistant as defined by 16 CFR 1700 by a qualified third-party child-resistant package testing firm.¶

(B) A picture of and description of the item to be placed in the package.¶

(C) For label applications for inhalable cannabinoid products that contain non-cannabis additives:¶

(i) The non-cannabis additive's list of ingredients as required by 845-025-3265(1); and¶

(ii) In a form and manner prescribed by the Commission, information regarding the manufacturer of the non-cannabis additive, the additive or additives being used by the licensee or Commission-certified hemp handler, and attestation by the licensee or Commission-certified hemp handler of the accuracy of the information submitted for label pre-approval.¶

(D) For label applications for marijuana items or hemp items that contain an artificially derived cannabinoid allowed by OAR 845-025-1310:¶

(i) The applicable documentation required by OAR 845-025-1310(1);¶

(ii) A copy of the food establishment license issued by the Oregon Department of Agriculture (ODA) to the manufacturer of the artificially derived cannabinoid; and¶

(iii) In a form and manner prescribed by the Commission, citations to the peer reviewed studies as required by OAR 845-025-1310(1), and attestation by the licensee of the accuracy of the information submitted for label pre-approval.¶

(3) If a licensee or Commission-certified hemp handler submits a list of ingredients to the Commission in order to comply with paragraph (2)(b)(C) of these rules, and the licensee or Commission-certified hemp handler believes the list of ingredients is a trade secret, the licensee must mark the information "confidential - trade secret."¶

(a) If the Commission receives a public records request for information submitted by a licensee or Commission-certified hemp handler, it will review all documents submitted to determine whether the documents contain trade secrets that would be exempt from disclosure under Oregon's Public Records Act, ORS 192.345.¶

(b) For purposes of this rule "trade secret" has the meaning given that term in ORS 192.345.¶

(4) The Commission will evaluate the packaging and label in order to determine whether:¶

(a) The packaging:¶

(A) Has been certified as child resistant by a qualified third-party child-resistant package testing firm;¶

(B) Is attractive to minors or is marketed in a manner attractive to minors;¶

(C) Contains untruthful or misleading content; and¶

(D) Will contain a marijuana item or hemp item that is not compliant with ORS 475C, OAR chapter 333, divisions 7 and 8, or OAR chapter 845, division 25.¶

(b) The label:¶

(A) Complies with the labeling rules, OAR 845-025-7000 to 845-025-7190, or any additional labeling requirements in ORS 475C, OAR chapter 333, divisions 7 and 8, or OAR chapter 845, division 25.¶

(B) Contains any material that is attractive to minors; and¶

(C) Contains untruthful or misleading content.¶

- (5) The Commission must review the packaging and labeling and notify the licensee, ~~licensee applicant~~, registrant or Commission-certified hemp handler whether the packaging and labeling is approved, and if not approved, a description of the packaging or labeling deficiencies. ¶
- (6) If a licensee's, registrant's, or Commission-certified hemp handler's label or package is deficient, it must correct the deficiencies and resubmit the label or package for pre-approval, but the licensee, registrant, or Commission-certified hemp handler is not required to submit an additional fee unless the label or package is found deficient for a second time in which case the application will be denied and the licensee, registrant, or Commission-certified hemp handler must resubmit the packaging or labeling in accordance with section (1) of this rule. ¶
- (7) A licensee, ~~applicant~~, registrant, or Commission-certified hemp handler may submit packaging and labeling for approval on the same application for a product that may have different flavors, colors, or sizes, if the product and packaging is otherwise identical. Applications for approval of packaging and labeling under this section are subject to a single application fee. ¶
- (8) 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) UID 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); ¶
- (B) Website address, phone number, fax number, or place of address of the licensee or registrant; or ¶
- (C) Instructions for opening or using child-resistant packages. ¶
- (d) The repositioning of any label information on the package, as long as the repositioning of label information is consistent with these rules. ¶
- (e) A marijuana wholesaler or a marijuana retailer with an approved usable marijuana or hemp label may change the producer's business name, trade name, or license number without resubmission and pre-approval. ¶
- (9) Prior to a licensee, registrant, or Commission-certified hemp handler transferring a package or label approval from one licensee, registrant, or Commission-certified hemp handler to another, the licensee, registrant, or Commission-certified hemp handler requesting to transfer the label must submit a form prescribed by the Commission and pay the applicable fee as described in OAR 845-025-1060. ¶
- (10) The Commission may publish a list of previously-approved, child-resistant, commercially available packaging. Packaging identified on this list as approved for certain product types does not need to be submitted for package approval if the packaging is identical to the previously-approved package. ¶
- (11) The Commission may publish a list of licensees, registrants, and Commission-certified hemp handlers who have approved label applications. ¶
- (12) Labels for marijuana items and hemp items do not require pre-approval if they are generic labels as defined in OAR 845-025-7000 and contain only the information required by these rules. ¶
- (13) Packages that are not intended to be child resistant do not require pre-approval. Any package that has not been certified as child-resistant must contain the statement described in OAR 845-025-7030(20). ¶
- (14) Notwithstanding any provisions of this rule, the Commission may permit or require electronic submission of labels and packaging for approval. ¶
- (15) On or after April 1, 2024, a new package or label application or a request for an amendment to an existing package or label shall be inactivated and the fee collected under OAR 845-025-1060 shall not be refunded if a licensee, registrant, or Commission-certified hemp handler does not resubmit the application within 365 days of the Commission notifying the licensee, registrant, or Commission-certified hemp handler of deficiencies with the application.

Statutory/Other Authority: ORS 475C.237, ORS 475C.616, 571.337, 475C.604, ~~ORS 475C.608~~

Statutes/Other Implemented: ORS 475C.616, 571.337, ~~ORS 475C.608~~

AMEND: 845-025-7520

RULE SUMMARY: This rule details UID tag requirements. The proposed amendment establishes a definition of "different potency" for the purpose of determining whether items can be combined under a single UID tag.

CHANGES TO RULE:

845-025-7520

Unique Identification (UID) Tags ¶

(1) A licensee, grow site administrator, person responsible for a marijuana processing site, person responsible for a dispensary, and hemp certificate holder must: ¶

(a) 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. ¶

(b) Have an adequate supply of UID tags at all times, except during the first ten calendar days of licensure so long as UID tags have been ordered and are in transit to the premises. ¶

(c) Assign and affix a UID tag to each individual marijuana plant being cultivated no later than when each plant reaches a height of 36 inches or when the individual plant is flowering, whichever is sooner. ¶

(d) Assign and affix a UID tag to all other marijuana items, or receptacles containing marijuana items, in a manner that: ¶

(A) Establishes an accurate record from one marijuana item to another; and ¶

(B) Uses a new UID tag each time a marijuana item is added to or placed in a receptacle. ¶

(e) 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. ¶

(2) The requirements of subsection (1)(d) of this rule do not apply to: ¶

(a) Marijuana harvested by producers or grow site administrators in the first 45 days after the harvest of the marijuana plant if a UID tag has not yet been designated in CTS; or ¶

(b) Marijuana items that are part of an active process lot and that are being tracked pursuant to OAR 845-025-7575. ¶

(3) A licensee, research certificate holder, laboratory licensee, hemp certificate holder, grow site subject to CTS tracking, or medical marijuana processing site may not combine marijuana items or hemp items of different size, potency, or category under a single UID tag, except for: ¶

(a) Mixed lots of usable marijuana; ¶

(b) Mixed lots of usable hemp; ¶

(c) Pre-rolled marijuana of identical weight of usable marijuana; or ¶

(d) Cannabinoid concentrates, extracts, or hemp items that are transferred to a processor or processing site to be processed. ¶

(4) For the purposes of this rule, different potency means a difference between each item combined under a single UID that exceeds a difference of 10 percent in total THC as tested in accordance with OAR 333-064-0100. ¶

(5) Violations. ¶

(a) A violation of subsection (1)(d) of this rule is a Category III violation. ¶

(b) All other violations of this rule are Category IV violations.

Statutory/Other Authority: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.548, 475C.097, ORS 475C.177

Statutes/Other Implemented: ORS 475C.177

AMEND: 845-025-7575

RULE SUMMARY: This rule details CTS requirements for processing. The proposed amendments clarify how to record processing jobs where the input and output weights are equal.

CHANGES TO RULE:

845-025-7575

Seed-To-Sale Tracking - Processing

(1) For purposes of this section, "SOP" means the standard policy or procedure required by OAR 845-025-3230.

(2) On and after April 15, 2023, for each process lot, all licensees and medical marijuana processing sites must utilize "Processing Jobs" in CTS to record:

(a) The unique process lot number or name;

(b) The UID and quantity of all cannabis material being used for the lot;

(c) The UID and quantity of all outputs of the lot;

(d) The date that processing of the lot is completed; and

(e) The quantity of waste generated from the source cannabis material during processing.

(A) For methods that are an extraction of cannabinoids as described in paragraph (3)(b)(A) of this rule, the waste weight should be calculated as the difference between the weight of the source cannabis material and the weight of any cannabinoid concentrates or extracts created during the processing job.

(B) For methods that are an incorporation of cannabinoids as described in paragraph (3)(b)(B) of this rule, the waste weight should be determined by directly weighing any portion of the source cannabis material being disposed of as waste.

(3) Each process lot must be associated with a job type in CTS that contains:

(a) The unique name of the SOP or SOPs being utilized;

(b) Whether the processing method or methods are:

(A) An extraction of cannabinoids, resulting in outputs less than the total weight of the source material; or

(B) An incorporation of cannabinoids, resulting in outputs that are equal to or exceed the total weight of the source material; and

(c) Whether the processing method or methods include any of the following processes or results in any of the following outputs:

(A) Processes that result in effective sterilization.

(B) Processes that use hydrocarbon solvents.

(C) Processes that are purely mechanical and do not include the use of solvents.

(D) Outputs that are intended for oral consumption or intended to be used as an ingredient in a product intended for oral consumption.

(E) Outputs that contain any major food allergen, as that term is defined in OAR 845-025-7000.

Statutory/Other Authority: ORS 475C.017, 475C.177

Statutes/Other Implemented: ORS 475C.085, 475C.177

AMEND: 845-025-7700

RULE SUMMARY: This rule details requirements for the transportation and delivery of marijuana items. The proposed amendment adds a prohibition on marijuana being transferred or transported from the licensed premises without a manifest, to an unknown or undisclosed location or to an unlicensed location.

CHANGES TO RULE:

845-025-7700

Transportation and Delivery of Marijuana Items ¶

(1) Marijuana items transferred by licensees. ¶

(a) Marijuana items transferred between licensed premises may only be transported by: ¶

(A) A licensee or licensee representative of the originating license or another license under common ownership; ¶

(B) A licensee or licensee representative of the receiving license; or ¶

(C) A wholesale licensee or wholesale licensee representative on behalf of the originating or receiving licensee. ¶

(b) Marijuana items transferred by a licensee to a PRMG or to the residence of a registry identification cardholder or designated primary caregiver may only be transported by the originating licensee or a licensee representative of the originating licensee. ¶

(c) Samples of marijuana items that are obtained by a laboratory licensee pursuant to OAR 333-007-0360 may only be transported by the laboratory licensee or a laboratory licensee representative of the receiving laboratory. ¶

(d) Marijuana may not be transferred or transported off the licensed premises without a manifest, to an unknown or undisclosed location, or to an unlicensed location, other than as provided in this rule or OAR 845-025-2880. ¶

(2) Physical transport requirements for licensees. ¶

(a) An individual authorized to transport marijuana items on behalf of a licensee or laboratory licensee must have a valid driver license. ¶

(b) A licensee or laboratory licensee must: ¶

(A) Store marijuana items in the delivery vehicle within a locked, secured area, shielded from view from the exterior of the vehicle; ¶

(B) When transporting perishable marijuana items, provide appropriate temperature control within the transport vehicle; ¶

(C) Use a delivery vehicle that is equipped with an alarm system and is insured at or above the legal requirements in Oregon; ¶

(D) Deliver marijuana items to all destinations and return any remaining marijuana items to the origin premises within 60 hours of original departure; ¶

(E) Document all overnight stops in the planned route of the manifest and include the address, estimated arrival time at, and estimated departure time from the location of each overnight stop; ¶

(F) Package all marijuana items for transport in shipping containers and assign and affix a UID tag to all receptacles containing marijuana items as required by these rules; ¶

(G) Provide a copy of the manifest to each location receiving the inventory described on the manifest, but may prepare a separate CTS manifest for each receiving location in order to maintain transaction confidentiality; ¶

(H) Contact the Commission immediately, or as soon as possible under the circumstances, if a vehicle transporting marijuana items is involved in any accident or other situation involving product loss; ¶

(I) Travel directly from the originating location to the destination location as described in the manifest route; ¶

(J) Notify the Commission in advance of every stop at an unlicensed location that exceeds two hours in duration and is not already listed in the manifest route; and ¶

(K) Immediately make the vehicle and its contents available for inspection upon the Commission's request if the delivery vehicle is stopped at an unlicensed location. ¶

(c) A licensee or laboratory licensee may not: ¶

(A) Make any unnecessary stops in between the originating and destination locations except to other licensed premises receiving inventory as described on the manifest; ¶

(B) Remove the marijuana items from the vehicle until they arrive at the destination recorded in the manifest. Licensees or laboratory licensees may not transfer marijuana items to, nor store marijuana items in a hotel or any other unlicensed premises; ¶

(C) Except as allowed in section (8) of this rule, void or change a manifest after departing the originating premises; or ¶

(D) Travel with any persons not listed on the manifest. ¶

(3) CTS Manifest General Requirements. ¶

(a) Prior to removing a marijuana item from the originating location for the purposes of transport or delivery, the originating licensee, laboratory licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must use CTS to generate a printed transport manifest containing the following information:

- (A) The originating location's license number and address as it appears in CTS;
- (B) The destination location's license number and address as it appears in CTS;
- (C) The UID, product name, and quantity (by weight or unit as applicable) of each marijuana item;
- (D) The actual date and estimated time of departure;
- (E) Location and duration of time for any overnight stop;
- (F) The arrival date and estimated time of arrival or completion of delivery;
- (G) The delivery vehicle make, model, and license plate number; and
- (H) The name, contact information, worker permit number and signature of the individual accompanying the transport.

(b) A physical, printed copy of the generated manifest must accompany every transport of marijuana items.

(c) An originating licensee transporting marijuana items to a retailer licensee must generate a manifest at least 24 hours in advance of initiating transport, if the marijuana items being transported exceed:

- (A) 25 pounds of usable marijuana;
- (B) One pound of cannabinoid concentrate or extract; or
- (C) 1,000 units of sale of any individual cannabinoid product.

(d) Notwithstanding subsection (b) of this section, a manifest is not required for a sales transaction or transfer of marijuana to a consumer, patient, or caregiver when the physical transfer of the marijuana occurs at the premises of a licensed retailer or at a medical marijuana dispensary.

(4) CTS Manifest Requirements for Transports to Consumers. When transporting marijuana items to a consumer as allowed by these rules, the manifest must include:

- (a) The information required on the manifest by subsection (3)(a) of this rule, except for a destination location license number;
- (b) The name of the individual receiving the marijuana item;
- (c) The address of the destination; and
- (d) All information for the manifest required under OAR 845-025-2880.

(5) CTS Manifest Requirements for Transfers to PRMGs, Registry Identification Cardholders, or Designated Primary Caregivers.

(a) Prior to transferring marijuana items to a PRMG, registry identification cardholder, or designated primary caregiver, a licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must use CTS to generate a printed transport manifest containing:

- (A) The information required on a manifest by subsection (3)(a) of this rule, except for a destination location license number;
- (B) The name of the individual receiving the marijuana item;
- (C) The address of the destination, if the delivery is not completed at the originating location;
- (D) If delivered to a registry identification cardholder, the registry identification card number;
- (E) If delivered to a designated primary caregiver on behalf of a patient, designated primary caregiver identification card; and
- (F) If delivered to a PRMG, the marijuana grower and grow site registration card number of the PRMG.

(b) A licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary transporting marijuana to individuals or locations not in CTS must record whether each marijuana item was accepted by the recipient or rejected and returned to the originating location inventory, and if accepted, record the transport as complete in CTS.

(6) CTS Requirements when Receiving from Locations in CTS. Upon receipt of a delivery of marijuana items, the receiving licensee, laboratory licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must:

- (a) Record each applicable UID as accepted and received or rejected in CTS as applicable;
- (b) Verify the marijuana items received are as described on the manifest and record receipt of the marijuana items in CTS if accepted; and
- (c) Separately and for each UID, document any differences between the quantities specified on the manifest and the quantities received in CTS.

(7) CTS Requirements when Receiving from Locations Not in CTS. When receiving marijuana items from a source not subject to CTS tracking but otherwise allowed by these rules or OAR chapter 333, division 8, a licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must:

- (a) Use CTS to record an incoming manifest including the registry identification card number, designated primary caregiver identification card number, or grow site registration card number, as applicable;

- (b) Assign and affix a UID tag to each quantity of marijuana items received; ¶
 - (c) Use CTS to record the incoming transport no later than the time of daily inventory reconciliation as required by these rules; and ¶
 - (d) Verify the marijuana items received are as described on the manifest and record receipt of the marijuana items in CTS. ¶
 - (8) Licensee Transport of Marijuana to Intermediary Stops. A licensee may remove marijuana items from a manifest after departing from the originating premises if: ¶
 - (a) The route of the original manifest lists the trade name, license number, address, and estimated arrival time for each licensed premises that will be visited as an intermediary stop; ¶
 - (b) All marijuana items in the vehicle are included on a CTS manifest at the time of departure from the originating premises; ¶
 - (c) Marijuana items that are removed from the original manifest at an intermediary stop are immediately added to a new CTS manifest. The destination license on the new manifest must be listed on the original manifest route as an intermediary stop; ¶
 - (d) Changes to the original manifest under subsection (c) of this section are only made while the marijuana items subject to the change are physically located within the licensed premises of the intermediary stop to which they are being transferred; and ¶
 - (e) The amount of marijuana items being transported in the vehicle does not exceed: ¶
 - (A) 25 pounds of usable marijuana; ¶
 - (B) One pound of concentrate or extract; or ¶
 - (C) 1,000 units of sale of any individual cannabinoid product. ¶
 - (9) Violations. ¶
 - (a) A violation of section (1) of this rule is a Category I violation. ¶
 - (b) A violation of sections (2) to (4) of this rule is a Category III violation. ¶
 - (c) A violation of sections (5) to (8) of this rule is a Category IV violation.
- Statutory/Other Authority: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.177
Statutes/Other Implemented: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.177

AMEND: 845-025-8000

RULE SUMMARY: This rule details the purpose and applicability of the advertising rules. The proposed amendments clarify the applicability of the advertising rules to hemp items.

CHANGES TO RULE:

845-025-8000

Advertising - Purpose and Application of Rules ¶¶

(1) The Commission serves the interests of the citizens of Oregon by regulating and prohibiting advertising marijuana items or hemp 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 of marijuana items or hemp items by a licensee must conform to these rules.

Statutory/Other Authority: ORS 475~~BC.025~~17

Statutes/Other Implemented: ORS 475~~BC.025~~17

AMEND: 845-025-8020

RULE SUMMARY: This rule establishes definition for the advertising rules. The proposed amendments clarify the applicability of the advertising rules to hemp items.

CHANGES TO RULE:

845-025-8020

Advertising - Definitions ¶¶

As used in OAR 845-025-8000 through 845-025-8080: ¶¶

(1) "Advertising" is publicizing ~~the~~ the trade name of a licensor business name together with words or symbols referring to marijuana items or hemp items or publicizing the brand name of a marijuana or a marijuana product item or hemp item. ¶¶

(2) "Billboard" means a large outdoor advertising structure. ¶¶

(3) "Handbill" is a flyer, leaflet, or sheet that advertises marijuana: items or hemp items. ¶¶

(4) "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. ¶¶

(5) "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.

Statutory/Other Authority: ORS 475BC.02517

Statutes/Other Implemented: ORS 475BC.02517

AMEND: 845-025-8040

RULE SUMMARY: This rule details advertising restrictions. The proposed amendments clarify the applicability of the advertising rules to hemp items and clarify the circumstances where advertising can make claims about curative or therapeutic effects.

CHANGES TO RULE:

845-025-8040

Advertising Restrictions ¶¶

- (1) ~~Marijuana advertising~~ Advertising of marijuana items or hemp items by a licensee 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 images of minors, cartoons-, toys, or similar images and items typically marketed towards minors, or references to products that are commonly associated with minors or marketed by minors; ¶¶
 - (c) Specifically encourages the transportation of marijuana items across state lines or otherwise encourages illegal activity; ¶¶
 - (d) Assert that marijuana items or hemp 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; or hemp items; ¶¶
 - (e) Make claims that ~~recreational marijuana has curative or therapeutic effect~~ marijuana or hemp items have curative or therapeutic effects that are not supported by the totality of publicly available scientific evidence, including evidence from well-designed studies conducted in a manner that is consistent with generally recognized scientific procedures and principles, and for which there is significant scientific agreement, among experts qualified by scientific training and experience to evaluate such claims; ¶¶
 - (f) Display consumption of marijuana items; or hemp items; ¶¶
 - (g) Contain material that encourages the use of marijuana items or hemp items because of ~~its~~ their intoxicating effect; or ¶¶
 - (h) Contain material that encourages excessive or rapid consumption. ¶¶
- (2) A licensee may not make any deceptive, false, or misleading assertions or statements on any informational material, any sign, or any document provided to a consumer. ¶¶
- (3) A licensee must include the following statements on all print, billboard, television, radio, and internet advertising in font size legible to the viewer: ¶¶
- (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."; and ¶¶
 - (c) "Keep out of the reach of children." ¶¶
- (4) Violations. A violation of this rule is a Category V violation.
- Statutory/Other Authority: ORS 475C.017
- Statutes/Other Implemented: ORS 475C.017

AMEND: 845-025-8540

RULE SUMMARY: This rule details prohibitions on dishonest conduct. The proposed amendments change two references from "usable marijuana" to "marijuana."

CHANGES TO RULE:

845-025-8540

Dishonest Conduct ¶

(1) False Statements. A licensee, laboratory 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, laboratory licensee, or permittee may not misrepresent any marijuana item to a consumer, licensee, laboratory 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 or that has the effect or intent of increasing potency, toxicity, or addictiveness. ¶

(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 or permittee 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, laboratory 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 revocation. ¶

(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.

Statutory/Other Authority: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

Statutes/Other Implemented: ORS 475C.245

AMEND: 845-025-8580

RULE SUMMARY: This rule details suspended licenses. The proposed amendments change a reference from “usable marijuana” to “marijuana” and conform language to conventions.

CHANGES TO RULE:

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 rules) 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; ~~the harvesting of usable marijuana;~~ or the processing of marijuana or marijuana items during the period of time that the license is under suspension, except as otherwise permitted by the Commission in the order of suspension. During a period of time that the license is under suspension, a recreational marijuana licensee may operate the business only in compliance with this rule. ¶
- (5) Sanction: ¶
- (a) A violation of section (4) of this rule is a Category I violation. ¶
- (b) A violation of sections (2) or subsection (3)(b) of this rule is a Category IV violation.
- Statutory/Other Authority: ORS ~~475BC.02517~~
- Statutes/Other Implemented: ORS ~~475B.29C.405~~, ~~475BC.63528~~

RULE SUMMARY: This rule sets definitions for terms used in Division 26 rules. The proposed amendments define the terms "mixed concentrate and extract."

CHANGES TO RULE:

845-026-0100

Definitions

In addition to the definitions in OAR 845-025-1015, unless otherwise specified, the following definitions apply to OAR 845-026-0100 to 845-026-7070:

(1) "Adult use cannabinoid" includes, but is not limited to, tetrahydrocannabinols, tetrahydrocannabinolic acids that are artificially or naturally derived, delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, the optical isomers of delta-8-tetrahydrocannabinol or delta-9-tetrahydrocannabinol, and any artificially derived cannabinoid that is reasonably determined to have an intoxicating effect.

(2) "Adult use cannabis item"

(a) Means:

(A) A marijuana item;

(B) An industrial hemp commodity or product that meets the criteria in OAR 845-026-0300; or

(C) An industrial hemp commodity or product that exceeds the greater of:

(i) A concentration of more than 0.3 percent total delta-9-tetrahydrocannabinol; or

(ii) The concentration of total delta-9-tetrahydrocannabinol allowed under federal law.

(b) Does not mean:

(A) Industrial hemp processed through retting or other processing such that it is suitable fiber for textiles, rope, paper, hempcrete, or other building or fiber materials;

(B) Industrial hemp seed processed such that it is incapable of germination and processed such that is suitable for human consumption; or

(C) Other products derived only from hemp fiber or hemp seeds incapable of germination that may include other non-cannabis ingredients.

(3)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant Cannabis family Cannabaceae.

(b) "Artificially derived cannabinoid" does not include:

(A) A naturally-occurring chemical substance that is separated from the plant Cannabis family Cannabaceae by a chemical or mechanical extraction process;

(B) Cannabinoids that are produced by decarboxylation from a naturally-occurring cannabinoid acid without the use of a chemical catalyst;

(C) Any other chemical substance identified by the Commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, by rule.

(4) "Authority" means the Oregon Health Authority.

(5) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana or industrial hemp.

(6) "Cannabinoid capsule" means a small, soluble pill, tablet, or container that contains liquid or powdered cannabinoid product, concentrate, or extract and is intended for human ingestion.

(7) "Cannabinoid concentrate" has the meaning given that term in OAR 845-025-1015.

(8) "Cannabinoid edible" means a food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.

(9) "Cannabinoid extract" has the meaning given that term in OAR 845-025-1015.

(10) "Cannabinoid product" has the meaning given that term in OAR 845-025-1015.

(11) "Cannabinoid suppository" means a small soluble container designed to melt at body temperature within a body cavity other than the mouth, especially the rectum or vagina containing a cannabinoid product, concentrate, or extract.

(12) "Cannabinoid tincture" has the meaning given that term in OAR 845-025-1015.

(13) "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.

(14) "Cannabinoid transdermal patch" means an adhesive substance applied to human skin that contains a cannabinoid product, concentrate, or extract for absorption into the bloodstream.

(15) "Cannabis plant" means a plant of the genus Cannabis within the plant family Cannabaceae.

(16) "Commission" means the Oregon Liquor and Cannabis Commission.

(17) "Consumption or use" means to eat, drink, ingest, inhale, apply topically to the skin or hair, or otherwise consume an item.

- (18) "Delta-8-tetrahydrocannabinol" or "delta-8-THC" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 5957-75-5. ¶
- (19) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 1972-08-3. ¶
- (20) "Delta-9-tetrahydrocannabinolic acid" or "delta-9-THCA" means (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid, Chemical Abstracts Service Number 23978-85-0. ¶
- (21) "Flowering" means a cannabis plant that has formed a mass of pistils measuring greater than two centimeters wide at its widest point. ¶
- (22) "Hemp" has the same meaning as "industrial hemp." ¶
- (23) "Hemp cannabinoid product" has the meaning given that term in OAR 845-025-1015. ¶
- (24) "Hemp edible" ¶
- (a) Means a food or potable liquid into which industrial hemp, an industrial hemp concentrate, an industrial hemp extract, or the dried leaves or flowers of hemp have been incorporated. ¶
- (b) Does not mean hemp seed incapable of germination by itself or other products derived only from hemp seeds incapable of germination that may include other non-cannabis ingredients. ¶
- (25) "Hemp tincture" means a liquid hemp cannabinoid product packaged in a container of four fluid ounces or less that consists of either: ¶
- (a) A non-potable solution of at least 25 percent non-denatured alcohol, in addition to an industrial hemp concentrate, industrial hemp extract, or usable hemp and perhaps other ingredients intended for human consumption or ingestion that is exempt from the Liquor Control Act under ORS 471.035; or ¶
- (b) A non-potable solution comprised of glycerin or plant-based oil; industrial hemp concentrate, industrial hemp extract, or usable hemp; and perhaps other ingredients, that does not contain any added sweeteners and is intended for human consumption or ingestion. ¶
- (26) "Hemp topical" means a hemp cannabinoid product intended to be applied to skin or hair. ¶
- (27) "Hemp transdermal patch" means an adhesive substance applied to human skin that contains a hemp cannabinoid product, industrial hemp concentrate, or industrial hemp extract for absorption into the bloodstream. ¶
- (28) "Hemp vapor item manufacturer" means a person responsible for the labeling or manufacturing of an industrial hemp-derived vapor item sold in Oregon and includes: ¶
- (a) A hemp handler licensed with the Oregon Department of Agriculture under ORS 571.281 to process industrial hemp into commodities, products, or agricultural hemp seed. ¶
- (b) Any other person responsible for the labeling of an industrial hemp-derived vapor item sold in Oregon. ¶
- (29) "Immature cannabis plant" means a cannabis plant that is not flowering. ¶
- (30) "Industrial hemp" has the meaning given that term in ORS 571.269. ¶
- (31) "Industrial hemp commodity or product" has the meaning given that term in OAR 603-048-0010. ¶
- (32) "Industrial hemp concentrate" has the meaning given that term in ORS 571.269. ¶
- (33) "Industrial hemp extract" has the meaning given that term in ORS 571.269. ¶
- (34) "Industrial hemp-derived vapor item" means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269, whether alone or combined with non-cannabis additives, that is intended for use in an inhalant delivery system. ¶
- (35) "Inhalant delivery system" has the meaning given that term in ORS 431A.175. ¶
- (36) "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 or human use. ¶
- (37) "Intended for human use" means intended to be used by applying it to a person's skin or hair, inhalation, or otherwise consuming the product except through the mouth. ¶
- (38) "Laboratory" means a laboratory certified by the Authority under ORS 438.605 to 438.620 and authorized to sample or test marijuana items for purposes specified in these rules. ¶
- (39) "Limit of quantification" or "LOQ" means the minimum levels, concentrations, or quantities of a target variable, for example, an analyte that can be reported by a laboratory with a specified degree of confidence. ¶
- (40) "Marijuana item" has the meaning given that term in OAR 845-025-1015. ¶
- (41) "Mature cannabis plant" means a cannabis plant that is not an immature cannabis plant. ¶
- (42) "Mixed concentrate and extract" means a cannabinoid product that contains no added substances and consists entirely of cannabinoid concentrate or cannabinoid extract combined with one or more of the following: ¶
- (a) Cannabinoid concentrate; ¶
- (b) Cannabinoid extract; ¶
- (c) Industrial hemp concentrate; or ¶
- (d) Industrial hemp extract. ¶

(43) "Non-cannabis additive" means a substance or group of substances that are derived from a source other than industrial hemp or marijuana. ¶

(a) "Non-cannabis additive" includes but is not limited to purified compounds, essential oils, oleoresins, essences or extractives, protein hydrolysates, distillates, or isolates. ¶

(b) "Non-cannabis additive" does not include plant material that is in the whole, broken, or ground form. ¶

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

~~(44) "Presumptive test" means testing under 845-026-4100. ¶~~

(45) "Scored" means to permanently physically demark a cannabinoid edible in a way that enables a reasonable person to: ¶

(a) Intuitively determine how much of the product constitutes a single serving; and ¶

(b) Easily physically separate the edible into single servings either by hand or with a common utensil, such as a knife. ¶

(46) "Total delta-9-tetrahydrocannabinol" or "total delta-9-THC" means the sum of the concentration or mass of delta-9-THCA multiplied by 0.877 plus the concentration or mass of delta-9-THC. ¶

(47) "Usable hemp" ¶

(a) Means the flowers and leaves of industrial hemp intended for human consumption or use that does not fall within the meaning of industrial hemp concentrate, industrial hemp extract, hemp edible, or hemp cannabinoid product. ¶

(b) Includes, for purposes of these rules, pre-rolled hemp as long as the pre-roll consists of only dried hemp leaves and flowers, an unflavored rolling paper, and a filter or tip.

Statutory/Other Authority: ~~ORS 475C.017, ORS 475C.009~~

Statutes/Other Implemented: ~~ORS 475C.017, ORS 475C.009~~

AMEND: 845-026-0210

RULE SUMMARY: This rule sets retail marijuana item concentration and serving size limits. The proposed amendments increase the total THC limit for cannabinoid products not intended for human consumption without another specified total THC limit and establishes the same limit for "mixed concentrate and extract" products as for a cannabinoid concentrate or cannabinoid extract.

CHANGES TO RULE:

845-026-0210

Retail Marijuana Item Concentration and Serving Size Limits

- (1) The maximum concentration or amount of total delta-9-THC permitted in a container and the maximum concentration or amount of total delta-9-THC permitted in a serving of a retail adult use marijuana item is listed in Table 1, incorporated by reference.
- (2) A retail adult use marijuana item may not contain any artificially derived cannabinoids except as allowed by OAR 845-025-1310.
- (3) Cannabinoid edible serving size identification:
 - (a) A retail adult use marijuana item that is a cannabinoid edible must be scored, except as provided in subsections (b) and (c) of this section.
 - (b) If a retail adult use marijuana item is a cannabinoid edible that is not solid, or is incapable of being scored due to its texture or consistency, the cannabinoid edible must be:
 - (A) Sold and packaged with a measuring device that measures single servings; or
 - (B) Placed in packaging that clearly enables a consumer to determine when a single serving has been consumed.
 - (c) If a retail adult use marijuana item is a cannabinoid edible that does not exceed 55 milligrams of total delta-9 THC in the package, the cannabinoid edible must be:
 - (A) Scored;
 - (B) Sold and packaged with a measuring device that measures single servings; or
 - (C) Placed in packaging that clearly enables a consumer to determine when a single serving has been consumed.
- (4) Serving size is determined by the processor and must comply with applicable serving size limits.
- (5) A retail adult use marijuana item that does not fall within a category in Table 1 must meet the concentration and serving size limits applicable to a cannabinoid edible in Table 1.

Statutory/Other Authority: ORS 475C.017, ORS 475C.620

Statutes/Other Implemented: ORS 475C.620

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

OAR 845-026-0210

Table 1

RETAIL ADULT USE CANNABIS CONCENTRATION AND SERVING SIZE LIMITS		
Type of Marijuana Item	Maximum Amount of Total Delta-9-THC Per Serving	Maximum Concentration or Amount of Total Delta-9-THC in a Container
Cannabinoid Product – Edibles	10 mg	100 mg
Cannabinoid Product – Topicals	N/A	6%
Cannabinoid Product – Transdermal Patches	10 mg	100 mg
Cannabinoid Product – Tinctures	N/A	1,000 mg
Cannabinoid Product – Capsules	10 mg	100 mg
Cannabinoid Concentrates or Extracts	N/A	2,000 mg
Cannabinoid Products Other than Cannabinoid Edibles, Topicals, Tinctures, Capsules, or Transdermal Patches and Not Intended for Human Consumption; or Mixed Concentrate and Extract	N/A	2,000 mg
Cannabinoid Products Other than Mixed Concentrate and Extract, Cannabinoid Edibles, Topicals, Tinctures, Capsules, or Transdermal Patches and Intended for Human Consumption; or Cannabinoid Suppositories	10 mg	100 mg

AMEND: 845-026-0220

RULE SUMMARY: This rule sets medical marijuana item concentration and serving size limits. The proposed amendments establish the same total THC limit for "mixed concentrate and extract" products as for a cannabinoid concentrate or cannabinoid extract.

CHANGES TO RULE:

845-026-0220

Medical Marijuana Item Concentration Limits

- (1) ~~The maximum concentration or amount of THC permitted in a container and the maximum concentration or amount of THC permitted in a serving of a medical marijuana item is listed in Table 2, incorporated by reference.~~ ¶
 - (2) ~~A medical marijuana item may not contain any artificially derived cannabinoids except as allowed by OAR 845-025-1310.~~ ¶
 - (3) ~~A cannabinoid edible must be scored. If the cannabinoid edible is not capable of being scored, the cannabinoid edible must be:~~ ¶
 - (a) ~~Sold and packaged with a measuring device that measures single servings; or~~ ¶
 - (b) ~~Placed in packaging that clearly enables a patient to determine when a single serving has been consumed, as that serving size is determined by the processor.~~ ¶
 - (4) ~~Serving size is determined by the processor and must comply with applicable serving size limits.~~ ¶
 - (5) ~~A medical marijuana item that does not fall within a category in Table 2/2 must meet the concentration and serving size limits applicable to a cannabinoid edible in Table 2.~~
- Statutory/Other Authority: ORS 475BC.02517, ORS 475BC.6250
Statutes/Other Implemented: ORS 475BC.6250

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

OAR 845-026-0220

Table 2

MEDICAL CANNABIS CONCENTRATION AND SERVING SIZE LIMITS		
Type of Marijuana Item	Maximum Amount of Total Delta-9-THC Per Serving	Maximum Concentration or Amount of Total Delta-9-THC in a Container
Cannabinoid Product – Edibles	N/A	100 mg
Cannabinoid Product – Topicals	N/A	6%
Cannabinoid Product – Transdermal Patches	100 mg	4,000 mg
Cannabinoid Product – Tinctures	N/A	4,000 mg
Cannabinoid Product – Capsules	100 mg	4,000 mg
Cannabinoid Product – Cannabinoid Suppositories	100 mg	4,000 mg
Cannabinoid Concentrates or Extracts	N/A	4,000 mg
Cannabinoid Product Other than Mixed Concentrate and Extract, Cannabinoid Edibles, Topicals, Tinctures, Capsules, Suppositories or Transdermal Patches and Intended for Human Consumption	N/A	100 mg
Cannabinoid Product Other than Cannabinoid Edibles, Topicals, Tinctures, Capsules, Suppositories or Transdermal Patches and Not Intended for Human Consumption; or Mixed Concentrate and Extract	N/A	4,000 mg

REPEAL: 845-026-4100

RULE SUMMARY: This rule details presumptive testing of hemp crops. The proposed amendments repeal this rule.

CHANGES TO RULE:

845-026-4100

Presumptive Testing

(1) For the purpose of this rule: ¶¶

(a) "Crop" has the meaning given that term in OAR 603-048-0010. ¶¶

(b) "Composite Sample" means cuttings from at least five cannabis plants removing the top five to eight inches and compositing in one receptacle for purposes of testing. ¶¶

(c) "Grow site" has the meaning given that term in OAR 603-048-0010. ¶¶

(d) "Production area" has the meaning given that term in OAR 603-048-0010. ¶¶

(2) In accordance with Section 41a, 2021 Oregon Laws Chapter 542, the Commission must establish a methodology to distinguish whether a cannabis plant is marijuana or industrial hemp for purposes of Sections 40 to 44 of 2021 Oregon Laws Chapter 542. ¶¶

(3) Cannabis plants may be distinguished between hemp and marijuana for purposes of Sections 40 to 44 of 2021 Oregon Laws Chapter 542 by three methods: ¶¶

(a) Testing pursuant to OAR 603-048-0600 to 603-048-0625. ¶¶

(b) Testing by the State Department of Agriculture pursuant to ORS 571.281(7). ¶¶

(c) Presumptive testing in accordance with this rule. ¶¶

(4) In addition to any sampling conducted under OAR 603-048-0600, a representative of the State Department of Agriculture or the Oregon Liquor and Cannabis Commission may sample from an industrial hemp grow site licensed under ORS 571.281 for the purposes of conducting a presumptive test. ¶¶

(5) To conduct sampling for a presumptive test: ¶¶

(a) A minimum of three composite samples from mature cannabis plants or a minimum of three composite samples from immature cannabis plants must be collected. Each composite sample must be taken from a different production area, or if the grow site has less than three production areas, each composite sample must be taken from three different areas of the grow site; ¶¶

(b) Grow sites with multiple production areas must have a composite sample collected from at least one out of every 10 separate production areas; and ¶¶

(c) Sampling is not required to be representative of the crop, grow site, or production area. ¶¶

(6) All cannabis plants at a grow site are presumptively marijuana for purposes of Sections 40 to 44 of 2021 Oregon Laws Chapter 542 if sampling at the grow site meets any of the following criteria: ¶¶

(a) At least 50 percent of composite samples taken from mature cannabis plants test at or above five percent total delta-9-THC; ¶¶

(b) The average total delta-9-THC among the composite samples taken from mature cannabis plants tests at or above five percent; ¶¶

(c) At least 50 percent of composite samples taken from immature cannabis plants test at or above a 5:1 ratio of total THC to total CBD, with total CBD calculated as described in OAR 333-064-0100; ¶¶

(d) At least 50 percent of composite samples taken from immature cannabis plants test at or above one percent total delta-9-THC; or ¶¶

(e) The average total delta-9-THC among the composite samples taken from immature cannabis plants tests at or above one percent total delta-9-THC.

Statutory/Other Authority: ORS 475B.025, 2021 OL Ch. 542, Sec. 41a

Statutes/Other Implemented: ORS 475B.025, 2021 OL Ch. 542, Sec. 41a

AMEND: 845-026-7000

RULE SUMMARY: This rule sets definitions for the purposes of labeling industrial hemp-derived vapor items. The proposed amendments remove the definition of "retailer" and make a minor clarification to the definition of "attractive to minors."

CHANGES TO RULE:

845-026-7000

Industrial Hemp-derived Vapor Item Labeling - Definitions

For the purposes of OAR 845-026-7000 to 845-026-7070, unless otherwise specified:¶

- (1) "Activation time" means the amount of time it is likely to take for an individual to begin to feel the effects of ingesting or inhaling an industrial hemp-derived vapor item.¶
- (2) "Attractive to minors" means packaging, ~~receptacle~~containers, inhalant delivery devices, 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) Symbols or celebrities that are commonly used to market products to minors;¶
 - (d) Images of minors; and¶
 - (e) Words that refer to products that are commonly associated with minors or marketed by minors.¶
- (4) "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.¶
- (5) "CBD" means total cannabidiol as calculated pursuant to OAR 333-064-0100.¶
- (6) "Consumer" means a person who purchases, acquires, owns, holds, or uses industrial hemp-derived vapor items other than for the purpose of resale.¶
- (7) "Container"¶
 - (a) Means a sealed, hard or soft-bodied receptacle in which an industrial hemp-derived vapor item is placed and any outer receptacle intended to display an industrial hemp-derived vapor item for ultimate sale to a consumer.¶
 - (b) Does not mean:¶
 - (A) Inner wrapping or lining;¶
 - (B) An exit package; or¶
 - (C) A shipping container used to transfer industrial hemp-derived vapor items in bulk from one hemp vapor item manufacturer to another.¶
 - (8) "Generic label"¶
 - (a) Means a label that does not have any graphics, pictures, or logos, other than symbols required by these rules and has:¶
 - (A) Only the information required by rule;¶
 - (B) Additional test information not required by rule; or¶
 - (C) Additional information described in OAR 845-026-7060(8)(c).¶
 - (b) Does not mean a label for an industrial hemp-derived vapor item that contains a non-cannabis additive.¶
 - (9) "Health claim" means any claim made on the label that expressly states or implies a relationship between a substance and a disease or health-related condition.¶
 - (10) "Hemp symbol" means the image, established by the Commission and made available to a hemp vapor item manufacturer, indicating the item is an industrial hemp-derived vapor item.¶
 - (11) "Label" means any display of written, printed, or graphic matter printed on or affixed to any container, wrapper, liner, or insert accompanying the industrial hemp-derived vapor item.¶
 - (12) "Lot" means:¶
 - (a) A batch, or a specific identified portion of a batch, having uniform character and quality within specified limits.¶
 - (b) As applied to an industrial hemp-derived vapor item produced by continuous process, a specific identified

amount produced in a unit of time or quantity in a manner that assures it has uniform character and quality within specified limits.¶

(13) "Lot number" or "batch number" means any distinctive combination of letters, numbers, or symbols, or any combination of them, from which the complete history of the manufacture, processing, packing, holding, and distribution of a batch or lot of industrial hemp-derived vapor item can be determined.¶

(14) "Net quantity of contents" means a statement on the principal display panel of the net weight or net volume of the product expressed in the terms of weight, measure, or numerical count.¶

(15) "Net volume" means the fluid measure of a liquid product expressed as milliliters and fluid ounces.¶

(16) "Net weight" means the gross weight minus the tare weight of the packaging expressed as ounces and grams or milligrams.¶

(17) "Place of address" means the name, mailing address, city, state, and zip code of the hemp vapor item manufacturer who made the industrial hemp-derived vapor item.¶

(18) "Principal display panel" means the part of a label on a package or container that is most likely to be displayed, presented, shown, or seen under customary conditions of display for sale or transfer.¶

(19) "Product identity" means a truthful or common name of the product that is contained in the package.¶

~~(20) "Retailer" means a person or business that sells industrial hemp-derived vapor items to consumers.¶~~

(21) "Serving" or "serving size" means an amount of product that is suggested for use by a consumer trying the item for the first time.¶

(22) "THC" means total delta-9-tetrahydrocannabinol as calculated pursuant to OAR 333-064-0100.¶

(23) "These rules" means OAR 845-026-7000 to 845-026-7070.¶

(24) "Ultimate sale" means the final sale from a retail location to a consumer.

Statutory/Other Authority: ORS 475C.604, 475C.608

Statutes/Other Implemented: ORS 475C.604, 475C.608

AMEND: 845-026-7010

RULE SUMMARY: This rule details the purpose, scope, and effective date of industrial hemp-derived vapor item labeling requirements. The proposed amendments specify that these requirements apply to the sale of these products to a consumer in Oregon.

CHANGES TO RULE:

845-026-7010

Industrial Hemp-derived Vapor Item Labeling:/Purpose, Scope, and Effective Date/

(1) The purpose of OAR 846-026-7000 through 845-026-7070 is to set the minimum standards for the labeling of industrial hemp-derived vapor items that are for ultimate sale or transfer to a consumer ~~at a retailer~~ in Oregon.

These minimum standards are applicable to any person manufacturing a hemp-derived vapor item that will be transferred to a person other than a Commission licensee pursuant to ORS 571.336 and 571.337 and includes: ¶

(a) A hemp handler that is licensed with the Oregon Department of Agriculture under ORS 571.281 to process industrial hemp into commodities, products, or agricultural hemp seed. ¶

(b) Any other person who is responsible for the labeling of an industrial hemp-derived vapor item sold in Oregon. ¶

(2) The labeling requirements in these rules do not apply to a hemp vapor item manufacturer transferring a bulk quantity or amount of industrial hemp-derived vapor items to another hemp vapor item manufacturer for labeling. ¶

(3) Nothing in these rules prohibits the Commission, the Authority, or the Oregon Department of Agriculture from: ¶

(a) Imposing additional labeling requirements in their respective rules governing hemp vapor item manufacturers as long as those additional labeling requirements are not inconsistent with these rules; or ¶

(b) Requiring hemp vapor item manufacturers to provide informational material to a consumer at the point of sale. ¶

(4) These rules are effective on and after July, 1, 2022.

Statutory/Other Authority: ORS 475BC.6054, 475BC.6152

Statutes/Other Implemented: ORS 475BC.6054, 475BC.6152