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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

OLCC 1-2024

CHAPTER 845

OREGON LIQUOR AND CANNABIS COMMISSION

FILED

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& LEGISLATIVE COUNSEL

FILING CAPTION: Amend rules to align with 2023 rulemaking and modify implementation date of batch plant tagging.

EFFECTIVE DATE: 01/04/2024 THROUGH 07/01/2024

AGENCY APPROVED DATE: 12/14/2023

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NEED FOR THE RULE(S):

The Oregon Liquor and Cannabis Commission (OLCC) adopted permanent rules at its March 2023 meeting related to batch tagging of marijuana plants, with an effective date of January 1, 2024. However, the OLCC has encountered procurement delays which have impeded the implementation of batch plant tagging within the cannabis tracking system. Due to these delays, the system will not be ready for batch tagging by the effective date of January 1, 2024. ORS 475C.177 mandates that the OLCC "develop and maintain a system for ... Ensuring an accurate accounting of the production ... of marijuana items" and "The propagation of immature marijuana plants and the production of marijuana by a marijuana producer."

In the absence of either system functionality for batch plant tagging within the state's cannabis tracking system software (Metrc) or rules that specify how licensees must otherwise track and account for production and harvesting of batches of plants, licensees and the OLCC would be unable to satisfy the statutory requirements of ORS 475C.177 . Failing to take action would result in serious prejudice to the public interest in preventing diversion of marijuana items and ensuring an accurate accounting of the production of marijuana items in the manner required by ORS 475C.177. It would also result in serious prejudice to the interest of licensees due to the inability to track the production and harvesting of plant batches in the manner required by rule.

These rules address this need by providing clear requirements that licensees can follow to meet the tracking requirements of ORS 475C.177. A delay in the implementation of tracking multiple plants as a single plant batch for tagging purposes provides time for OLCC to work with the cannabis tracking system vendor to implement batch tagging functionality within the system and/or for OLCC to conduct additional permanent rulemaking to satisfy the ORS 475C.177 requirements in the absence of a change in functionality.

Additionally, these rules are needed to align various rule changes that were noticed and adopted in 2023:

- Permanent Administrative Order OLCC 2-2023, filed on March 17, 2023, included additions and deletions in the language of OAR 845-025-1015, 845-025-2070, and 845-025-7520, among others, with an effective date of January 1, 2024.
- Permanent Administrative Order OLCC 6-2023, filed on November 17, 2023, included additions and deletions in the

language of OAR 845-025-1015, among others, with an effective date of December 13, 2023.

- Permanent Administrative Order OLCC 7-2023, filed on November 17, 2023, included additions and deletions in the language of OAR 845-025-2070 and 845-025-7520, among others, with an effective date of January 2, 2024.

OLCC provided notice of each of these rule changes in compliance with ORS 183.335, with the intent that all of these changes would be given full effect. At no point did OLCC give notice of intent to delete any of the language added by or to restore any of the language deleted by these three administrative orders. However, it has come to OLCC's attention that the Secretary of State's Oregon Administrative Rules Database will override the language of each affected rule on the effective date of each filing, rather than conforming the rules to simply incorporate the specific changes on that effective date.

In the absence of these temporary rules, the changes to OAR 845-025-1015 by OLCC Order 6-2023 which become effective December 13, 2023 will subsequently be eliminated on January 1, 2024 when OLCC Order 2-2023 becomes effective. Similarly, the changes to OAR 845-025-2070 and 845-025-7520 by OLCC Order 2-2023 which become effective January 1, 2024 will subsequently be eliminated on January 2, 2024 when OLCC Order 7-2023 becomes effective.

These rules address this need by conforming the rules to incorporate the changes to OAR 845-025-1015, 845-025-2070, and 845-025-7520 by OLCC Orders 2-2023, 6-2023, and 7-2023. Failure adopt these temporary rules would result in serious prejudice to the interest of parties concerned by failing to give full effect to the rule changes that licensees and other parties concerned expect to be in effect.

JUSTIFICATION OF TEMPORARY FILING:

(1) Describe the specific consequences that result from the failure to immediately adopt, amend or suspend the rule(s): Failure to immediately amend these rules will result in insufficient mechanisms for OLCC and licensees to account for all marijuana plants being produced and harvested within the OLCC tracked system. Failure to immediately amend these rules will also result in rules that do not incorporate all of the additions and deletions of text from the rules; specifically, that OAR 845-025-1015 will not include the additions and deletions specified in OLCC Order 6-2023, and that OAR 845-025-2070 and 845-025-7520 will not include the additions and deletions specified in OLCC Order 2-2023.

(2) Who would suffer these consequences:

Licensees, the OLCC, and consumers would suffer from insufficient tracking mechanisms. Licensees would be unable within the cannabis tracking system to adequately account for plant inventory, which would require them to develop individualized methods to manage their full inventory. Absent a clear standard, licensees would be further disadvantaged by any "race to the bottom" by competitors to take advantage of unclear tracking requirements. OLCC would suffer by having to dramatically increase the time and effort required to ensure compliance with state rules and laws. OLCC would also have an unclear standard to hold licensees to in regards to plant tracking and inventory accountability. As a further result, consumers would suffer by a lack of confidence in the integrity of the licensed, tracked system. A significant gap in the inventory accountability system would increase the opportunity for inversion or diversion of plants and harvested marijuana, thus reducing the confidence in the robust system Oregon currently has related to testing, labeling, and chain of custody. For the conforming changes in OAR 845-025-1015, 845-025-2070, and 845-025-7520, licensees primarily would suffer the consequences of being subject to rules that do not incorporate all of the changes contemplated in OLCC Orders 2-2023, 6-2023, and 7-2023.

(3) Why or how failure to immediately take rulemaking action would cause these consequences:

Failure to adopt a temporary rule that delays implementation of batch plant tracking would result in licensees tracking

and accounting for up to 100 plants as a single plant within the cannabis tracking system. Absent a temporary rule amendment, there would be no system functionality within the cannabis tracking system or standard within OLCC rules regarding how to itemize the actual number of plants in inventory. This would dramatically and irrevocably weaken the integrity of marijuana item tracking, and would put OLCC and licensees out of compliance with the statutory requirements of ORS 475C.177. Failure to conform the changes from OLCC Orders 2-2023, 6-2023, and 7-2023 would result in the changes to OAR 845-025-1015 by OLCC 6-2023 being eliminated on January 1, 2024 when OLCC Order 2-2023 becomes effective, and the changes to OAR 845-025-2070 and 845-025-7520 by OLCC Order 2-2023 being eliminated on January 2, 2024 when OLCC Order 7-2023 becomes effective.

(4) How the temporary action will avoid or mitigate those consequences:

Adoption of a temporary rule to delay implementation of batch plant tagging would enable the OLCC to implement system changes in the cannabis tracking system software and/or develop rules that establish alternative tracking processes and standards that account for all marijuana plants within a batch. This would ensure that OLCC rules satisfy the requirements of ORS 475C.177, licensees are not put at a competitive disadvantage, and consumers remain confident in the integrity of the licensed marijuana system in Oregon. Adopting language in OAR 845-025-1015, 845-025-2070, and 845-025-7520 that incorporates the changes from OLCC Orders 2-2023, 6-2023, and 7-2023 will avoid the consequence by giving full effect to the changes in each of those filings.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OLCC - Rulemaking file (Available upon request)

ORS 475C.177 (available from Legislative Counsel)

Permanent Administrative Order OLCC 2-2023, filed on March 17, 2023 (Available from Secretary of State)

Permanent Administrative Order OLCC 6-2023, filed on November 17, 2023 (Available from Secretary of State)

Permanent Administrative Order OLCC 7-2023, filed on November 17, 2023 (Available from Secretary of State)

RULES:

845-025-1015, 845-025-2070, 845-025-7520, 845-025-7570, 845-025-7580

AMEND: 845-025-1015

RULE TITLE: Definitions

RULE SUMMARY: This rule sets the definitions for terms used in Division 25 and Division 26 rules.

RULE TEXT:

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, 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 batch or a receptacle holding a marijuana item.

(5) "Attractive to minors" means packaging, containers, inhalant delivery devices, labeling, or advertising 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.

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

(7) "Business day" means Monday through Friday excluding legal holidays.

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

(9) "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.

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

(11) "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.

(12) "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.
- (13) "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.
- (14) "Cannabinol" or "CBN" means 6,6,9-trimethyl-3-pentyl-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 521-35-7.
- (15) "Cannabis reference laboratory" means the Oregon Department of Agriculture cannabis testing laboratory.
- (16) "Cannabis Tracking System" or "CTS" means the system for tracking the transfer of marijuana items and other information as authorized by ORS 475C.117.
- (17) "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.
- (18) "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).
- (19) "Commission" means the Oregon Liquor and Cannabis Commission.
- (20) "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.
- (21) "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.
- (22) "Commissioner" means a member of the Oregon Liquor and Cannabis Commission.
- (23) "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.
- (24) "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.

(25) "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.

(26) "Consumer" means a person who purchases, acquires, owns, holds, or uses marijuana items other than for the purpose of resale.

(27) "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.

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

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

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

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

(32) "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.

(33) "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.

(34) "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.

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

(36) "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.

(37)(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.

(38) "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 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.

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

(40) "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.

(41)(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.

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

(43) "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;

(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.

(44) "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.

(45) "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.
- (46) "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.
- (47) "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.
- (48) "Hemp item"
- (a) Means:
 - (A) Usable hemp;
 - (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.
- (49) "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.
- (50) "Immature marijuana plant" means a marijuana plant that is not flowering.
- (51) "Industrial hemp" has the meaning given that term in ORS 571.269.
- (52) "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.
- (53) "Inhalable cannabinoid product" means a cannabinoid product or hemp cannabinoid product that is intended for human inhalation.
- (54) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.
- (55) "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.
- (56) "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.
- (57) "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.
- (58) "Invited guests" means family member and business associates of the licensee, not members of the general public.
- (59) "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.

- (60) "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.
- (61) "Licensee" means any person who holds a license issued under ORS 475C.065, 475C.085, 475C.093, 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.
- (62) "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.
- (63) "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.
- (64) "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.
- (65) "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.
- (66) "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.
- (67) "Marijuana flowers" means the flowers of the plant genus Cannabis within the plant family Cannabaceae.
- (68) "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.
- (69) "Marijuana leaves" means the leaves of the plant genus Cannabis within the plant family Cannabaceae.
- (70) "Marijuana plant batch" means a group of marijuana plants being cultivated by a producer, grow site subject to tracking in CTS, or a research certificate holder that meet the requirements of OAR 845-025-7570.
- (71) "Marijuana processor" means a person who processes marijuana items in this state.
- (72) "Marijuana producer" means a person who produces marijuana in this state.
- (73) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.
- (74) "Marijuana wholesaler" means a person who purchases marijuana items in this state for resale to a person other than a consumer.
- (75) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana plant.
- (76) "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.
- (77) "Micro-wholesaler" means a marijuana wholesaler licensed by the Commission that only purchases or receives marijuana from a micro tier I or micro tier II producer.
- (78) "Minor" means any person under 21 years of age.
- (79) "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.
- (80) "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.
- (81) "ORELAP" means the Oregon Environmental Laboratory Accreditation Program administered by the Authority pursuant to ORS 438.605 to 438.620.
- (82) "Patient" has the same meaning as "registry identification cardholder."
- (83) "Permittee" means any person who holds a Marijuana Workers Permit.
- (84) "Person" has the meaning given that term in ORS 174.100.
- (85) "Person responsible for a marijuana grow site" or "PRMG" has the meaning given that term in OAR 333-008-0010.
- (86) "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.
- (87) "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.
- (88) "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.
- (89) "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.
- (90) "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.
- (91) "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.
- (92) "Producer" means a marijuana producer licensed by the Commission.
- (93) "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.
- (94) "Propagate" means to grow immature marijuana plants or to breed or produce seeds.

(95) "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.

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

(97) "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.

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

(99) "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.

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

(101) "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.

(102) "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.

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

(104) "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.

(105) "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.

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

(107) "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.

(108) "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.

(109) "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.

(110) "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: 845-025-2070

RULE TITLE: Pesticides, Fertilizers and Agricultural Chemicals

RULE SUMMARY: This rule sets parameters for allowed pesticide and agricultural chemical usage.

RULE TEXT:

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

(a) The safety data sheet (SDS) 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 marijuana plant batch to which the product was applied, or if applied to all plants on the licensed premises a statement to that effect.

(4) 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.

(5) 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.

(6) Violations.

(a) A violation of section (1) of this rule is a Category I violation and could result in license revocation.

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

(c) Notwithstanding subsection (a) of this 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.

(d) Failure to keep complete records as required by section (3) of this rule is a Category III violation. Failure to keep records on the licensed premises, or failure to timely produce records, is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065

STATUTES/OTHER IMPLEMENTED: 475C.065, ORS 475C.205

AMEND: 845-025-7520

RULE TITLE: Unique Identification (UID) Tags

RULE SUMMARY: This rule details UID tag requirements.

RULE TEXT:

(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 10 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 marijuana plant batch being cultivated no later than when any plant in the marijuana plant batch reaches a height of 36 inches or 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 the total THC concentration of any item combined under a single UID is less than 90 percent of the total THC concentration of the item with the highest concentration of total THC under that UID tag.

(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: 845-025-7570

RULE TITLE: Seed-To-Sale Tracking — Cultivation of Marijuana Plants

RULE SUMMARY: This rule details the requirements related to plant tracking.

RULE TEXT:

(1) Cultivation Batches.

(a) Immature marijuana plants under 36 inches in height at the premises of a producer, at a grow site subject to tracking in CTS, or at the premises of a research certificate holder must be recorded in CTS as part of a cultivation batch.

(b) A producer, research certificate holder, or grow site administrator must assign each cultivation batch a unique user-generated batch name and record the batch name and number of immature marijuana plants in each cultivation batch in CTS.

(c) Batch names must be physically affixed to the cultivation batch or the segregated area where the cultivation batch is physically located.

(d) A cultivation batch may not have more than 100 immature marijuana plants less than 36 inches tall.

(e) A producer, research certificate holder, or grow site administrator may have an unlimited number of cultivation batches at any one time.

(2) Marijuana Plant Batches.

(a) Marijuana plants that are flowering or are 36 inches or greater in height at the premises of a producer, at a grow site subject to tracking in CTS, or at the premises of a research certificate holder must be recorded in CTS as part of a marijuana plant batch.

(b) A producer, research certificate holder, or grow site administrator must assign and affix a UID tag to each marijuana plant batch and record the number of marijuana plants in each marijuana plant batch in CTS.

(c) UID tags must be physically affixed to an outermost plant of the marijuana plant batch or the segregated area where the marijuana plant batch is physically located.

(d) A marijuana plant batch must be:

(A) Prior to April 22, 2024, no more than 1 plant;

(B) On or after April 22, 2024, no more than 100 plants;

(C) Comprised of plants of an identical strain;

(D) For grow sites subject to tracking in CTS, being cultivated for the same medical marijuana patient;

(E) Comprised of plants physically grouped in the same contiguous area of the licensed premises; and

(F) Physically separated and demarcated from other marijuana plant batches.

(e) A producer, research certificate holder, or grow site administrator may have an unlimited number of marijuana plant batches at any one time.

(3) Violations. A violation of this rule is a Category IV violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.177

STATUTES/OTHER IMPLEMENTED: ORS 475C.065, 475C.177

AMEND: 845-025-7580

RULE TITLE: Reconciliation with Inventory

RULE SUMMARY: This rule details the requirements regarding how and when inventory must be reconciled in CTS.

RULE TEXT:

- (1) All licensees, laboratory licensees, research certificate holders, grow site administrators, medical marijuana processing sites, and medical marijuana dispensaries must:
 - (a) Use CTS for all inventory tracking activities, as defined by these rules.
 - (b) By 8 a.m. local time of the next calendar day, reconcile all marijuana item inventories and weights in CTS;
 - (c) Record all required information for usable marijuana, cannabinoid concentrates, and extracts by weight;
 - (d) For each marijuana plant batch, record the total wet weight harvested and count of marijuana plants within the batch being harvested immediately after harvest; and
 - (e) Record all required information for cannabinoid products by unit count but must also record the weight per unit of a product.
- (2) Notwithstanding subsection (1)(b) of this rule, during the first 45 days following the harvest of a marijuana plant, daily reconciliation of the weight of moisture lost to evaporation is not required for marijuana. The weight of moisture loss must be reconciled prior to any transfer, processing, sale, or packaging and no later than 45 days after the harvest, whichever comes first.
- (3) The requirements in subsection (1)(b) and section (5) of this rule do not apply during the first ten calendar days of licensure or registration so long as the licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary has ordered UID tags and the UID tags are in transit to the receiving party.
- (4) The requirements in subsection (1)(b) of this rule do not apply to marijuana items held by a laboratory licensee that are undergoing analytical testing required by these rules or OAR chapter 333, division 7 so long as the marijuana items do not leave the laboratory's licensed premises and are reconciled on the same day that the analytical testing concludes.
- (5) Notwithstanding subsection (1)(d) of this rule, for any harvests prior to April 22, 2024, the wet weight of each harvested marijuana plant batch may be entered as the mean average of all marijuana plants being harvested as a group. The mean average shall be calculated as the sum total wet weight of the plant batches being entered into CTS as a harvest group divided by the total number of plants being harvested in that group.
- (6) In addition to the requirements in section (1) of this rule, retailers and medical marijuana dispensaries must record each sale, delivery, or transfer of a marijuana item to a consumer as a sales transaction and record the price before tax and amount of each item sold and the date of each transaction in CTS for each individual transaction. A marijuana item transferred to a medical marijuana patient or caregiver for no cost must be recorded as a sales transaction with zero price.
- (7) Information that was not required to be recorded and reconciled daily pursuant to section (3) of this rule must be recorded and reconciled within three calendar days of the licensee's, grow site administrator's, medical marijuana processing site's, or medical marijuana dispensary's receipt of UID tags.
- (8) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, ORS 475C.177

STATUTES/OTHER IMPLEMENTED: ORS 475C.177