

OFFICE OF THE SECRETARY OF STATE
SHEMIA FAGAN
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 845
OREGON LIQUOR CONTROL COMMISSION

FILED
02/23/2021 2:21 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: The proposed changes to the administrative rules address and expedite the licensing process issues.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 03/22/2021 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.

CONTACT: Madeline Kane
503-872-5081
Madeline.Kane@oregon.gov

9079 SE McLoughlin Ave.
Milwaukie, OR 97222

Filed By:
Madeline Kane
Rules Coordinator

HEARING(S)

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

DATE: 03/15/2021

TIME: 1:00 PM - 2:00 PM

OFFICER: Madeline Kane

ADDRESS: Oregon Liquor Control
Commission (Virtual)

Virtual Hearing via Online &
Telephone

Milwaukie, OR 97222

SPECIAL INSTRUCTIONS:

To listen to, or participate in, this
Public Hearing please call: 1 (872) 240-
3311 and enter access code: 230-296-
829#

NEED FOR THE RULE(S):

OLCC has been inundated with applications for marijuana licenses. The growth of the industry and applicants willing to enter the market has overtaxed the agency's resources for processing new applications and renewals of current licenses. This has created a queue that has impacted both new applicants and current licensees. For applicants, this has resulted in lengthier timeframes to be assigned which results in an increased financial burden to maintain property while waiting to operate a business. For current licensees, this impact delays their ability to adapt their business needs to industry change which results in a financial burden and in keeping pace with the burgeoning industry. Currently there are approximately 900 applications either being processed or waiting to be assigned.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OLCC rulemaking files (available upon request from the OLCC.)

FISCAL AND ECONOMIC IMPACT:

This statement takes into account the fiscal impact on: (a) Marijuana Licensees; (b) Local Government; (c) State Agencies; and (d) the Public.

(a) Marijuana Licensees.

The Commission has seen an increase in the pace in which Commission staff process marijuana licenses due to the amendments made in temporary rule for this package. Additional amendments have been made to further streamline the licensing process in this permanent rule package. The Commission sees this as a positive impact to small businesses.

(b) Local Government.

The Commission expects the proposed amendments to have no impact upon local governments, as the rules do not apply to them.

(c) State Agencies.

Amendments in this package will limit the amount of documentation that applicants are required to submit to demonstrate compliance with other State Agency programs. While the documentation will not be collected at initial licensing the requirement for compliance with other programs has not been amended. Licensees may be required to produce documents during a license audit. Given that compliance requirements will not be changed, the Commission expects the proposed amendments to have no impact upon other state agencies, as the rules do not apply to them.

(d) The Public.

The Commission expects the proposed amendments to have no impact upon public health and safety.

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

The Commission anticipates no new costs to comply with the proposed amendments for most state agencies and local government.

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

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

As of February 22, 2021, the Commission has 2,498 active marijuana licenses (Producer, Wholesaler, Processor, Retailer, Laboratory and Research).

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

The Commission expects a reduction in record keeping for both licensees and itself due to the potential reduction in required documentation collected at initial licensing and renewal.

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

The Commission expects no impact to licensees' and applicants' costs related to equipment, supplies, labor and administration. The Commission forecasts a reduction in labor and administration for itself as the requirements for documentation will be lessened.

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

Over the course of this rulemaking the Commission has held multiple advisory committee meetings to collect suggestions and feedback for proposed rule amendments.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

845-025-1015, 845-025-1030, 845-025-1045, 845-025-1080, 845-025-1090, 845-025-1100, 845-025-1115, 845-025-1132, 845-025-1135, 845-025-1160, 845-025-1200, 845-025-2040, 845-025-2045, 845-025-2500, 845-025-3210

AMEND: 845-025-1015

RULE SUMMARY: This rule is being amended to clarify definitions.

CHANGES TO RULE:

845-025-1015

Definitions ¶¶

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

(1) "Added substance" means any component or ingredient added to usable marijuana, cannabinoid concentrate or cannabinoid extract 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 or hemp item impure by adding foreign or inferior ingredients or substances. A marijuana 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 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) "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.¶
- (4) "Attractive to minors" means packaging, labeling and 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.¶
- (5) "Authority" means the Oregon Health Authority.¶
- (6) "Business day" means Monday through Friday excluding legal holidays.¶
- (7) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana or industrial hemp.¶
- (8) "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.¶
- (9) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.¶
- (10) "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.¶
- (11) 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 and cannabinoid concentrates that have been combined with an added substance; or¶
 - (B) Any combination of usable marijuana, cannabinoid extracts and 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 571.300.¶
- (12) "Cannabinoid tincture" means a liquid cannabinoid product packaged in a container of 4 fluid ounces or less

that consists of either:¶¶

(a) A non-potable solution consisting of at least 25% 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.¶¶

(13) "Cannabis Tracking System" or "CTS" means the system for tracking the transfer of marijuana items and other information as authorized by ORS 475B.177.¶¶

(14) "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.¶¶

(15) "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.¶¶

(16) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature which may exhibit 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.¶¶

(17) "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.¶¶

(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.¶¶

(18) "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.¶¶

(19) "Container"¶¶

(a) Means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed and any outer receptacle intended to display a marijuana 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 industrial commodities or products in bulk from one licensee or registrant to another.¶¶

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

(21) "Commission" means the Oregon Liquor Control Commission.¶¶

(22) "Commissioner" means a member of the Oregon Liquor Control Commission.¶¶

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

(24) "CTS Administrator" means a CTS user who may add, edit or disable access for other CTS users.¶¶

(25) "CTS User" means an individual with online access to CTS.¶¶

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

(27) "Designated primary caregiver" has the meaning given that term in ORS 475B.791.¶¶

(28)(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 475B.301.¶

(29) "Financial interest" means having an interest in ~~the business~~ 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; ~~or~~¶

(D) Being the spouse or domestic partner of an applicant, licensee, or laboratory licensee. For purposes of this subsection, "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.¶

(30) "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.¶

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

(32) "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 475B.810.¶

(33)(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.¶

(34) "Harvest lot" means a specifically identified quantity of marijuana that is, cultivated utilizing the same growing practices and harvested within a 72 hour period at the same location and cured under uniform conditions.¶

(35) "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 571.300;¶

(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.¶

- (36) "Hemp Grower" means a person or entity that is registered with the Oregon Department of Agriculture under ORS 571.305 to produce industrial hemp.¶
- (37) "Hemp Handler" means a person or entity that is registered with the Oregon Department of Agriculture under ORS 571.305 to process industrial hemp into commodities, products or agricultural hemp seed.¶
- (38) "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 cannabinoid product as defined in OAR 603-048-2310; 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.¶
- (39) "Immature marijuana plant" means a marijuana plant that is not flowering.¶
- (40) "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.¶
- (41) "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.¶
- (42) "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.¶
- (43) "Industrial hemp":¶
- (a) Means all non-seed parts and varieties of the Cannabis plant, whether growing or not, that contain an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.¶
- (b) Means any Cannabis seed:¶
- (A) That is part of a crop, as that term is defined in ORS 571.300;¶
- (B) That is retained by a hemp grower for future planting;¶
- (C) That is agricultural hemp seed;¶
- (D) That is for processing into or for use as agricultural hemp seed; or¶
- (E) That has been processed in a manner or to an extent that the Cannabis seed is incapable of germination.¶
- (c) Does not mean industrial hemp commodities or products or marijuana.¶
- (44) "Inhalable cannabinoid product" means a cannabinoid product or hemp cannabinoid product that is intended for human inhalation.¶
- (45) "Invited guests" means family member and business associates of the licensee, not members of the general public.¶
- (46) "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.¶
- (47) "Laboratory licensee" means a laboratory licensed under ORS 475B.560 and includes each applicant listed on an application that the Commission has approved and each individual who the Commission has added to the license ~~person who is added to the license as described in OAR 845-025-1160(4).~~¶
- (48) "Licensee" means any person who holds a license issued under ORS 475B.070, 475B.090, 475B.100, or 475B.105 and includes:¶
- ~~(a) E~~ each applicant listed on an application that the Commission has approved;¶
- ~~(b) Each individual who meets the qualification described in OAR 845-025-1045 and who the Commission has add and each person who is added to the license as described in OAR 845-025-1160(4).~~¶
- ~~(49) "Licensee of record" means a licensee listed to on the license under OAR 845-025-1030; or~~¶

~~(c) Each individual who has a financial interest in the licensed business and who the Commission has added to 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 under OAR 845-025-1030.~~

~~(49) of record on the same license.~~

(50) "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.

(501) "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.

(512) "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.

(523) "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 571.300; 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.

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

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

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

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

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

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

~~(5960) "Marijuana wholesaler" means a person who purchases marijuana items in this state for resale to a person other than a consumer.~~

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

(612) "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 475B.625 for consumers who hold a valid registry identification card issued under ORS 475B.797.

(623) "Micro-Wholesaler" means a marijuana wholesaler licensed by the Commission that only purchases or receives seeds, immature plants or usable marijuana from a producer with a micro tier I or tier II canopy.

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

(645) "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.

(656) "Non-Toxic" means not causing illness, disability or death to persons who are exposed.

(667) "Non-profit Dispensary" means a medical marijuana dispensary registered under ORS 475B.858, 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 333, Division 8.

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

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

(6970) "Permittee" means any person who holds a Marijuana Workers Permit.¶

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

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

(723) "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.¶

(734) "Person responsible for a marijuana grow site" or "PRMG" has the meaning given that term in OAR 333-008-0010.¶

(745) "Premises" or "licensed premises" includes the following areas of a location licensed under sections ORS 475B.010 to 475B.545:¶

(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¶

(c) "Premises" or "licensed premises" does not include a primary residence.¶

(756) "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.¶

(767) "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.¶

(778) "Processes"¶

(a) "Processes" means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts.¶

(b) "Processes" does not include packaging or labeling.¶

(789) "Process lot" means:¶

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

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

(7980) "Producer" means a marijuana producer licensed by the Commission.¶

(801) "Produces"¶

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

(b) "Produces" 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.¶

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

(823) "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.¶

(834) "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 chapter 471, ORS 474.005 to 474.095, 474.115, 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655, Commission rules and any

other statutes the Commission considers related to regulating liquor or marijuana.¶

(845) "Registry identification cardholder" has the meaning given that term in ORS 475B.791.¶

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

(867) "Safe" means:¶

(a) A metal receptacle with a locking mechanism capable of storing all marijuana items on a licensed premises that:¶

(A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or¶

(B) Weighs more than 750 pounds.¶

(b) A "vault"; or¶

(c) A refrigerator or freezer capable of being locked for storing marijuana items that require cold storage that:¶

(A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or¶

(B) Weighs more than 750 pounds.¶

(878) "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.¶

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

(890) "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.¶

(901) "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.¶

(912) "These rules" means OAR 845-025-1000 to 845-025-8750.¶

(923) "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.¶

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

(945) "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.¶

(956) (a) "Usable Marijuana" means the dried leaves and flowers of marijuana.¶

(b) "Usable Marijuana" 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.¶

(c) "Usable marijuana" 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.¶

(967) "Vault" means an enclosed area or room that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.¶

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

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.015, 475B.025

AMEND: 845-025-1030

RULE SUMMARY: This rule describes the licensing process and has been amended to reflect streamlined licensing requirements.

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) ~~The following individuals and legal entities are applicants: ¶¶~~

~~(a) Any individual or legal entity with a financial interest, as defined in these rules, who holds or controls an interest of ten percent or more in the business proposed to be licensed. ¶¶~~

~~(b) Any individual or legal entity that has an ownership interest in the business proposed be licensed as described in OAR 845-025-1045. ¶¶~~

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

~~(a) All general partners in a limited partnership; ¶¶~~

~~(b) Limited partners whose investment commitment is ten percent or more of the total investment commitment; ¶¶~~

~~(c) All members in a limited liability company or partnership whose investment commitment or membership interest is ten percent or more; ¶¶~~

~~(d) All managers of a manager-managed limited liability company as that term is defined in ORS 63.001; ¶¶~~

~~(e) All directors who own or control three percent or more of the voting stock; ¶¶~~

~~(f) Principal Officers of corporate applicants; and ¶¶~~

~~(g) All natural person stockholders owning or controlling ten percent or more of the voting stock of a corporate entity. ¶¶~~

~~(5) An application must include the names and other required information for all individuals and legal entities who are applicants as described in this rule and the names and other required information for all individuals and legal entities who are not applicants but who have a "financial interest" in the business, as defined in OAR 845-025-1015. ¶¶~~

~~(6) Applicants must submit the following: ¶¶~~

~~(a) Information or fingerprints for individual applicants and individuals within a legal entity who have been identified as applicants in order to perform a criminal background check in accordance with OAR 845-025-1080;~~

~~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 and, the location of any primary residence located on the same tax lot as the licensed premises; ¶¶~~

~~(d) A, and a scaled floor or plot plan sketch of all enclosed areas with clear identification of walls, partitions, counters, windows, all areas of ingress and egress, and all limited access areas; ¶¶~~

~~(ed) Proof of right to occupy the premises proposed for licensure; ¶¶~~

~~(f) 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.¶
- (g) For producers:¶
- (A) ~~The proposed canopy size and tier as described in OAR 845-025-2040 and a designation of the canopy area within the license premises~~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) ~~A description of the growing operation including growing media, a description of equipment to be used in the production, and whether production will be indoor, outdoor or both.~~¶
- (D) ~~Proof of a legal source of water as evidenced by:~~¶
 - (i) ~~A copy of a water right permit, certificate, or other water use authorization 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.~~n attestation that the applicant has a legal source of water.¶
- (E) ~~If the applicant is not the owner of the premises proposed to be licensed, the applicant must submit 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.~~¶
- (h) For processors:¶
- (A) ~~On a form prescribed by the Commission, the proposed endorsements as described in OAR 845-025-3210.~~¶
- (B) ~~A description of the type of products to be processed, a description of equipment to be used~~In addition to submitting the application form and the items described; including any solvents, gases section (3) of this rule, ~~the chemicals or other compounds used to create extracts or concentrates.~~Commission may require the following to be submitted:¶
 - (a) For applicants:¶
 - (7A) ~~In addition to submitting the application~~formation or fingerprints in form and the items described in section (5) of this rule, the Commission may require the following to be submitted:¶
 - (a) ~~For an individual~~lder 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, who holds or controls an interest of less than ten percent in the business proposed to be licensed:~~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.~~¶
 - (b) ~~For a legal entity that is identified as having a financial interest of less than ten percent of the business proposed to be licensed:~~¶
 - (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)~~
- (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 authorization 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.
- (g) Any additional information if there is a reason to believe that the information is needed to determine the merits of the license application.
- (85) 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.
- (96) 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 mailed 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.
- ~~(10) Failure to comply with subsection (8) of this rule may result in an application being denied.~~
- Statutory/Other Authority: ORS 475B.025, ORS 475B.040
- Statutes/Other Implemented: 2019 OL CH. 145, ORS 475B.040, 475B.045, 475B.060, 475B.070, 475B.090, 475B.100, 475B.105, 475B.560, ~~2019 OL CH. 145~~

AMEND: 845-025-1045

RULE SUMMARY: Consolidated applicant and ownership interest definitions into same rule. Relaxing standards on qualifications of an applicant.

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 ~~that have an ownership interest in the business proposed to be licensed by identifying all such person~~ 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:¶
- (2a) License privileges. License privileges are available only to the applicants identified in the application and their authorized representatives and only for the premises designatAny 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 20 percent or more of the total revenue or profits of the business proposed to be licensed;¶
- (c) Any individual or legal entity that has an ownership interest in the business as described in OAR 845-025-1045(5); 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 oin the license. ORS 63.001; and¶
- (c) If an applicant is a corporation, each principal officer of the corporation.¶
- (35) Ownership interest. The Commission may refuse to issue a license if the applicant is not the 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 845-025-1160(4). For purposes of thisese rules, an "ownership interest" is indicated by the following behaviors, benefits or obligations:¶
- (a) Any personindividual or legal entity, other than an employee acting under the direction of the owneran applicant, licensee, or laboratory licensee, that exercises control over, or is entitled to exercise control over, the business;¶
- (b) Any personindividual or legal entity, other than an employee acting under the direction of the owner, that incurs, or is entitledan 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 personindividual or legal entity, other than an employee acting under the direction of the owner, that enters into, or is entitled to enter into, a contract or similar obligations on behalf of the business 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¶
- (de) Any person or legal entity identified as the lessee of the premises proposed to be licensedWhen 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.

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.045, 475B.070, 475B.090, 475B.100, 475B.105, 475B.560, 475B.191, 475B.564

AMEND: 845-025-1080

RULE SUMMARY: This rule describes the updated criminal background check process.

CHANGES TO RULE:

845-025-1080

Criminal Background Checks ¶¶

- (1) If an individual is required by the Commission to undergo a criminal background check, the individual must provide to the Commission:-¶¶
- (a) A criminal background check request form, prescribed by the Commission that includes but is not limited to:-¶¶
 - (A) First, middle and last name;-¶¶
 - (B) Any aliases;-¶¶
 - (C) Date of birth;-¶¶
 - (D) Driver license information; and-¶¶
 - (E) Address and recent residency information.-¶¶ - (b) Fingerprints in accordance with the instructions on the Commission's webpage.-¶¶
- (2) The Commission may request that an applicant disclose his or her Social Security Number if notice is provided that:-¶¶
- (a) Indicates the disclosure of the Social Security Number is voluntary; and-¶¶
 - (b) That the Commission requests the Social Security Number for the purpose of positively identifying the applicant during the criminal records check process.-¶¶
- (3) An applicant's criminal history must be evaluated by the Commission in accordance with ORS 670.280 and 475B.050.-¶¶
- (4) The Commission may ~~conduct~~ require a licensee, laboratory licensee, or individual with a financial interest to undergo a criminal background checks in accordance with this rule every year at the time of application renewal. once per license year.¶¶
- (5) Records concerning criminal background checks must be kept and handled by the Commission in accordance with ORS 181.534(15).

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.050

AMEND: 845-025-1090

RULE SUMMARY: This rule describes the application review process with updates to requirements related to the Land Use Compatibility Statements applicants must submit.

CHANGES TO RULE:

845-025-1090

Application Review ¶

(1) Once the Commission has determined that an application is complete it must review the application to determine compliance with ORS Chapter 475B and these rules.¶

(2) The Commission:¶

(a) ~~Must, receive a land use compatibility statement from the city or county that authorizes land use in the city or county in which the applicant's proposed premises is located~~ prior to acting on an application for a new license, a change to a larger producer canopy designation, a change to producer cultivation method designation or change in processor endorsement type; ~~receive a land use compatibility statement from the city or county that authorizes land use in the city or county in which the applicant's proposed premises is located.~~¶

(b) May, in its discretion, prior to acting on an application:¶

(A) Contact any applicant or individual with a financial interest and request additional documentation or information; and¶

(B) Verify any information submitted by the applicant.¶

(3) The requirements of section (2)(a) of this rule do not apply to applicants for a producer license if the applicant demonstrates in a form and manner specified by the Commission that:¶

(a) The applicant is applying for a license at an address where a marijuana grow site registered under ORS 475B.810 is located;¶

(b) The address is outside of city limits;¶

(c) At least one person responsible for a marijuana grow site located at the address first registered with the Authority under ORS 475B.810 before January 1, 2015, and was registered with the Authority under ORS 475B.810 on the date on which the applicant submitted the application for a producer license;¶

(d) Each person responsible for a marijuana grow site located at the address first registered with the Authority under ORS 475B.810 before February 1, 2016 and was registered with the Authority under ORS 475B.810 on the date on which the applicant submitted the application for a producer license; and¶

(e) The applicant is applying for a mature marijuana plant grow canopy of:¶

(A) 5,000 square feet or less, if the marijuana is produced outdoors; or¶

(B) 1,250 square feet or less, if the marijuana is produced indoors.¶

(4) For purposes of section (3) of this rule an applicant for a license under ORS 475B.070 is not required to demonstrate that:¶

(a) At least one person responsible for a marijuana grow site located at the address for which the applicant is applying for a license was continuously registered with the Authority under ORS 475B.810 between January 1, 2015, and the date on which the applicant applies for a producer license; or¶

(b) Each person responsible for a marijuana grow site located at the address for which the applicant is applying for a license has been continuously registered with the Authority under ORS 475B.810 between February 1, 2016, and the date on which the applicant applies for a producer license.¶

(5) The Commission may require an inspection of the proposed premises prior to issuing a license.¶

(6) If during an inspection as described in (5) of this rule, the Commission determines the applicant is not in compliance with these rules, the applicant will be provided with a notice of the failed inspection and the requirements that have not been met."¶

(a) An applicant that fails an inspection will have 30 calendar days from the date the notice was sent to submit a written response that demonstrates the deficiencies have been corrected.¶

(b) An applicant may request in writing one extension of the 30-day time limit in subsection (a) of this section, not

to exceed 45 days.¶¶

(7) If an applicant does not submit a timely plan of correction or if the plan of correction does not correct the deficiencies in a manner that would bring the applicant into compliance, the Commission may deny the application.¶¶

(8) If the plan of correction appears, on its face, to correct the deficiencies, the Commission will schedule another inspection.¶¶

(9) If an applicant fails a second inspection, the Commission may deny the application unless the applicant shows good cause for the Commission to perform additional inspections.

Statutory/Other Authority: ORS 475B.025, ORS 475B.040

Statutes/Other Implemented: ORS 475B.045, ORS 475B.060, ORS 475B.063, ORS 475B.074, 2019 OL Ch. 391

AMEND: 845-025-1100

RULE SUMMARY: The rule describes the application approval process and enables the Commission to exercise discretion as to whether to conduct a pre-licensing inspection.

CHANGES TO RULE:

845-025-1100

Approval of Application and Issuance of License ¶¶

(1) If, ~~after the application review and inspection,~~ the Commission determines that an applicant is in compliance with ORS 475B.025 to 475B.235 and these rules the Commission must notify the applicant in writing that the application has been approved and after payment by the applicant of the license fee, provide the applicant 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. If the applicant paid the license fee with a check the Commission will not issue a license until it has confirmation that the check has cleared.¶¶

(2) A licensee or laboratory licensee:¶¶

(a) May not operate until on or after the effective date of the license.¶¶

(b) Must display proof of licensure in a prominent place on the premises.¶¶

(c) May not use the Commission name or logo on any signs at the premises, on the business' website, or in any advertising or social media, except to the extent that information is contained on the proof of licensure or is contained in part of warnings, signage or other documents required by these rules.¶¶

(3) Licensure is only valid for the premises indicated on the license and is only issued to the individuals or entities listed on the application or subsequently approved by the Commission.¶¶

(4) A license may not be transferred except as provided in OAR 845-025-1160.

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.055

AMEND: 845-025-1115

RULE SUMMARY: This rule has been amended to clarify denial criteria for license applications.

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) On federal property. ¶

(B) 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. ¶

(C) At the same location ~~or address, as~~ as a producer, retailer, processor or, wholesaler, or laboratory license, unless the licenses are of different types and all of the licenses at the ~~address or location~~ are held or sought by identical applicants. ¶

~~(d) The location proposed to be licensed is prohibited under OAR 845-025-1230. ¶~~

~~(e) 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 will be separated from the premises proposed to be licensed and how the applicant will prevent transfer of industrial hemp. For the purpose of this paragraph, "at the same location" means that any area of the proposed licensed premises is within the licensed premises of another license. ¶~~

~~(d) The location proposed to be licensed premises is prohibited under OAR 845-025-1230. ¶~~

~~(f) 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. ¶~~

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

(A) Except as provided in ORS 475B.109, 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. ¶

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

~~(i) A city or county has prohibited the license type for which the applicant is applying, in accordance with ORS 475B.968. ¶~~

(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 475B.010 to 475B.545, 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 475B.333; ¶

- (ii) Providing marijuana items to an individual without checking that the individual is 21 or older; ¶
- (iii) Unlicensed transfer of marijuana items for financial consideration; or ¶
- (iv) Violations of local ordinances adopted under ORS 475B.486, 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 that is pending on or after January 1, 2019 within the time period prescribed by the Commission. ¶
- (J) ~~Has been found to, or previously had, an unapproved ownership interest in a license issued by the Commission, as established in a final order of the Commission other than as provided in OAR 845-025-1160(4).~~ ¶
- (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 475B.045(3). The Commission may consider factors set forth in subsection (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:~~ ¶
- ~~(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. ¶~~
- ~~(e) The proposed licensed premises of a producer applicant is on the same tax lot, as another producer licensee under common ownership. ¶~~
- ~~(f: or) ¶~~
- ~~(B) 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. ¶~~
- ~~(e) The proposed licensed premises of a producer applicant is on the same tax lot, as another producer licensee under common ownership. ¶~~
- ~~(f) 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. ¶~~
- ~~(g) The applicant proposed to be licensed does not have access to the proposed license premises. ¶~~
- ~~(gh) 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. ¶~~
- ~~(hi) 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 ~~or, 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 his or her 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 475B.045(3), that involved violence or the threat of violence; dishonesty or deception; drugs, alcohol, or other regulated substances; non-compliance with driver license requirements; 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 475B.025

Statutes/Other Implemented: ORS 475B.040, 475B.045, 475B.063, 475B.070, 475B.090, 475B.100, 475B.105, 475B.560, 475B.968

AMEND: 845-025-1132

RULE SUMMARY: This rule describes prohibited changes to license applications and was amended to set a timeframe for when changes in locations for production licenses will be accepted.

CHANGES TO RULE:

845-025-1132

Prohibited Changes to License Applications

(1) The Commission will not allow changes ~~in~~of ownership of an application after submission of an application for licensure.~~¶~~

(2) For purposes of this rule, "change of ownership" is defined as ~~a change of 51%.~~ ¶

~~(a) Adding or greater in the applicants identified on the application submitted to the Commission or one or more changes that cumulatively results in a change of ownership that is 51% or greater from the date the application was first submitted.~~ ¶

~~(3) The Commission will not allow an applicant to placing an applicant who will be a licensee of record; or~~ ¶

~~(b) A business changing its ownership structure such that natural persons who did not previously hold a direct or indirect interest in the business will collectively hold a direct or indirect interest of 51 percent or greater.~~ ¶

~~(3) Until January 2, 2022, an applicant that submitted an application for a production license under ORS 475B.070 on or before June 15, 2018 may not change the location of a~~ the proposed licensed premises after submission of an application for licensure. ~~for which the application was submitted.~~ ¶

(4) The Commission will not allow an applicant to change the license type of the application after submission of an application for licensure.

Statutory/Other Authority: ORS 475B.025, 2019 OL Ch. 419

Statutes/Other Implemented: ORS 475B.070

AMEND: 845-025-1135

RULE SUMMARY: This rule has been amended to clarify when an application is considered incomplete.

CHANGES TO RULE:

845-025-1135

Application Processing Deadlines

(1) For the purposes of this rule, "complete the application process" means an applicant has submitted all fees, forms, documents and information required under OAR 845-025-1030 that are necessary to act on an application and the ~~applicant is ready for a pre-licensing inspection as required in OAR 845-025-1090(4)~~proposed premises meets all of the security requirements described in OAR 845-025-1400 to 845-025-1470. Completing the application process does not include timeframes described in OAR 845-025-1090(5) to correct deficiencies discovered during a pre-licensing inspection.¶

(2) Assigned Applications¶

(a) An applicant that had an application assigned to a Commission staff member prior to January 1, 2020 must comply with any and all deadlines for completing the application process that the Commission previously provided to the applicant in writing.¶

(b) An applicant that has an application assigned to a Commission staff member on or after January 1, 2020 must complete the application process within 60 calendar days of the Commission notifying the applicant that the application has been assigned.¶

(c) If the applicant does not complete the application process within 60 calendar days, the application will be unassigned and placed on hold as described in subsection (3)(b) of this rule.¶

(d) If the Commission discovers a potential basis to deny the license that requires further investigation, the applicant is not subject to the deadline described in (2)(b) above. The Commission will communicate any new deadlines to the applicant in writing.¶

(3) Applications on Hold¶

(a) Applications placed on hold prior to January 1, 2020¶

(A) Before an application that was previously placed on hold is assigned to a Commission staff member, applicants must provide to the Commission all requested documents and information by the deadline previously communicated in writing by the Commission.¶

(B) If the applicant provides all requested documents and information by its deadline previously communicated by the Commission, the application will be assigned and the applicant must complete the application process within 60 calendar days of being placed in that status.¶

(C) If the applicant does not provide all requested documents and information by the deadline communicated by the Commission, the application is incomplete as described in subsection (5) of this rule.¶

(b) Applications placed on hold on or after January 1, 2020.¶

(A) If an applicant is unable to complete the application process in the initial 60 calendar days after the application is assigned as described in subsection 2(b) of this rule, the application will be unassigned and placed on hold.¶

(B) Applications placed on hold will not be processed until the application is reassigned to a Commission staff member.¶

(C) Once the Commission has reassigned the application to a Commission staff member, the applicant must complete the application process within a final 60-calendar-day period. If the applicant does not complete the application process within 60 calendar days, the application is incomplete as described in subsection (6) of this rule.¶

(4) Approved Applications.-An applicant whose application has been approved by the Commission will have 30 calendar days after the application is approved to complete payment of the license fee described in OAR 845-025-1060. If payment is not received within 30 calendar days of application approval, the application is incomplete as described in subsection (5) of this rule.¶

(5) Incomplete Applications. The Commission will inactivate an incomplete application by placing the application into a withdrawn status in its licensing system. ¶

(a) An applicant will be notified in writing as described in subsection (7) of this rule that its application is incomplete and has been inactivated by the Commission.¶¶

(b) 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 10 calendar days of the date the incomplete notice was sent or transmitted pursuant to subsection (7) of this rule.-The Commission may give the applicant the opportunity to be heard if an application is inactivated.-A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.¶¶

(6) The Commission may place an assigned application on hold to balance staff resources. When this occurs, the Commission will notify the applicant of the status change in writing and will provide the application with a new deadline for completion of the application. ¶¶

(7) The Commission will communicate deadlines and changes in application status under this rule by e-mail to the contact e-mail identified on the application, unless an applicant makes a written request that any deadline communications be sent by regular mail. Upon such a request, the Commission will mail communications to an applicant's mailing address identified on the application.

Statutory/Other Authority: ORS 475B.025, 2019 OL Ch. 419

Statutes/Other Implemented: ORS 475B.070

AMEND: 845-025-1160

RULE SUMMARY: This rule amendment updates the way in which the OLCC must receive notice relating to changes in business structures, and arrest and conviction notifications.

CHANGES TO RULE:

845-025-1160

Notification of Changes ¶¶

(1) An applicant ~~or, licensee, or laboratory licensee~~ must notify the Commission in writing within 10 calendar days of any of the following:¶¶

(a) A change in any contact information for anyone listed in an application or subsequently identified as an applicant;¶¶

(b) A disciplinary proceeding or licensing enforcement action by another governmental entity that may affect the business;¶¶

(c) The temporary closure of the business for longer than 30 days; or¶¶

(d) The permanent closure of the business.¶¶

(2) An applicant ~~or, licensee, or laboratory licensee~~ must notify the Commission in a manner prescribed by the Commission within 724 hours of an arrest, a citation issued in lieu of arrest, or a conviction for any misdemeanor or felony of an individual listed in an application or subsequently identified as an applicant, licensee or individual with a financial interest. Violation of this section is a Category I violation.¶¶

~~(3) Applicant, licensee, or laboratory licensee. ¶¶~~

(a) Failure to notify the Commission of a conviction within the prescribed timeframe is a Category II violation. ¶¶

(b) Failure to notify the Commission of an arrest or a citation in lieu of arrest within the prescribed timeframe is a Category III violation. An arrest or citation in lieu of arrest in itself is not a basis for compliance or licensing action but the Commission may investigate the conduct underlying the arrest. ¶¶

(3) A licensee or laboratory licensee must notify the Commission in a manner prescribed by the Commission as soon as reasonably practical and in no case more than 24 hours from the theft of marijuana items or money from the licensed premises.¶¶

~~(4) Changes in Financial Interest or Business Structure.¶¶~~

(a) A licensee that proposes to or laboratory licensee that changes its corporate structure, ownership structure or change who has a financial interest in the business must ownership structure by adding an individual or legal entity who will meet 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 must, prior to making the change, submit:¶¶

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

(B) Any information identified in the form to be submitted; to the Commission, prior to making such a change.¶¶

~~(b) The Commission must review the form and other information submitted under subsection (14)(a) of this rule, and will approve the change if the change. ¶¶~~

(c) If the Commission determines that the addition of an individual or legal entity who meets the qualifications of an applicant as described in OAR 845-025-1045 would not result in an initial or renewal application denial under OAR 845-025-1115, or serve as the basis of a license suspension or revocation.¶¶

(e) If the Commission denies the change but the licensee proceeds with th, the licensee may remove that individual or legal entity from the business. If the licensee does not remove et change, licensee must surrender the license or individual or legal entity from the business, the Commission wishall propose to license suspension or revoke the license.¶¶

(d) The Commission may refuse to accept a form for a change in corporate structure or financial interest cation under OAR 845-025-1115.¶¶

(d) Notwithstanding subsection (4)(a) of this rule, a licensee or laboratory licensee does not need to notify the license is expiring in less than 90 days, the licensee is under investigation by the Commission, or has been issued a Notice by the Commission following an alleged violation and the alleged violation has not been resolved.¶¶

~~(e) 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.¶~~

~~(B) A publicly traded corporation adding or removing Principal Officers.¶~~

~~(5) Change of Ownership. A new application must be submitted in accordance with OAR 845-025-1030 if a licensee:¶~~

~~(a) A business proposes to add or replace a licensee of record; or¶~~

~~(Ab) HaA business proposes a change in its ownership structure that is 51% percent or greater; or¶~~

~~(B) Has more than one. For the purposes of this rule, a change of business structure within a year from the date the license was first issued or renewed that cumulatively results in a change of ownership that is 51% is considered to be 51 percent or greater if 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.¶~~

~~(56) Change of Location.¶~~

~~(a) A licensee or laboratory licensee who wishes to change the location of the licensed premises must submit a completed application for the new premises including all required forms and documents and the fee specified in OAR 845-025-1060, but does not need to submit information and fingerprints required for a criminal background check if there are no changes to the individuals listed on the initial application.¶~~

~~(b) If a licensee or laboratory licensee loses access to the licensed premises, the Commission may allow the licensee or laboratory licensee to change location if:¶~~

~~(A) The licensee or laboratory licensee submits written notice, in a form and manner prescribed by the Commission, at least 15 days in advance of losing access;¶~~

~~(B) The licensee or laboratory licensee removes all marijuana items from the licensed premises in compliance with ORS Chapter 475B and these rules prior to losing access;¶~~

~~(C) The licensee or laboratory licensee is not under investigation for suspected violations of any provision of ORS Chapter 475B or these rules and does not have pending administrative violations;¶~~

~~(D) The licensee or laboratory licensee supplies documentation showing legal access to a new proposed location within 30 days of losing access to the licensed premises; and¶~~

~~(E) The licensee or laboratory licensee submits a Land Use Compatibility Statement for the new proposed location from the city or county that authorizes land use where the new location is located and the use is not prohibited.¶~~

~~(c) The Commission must approve any change of location prior to licensee or laboratory licensee beginning business operations in the new location.¶~~

~~(67) Addition or Change of Trade Name.¶~~

~~(a) A licensee or laboratory licensee must notify and receive approval from the Commission on a form prescribed by the Commission prior to any changes or additions to the business trade name.¶~~

~~(b) The Commission may deny any addition or change to a business trade name.~~

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.055, 475B.045

AMEND: 845-025-1200

RULE SUMMARY: This rule has been amended to minimize business record requirements.

CHANGES TO RULE:

845-025-1200

Financial and Business Records ¶

In addition to any other recordkeeping requirements in these rules, a ~~marijuana~~ licensee or laboratory licensee must have and maintain records that clearly reflect all financial transactions and the financial condition of the business. The following records may be kept in either paper or electronic form and must be maintained for a three-year period and must be made available for inspection if requested by an employee of the Commission:¶

(1) Purchase invoices and supporting documents for items and services purchased for use in the production, processing, research, testing and sale of marijuana items that include from whom the items were purchased and the date of purchase;¶

(2) Bank statements for any accounts relating to the licensed business;¶

(3) Accounting and tax records related to the licensed business;¶

(4) Documentation of all financial transactions related to the licensed business, including contracts and agreements for services performed or received that relate to the licensed business; ~~and~~¶

(5) All employee records, including training; ~~and~~¶

(6) Information relating to the structure and ownership of the business, including:¶

(a) A list of all individuals and legal entities who are applicants as described in OAR 845-025-1045;¶

(b) For each legal entity that is an applicant as described in OAR 845-025-1045, complete information about the ownership structure of that legal entity; and¶

(c) A list of all individuals and legal entities who are entitled to receive a portion of revenue, proceeds, or profits from the business.

Statutory/Other Authority: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

Statutes/Other Implemented: ORS 475B.130

AMEND: 845-025-2040

RULE SUMMARY: This rule has been amended to streamline the required information from producer licensees at renewal, and applicants when applying for a producer license.

CHANGES TO RULE:

845-025-2040

Production Size Limitations ¶¶

(1) Definitions. For the purposes of this rule:¶¶

(a) "Mixed production" means a producer who has the privilege to grow marijuana both indoors and outdoors at the same licensed premises.¶¶

(b) "Producer type" means indoor production, outdoor production, or mixed production.¶¶

(c) "Production method" means indoor mature canopy, outdoor mature canopy, or immature canopy.¶¶

(d) "Production tier" means micro tier I, micro tier II, tier I, or tier II as described in section (3) of this rule.¶¶

(2) General Requirements.¶¶

(a) A producer must ~~clearly identify proposed canopy~~ maintain documentation clearly identifying the sizes, production method, canopy measurements, and canopy shapes for all designated each mature and immature canopy areas in the ~~initial license application and at renewal.~~ licensed premises. The documentation may be kept in either paper or electronic form and must be made available for inspection if requested by an employee of the Commission.¶¶

(b) A mature marijuana plant, as defined in these rules, may only be located in an area designated as a mature canopy area.¶¶

(c) A producer must have written approval from the Commission prior to changing the location of a designated canopy area, the shape of a canopy area, producer type, production method, or production tier.¶¶

~~(d) A producer may only request a change to production type at the time the producer submits a renewal application.¶¶~~

~~(e) A producer engaging in mixed production may only request to increase its designated mature canopy of one production method by decreasing the designated mature canopy of another production method at the time the producer submits a renewal application. once per license year.¶¶~~

(3) Mature Canopy Size Limits.¶¶

(a) Indoor Production. Unless otherwise provided by these rules, the maximum mature canopy size limits for indoor production are:¶¶

(A) Micro tier I: Up to 625 square feet.¶¶

(B) Micro tier II: 626 to 1,250 square feet.¶¶

(C) Tier I: 1,251 to 5,000 square feet.¶¶

(D) Tier II: 5,001 to 10,000 square feet.¶¶

(b) Outdoor Production. Unless otherwise provided by these rules, the maximum mature canopy size limits for outdoor production are:¶¶

(A) Micro tier I: Up to 2,500 square feet.¶¶

(B) Micro tier II: 2,501 to 5000 square feet.¶¶

(C) Tier I: 5,001 to 20,000 square feet.¶¶

(D) Tier II: 20,001 to 40,000 square feet.¶¶

(c) Mixed Production. For a producer engaging in mixed production, the Commission will use a 4:1 ratio, for outdoor and indoor respectively, to allocate canopy size limits under this section, not to exceed the sum canopy size limits set forth in section (3) of this rule. For example, if a Tier II producer in the first year of licensure has 1,000 square feet of indoor mature canopy area, then the producer may have up to 36,000 square feet of mature outdoor canopy area at the same time.¶¶

(4) Immature Canopy Size Limits. Unless otherwise provided by these rules, the maximum canopy size limits for immature canopy area for licenses issued or renewed after April 1, 2018 shall be:¶¶

(a) 625 square feet for Micro tier I producers.¶

(b) 1,250 square feet for Micro tier II producers.¶

(c) 5,000 square feet for Tier I producers.¶

(d) 10,000 square feet for Tier II producers.¶

(5) Canopy Area Measurements and Shapes.¶

(a) Square footage of a canopy area is measured horizontally starting from the outermost point of the furthest plant in a designated canopy area and continuing around the outside of all plants located within the designated canopy area. If immature plants are grown on racks or shelving within the immature canopy area, only the footprint of the area containing the immature plants will be used to calculate the immature canopy area. The total canopy area of mature plants grown on racks or shelving is measured to include each layer of plants as a separate canopy area.¶

(b) Maximum canopy areas allowed. A producer must either:¶

(A) Designate no more than 20 quadrilateral canopy areas including both immature and mature canopy areas at a licensed premises and clearly demarcate each canopy area with a physical boundary, wall, or marker at the outermost edge or each corner of each designated canopy space; or by at least eight feet of open space.¶

(B) Designate no more than 20 canopy areas of any shape including both immature and mature canopy areas at a licensed premises and provide the Commission with a survey of the canopy space conducted by a Professional Land Surveyor licensed by Oregon State Board of Examiners for Engineering and Land Surveying that shows the total square footage each of mature and immature canopies are within the applicable canopy size limits described in this rule.¶

(6) Production Tier Changes.¶

(a) A producer licensed under ORS 475B.070 for at least one year may request to increase its approved production tier at any time after the first license year, up to the maximum production tier allowed under this rule. A producer must make a request for an increase in writing, in a form and manner prescribed by the Commission.¶

(b) The Commission may approve a request for a production tier increase if the Commission believes that granting the request does not present an increased risk of noncompliance with the provisions of ORS Chapter 475B and these rules and if the producer:¶

(A) Has not already been approved for a production tier increase during the current license year;¶

~~(B) Is not engaging in mixed production and proposing to alter the producer's mature canopy production methods as described in subsection (2)(e) of this rule; ¶~~

~~(C) Is not proposing a number of additional canopy areas that exceed the maximum allowed under this rule; ¶~~

~~(D) Submits~~ Has submitted an approved Land Use Compatibility Statement showing the increased production tier is not prohibited; and¶

~~(E) Provides verification, in a form and manner prescribed by the Commission, that the producer has complied with all security measures described in OAR 845-025-1400 to OAR 845-025-1470 where any additional canopy area is proposed; and ¶~~

~~(F) Is not under investigation by the Commission for suspected violations of any provision of ORS Chapter 475B or these rules and does not have pending administrative violations. ¶~~

Has not been sanctioned by the Commission for violating a provision of ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to 475B.545 during the past year.¶

(c) A producer may not increase its production tier without prior written approval from the Commission.¶

(d) If the Commission determines a producer meets the requirements to increase its production tier at a time other than renewal, the producer must submit payment to the Commission for the difference in the fee paid by the producer at the prior renewal and the fee described in OAR 845-025-1160 for the increased tier size before the Commission will provide the producer with written approval.¶

(e) ~~The Commission shall give a producer an opportunity to be heard if a request is rejected under this section~~ may deny a producer's request to increase its production tier if the producer does not meet the requirements of this or any other pertinent rule. If the Commission denies the request, the producer has a right to a hearing under the procedures of ORS chapter 183.¶

(7) Producer Type Changes.

(a) A producer licensed under ORS 475B.070 for at least one year may request to change its approved producer type at any time after the first license year. A producer must make a request for the change of producer type in writing, in a form and manner prescribed by the Commission.

(b) The Commission may approve a request for a change of producer type if the Commission believes that granting the request does not present an increased risk of noncompliance with the provisions of ORS Chapter 475B and these rules and if the producer:

(A) Has not already been approved for a change of producer type during the current license year; and

(B) Has submitted an approved Land Use Compatibility Statement showing the proposed producer type is not prohibited.

(c) A producer may not change its producer type without prior written approval from the Commission.

(d) The Commission may deny a producer's request to change its producer type if the producer does not meet the requirements of this or any other pertinent rule. If the Commission denies the request, the producer has a right to a hearing under the procedures of ORS chapter 183.

(78) Violations. An intentional violation of this rule is a Category I violation and may result in license revocation. All other violations are Category III violations.

(89) On an annual basis, the Commission shall evaluate market demand for marijuana items, the number of persons applying for producer licenses or licensed as producers and whether the availability of marijuana items in this state is commensurate with the market demand. Following this evaluation, the Commission may amend this rule as needed.

Statutory/Other Authority: ORS 475B.025, 475B.070, ORS 475B.085

Statutes/Other Implemented: ORS 475B.085

AMEND: 845-025-2045

RULE SUMMARY: The rule related to propagation endorsements was amended to remove requirements related to Land Use Compatibility Statements.

CHANGES TO RULE:

845-025-2045

Propagation Endorsement

(1) A producer licensee may apply for a propagation endorsement in order to grow additional immature marijuana plant canopy as defined by these rules.¶

(2) Application. A producer applying for an endorsement under this rule, must ~~submit a propagation plan that demonstrates~~ attest that additional immature marijuana plant canopy is required for the production of immature plants for sale to other licensees.¶

(3) ~~Land-use Compatibility Statement. Licensed producers who have previously submitted a land use compatibility statement are not required to submit an additional land use compatibility statement when registering for a propagation endorsement, so long as there is no change in the aggregate size of the mature and immature canopy areas.~~¶

(4) Denial and Revocation. The Commission may deny a producer's request for an endorsement or revoke the endorsement. If the Commission denies or revokes the endorsement, the producer has a right to a hearing under the procedures of ORS chapter 183.

Statutory/Other Authority: ORS 475B.025, ORS 475B.085

Statutes/Other Implemented: ORS 475B.085

AMEND: 845-025-2500

RULE SUMMARY: This rule is related to the registration to produce usable marijuana for patients, and was amended to update requirements related to control plans and floor plans.

CHANGES TO RULE:

845-025-2500

Registration to Produce Usable Marijuana for Patients ¶¶

- (1) Eligibility. A licensed producer may produce a medically designated mature canopy in an amount equal to ten percent of their ~~approved mature canopy production~~ tier licensed under ORS 475B.075, as long as the producer provides at least seventy five percent of the annual yield of usable marijuana from their medically designated mature canopy to patients or a patient's designated primary caregivers for no consideration.¶¶
- (2) In order to produce a medically designated mature grow canopy, a licensed producer must:¶¶
 - (a) Register in a form and manner specified by the commission;¶¶
 - (b) Pay the fee specified in OAR 845-025-1060;¶¶
 - (c) ~~Provide the Commission with a scaled floor plan or map specifying where the medically designated mature canopy will be located on the licensed premises; and~~¶¶
 - (d) ~~Submit a control plan~~ Submit a control plan in a form prescribed by the Commission describing how the producer will:¶¶
 - (A) Identify the medically designated mature canopy and separate the medically designated mature canopy from the recreational canopy; and¶¶
 - (B) Segregate usable marijuana harvested from the medically designated mature canopy from the usable marijuana harvested from other plants.¶¶
- (3) Land-use Compatibility Statement.¶¶
 - (a) Licensed producers who have previously submitted a land use compatibility statement are not required to submit an additional land use compatibility statement when registering to produce usable marijuana for patients.¶¶
 - (b) Licensed producers who were exempt from submitting a land use compatibility statement under these rules at the time of licensure must submit a land use compatibility statement when registering to produce marijuana for patients if the producer's total canopy of mature medical and recreational plants exceeds 5000 square feet for outdoor producers and 1250 square feet for indoor producers.¶¶
- (4) Notwithstanding OAR 845-025-2020(2), a producer registered under this section may transfer or deliver:¶¶
 - (a) Usable marijuana to a registry identification cardholder or designated primary caregiver at the licensed premises of the producer or the residence of a registry identification cardholder or designated primary caregiver;¶¶
 - (b) Immature marijuana plants to a registry identification cardholder or designated primary caregiver at the licensed premises of the producer or the residence of a registry identification cardholder or designated primary caregiver; or¶¶
 - (c) Immature marijuana plants to a PRMG at the PRMG's grow site.¶¶
- (5) Prior to the transfer of marijuana items under this rule, a producer must obtain and retain, if not already on file, a copy of the patient's or designated primary caregiver's:¶¶
 - (a) Registry identification card if transferring to a registry identification cardholder;¶¶
 - (b) OMMP identification card if transferring to designated primary caregiver; or¶¶
 - (c) Marijuana grow site registration card if transferring to a PRMG.¶¶
- (6) A producer may not sell, deliver, or transfer any marijuana item under this rule to an individual who does not possess a valid card identified in section (5) of this rule.¶¶
- (7) A producer may maintain the records required under section (5) of this rule in electronic or physical form.¶¶
 - (a) For records maintained electronically, a producer shall maintain a backup system or sufficient data storage so that records are retained for no less than two years after the transfer of marijuana for which the records were last obtained or used.¶¶

(b) For physical records, a producer must ensure the records:¶

(A) Are legible and complete;¶

(B) Kept in a safe and secure location; and¶

(C) Are retained for no less than two years after the transfer of marijuana for which the records were last obtained or used.¶

(8) In addition to the information required on a transport manifest under OAR 845-025-7700, a producer transferring marijuana as described in section (4) of this rule must include:¶

(a) The registry identification card number of the registry identification cardholder to whom the items are being transferred;¶

(b) The OMMP identification card number of the designated primary caregiver if transferring to a designated primary caregiver; or¶

(c) The marijuana grow site registration card number of the PRMG if transferring to a PRMG.¶

(9) Denial. A registration request will be denied if the producer has not complied with this rule or if any information submitted by the producer is false or misleading. A notice of denial must be issued in accordance with ORS Chapter 183.¶

(10) The Commission may revoke a registration under this section for any of the reasons that it may deny a registration under this section.¶

(11) A producer transferring immature plants under this section to a registry identification cardholder, designated primary caregiver, or a PRMG may transfer on a single manifest or to a person to possess on behalf of a single patient in any 24-hour period:¶

(a) No more than 6 immature marijuana plants over 24 inches in height; or¶

(b) No more than 36 immature marijuana plants under 24 inches in height.¶

(12) Violations.¶

(a) A transfer of marijuana to a registry identification cardholder, primary caregiver, or PRMG that fails to meet the requirements in sections (5), (7) or (8) of this rule is a Category III violation.¶

(b) A violation of section (6) or (11) of this rule is a Category I violation.

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.136

AMEND: 845-025-3210

RULE SUMMARY: The amendments to this rule update the requirements for processing endorsements.

CHANGES TO RULE:

845-025-3210

Marijuana Processors - Endorsements ¶¶

(1) A processor may only process and sell cannabinoid edible, topical, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity. Endorsements types are:¶¶

- (a) Cannabinoid edible processor;¶¶
- (b) Cannabinoid topical processor;¶¶
- (c) Cannabinoid concentrate processor; and¶¶
- (d) Cannabinoid extract processor.¶¶

(2) Industrial Hemp processor. A processor may only process industrial hemp items if the processor licensee has received an industrial hemp processor endorsement.¶¶

(3) An applicant must request an endorsement upon submission of an initial application but may also request to add or remove an endorsement at any time following licensure.¶¶

(4) To apply for an endorsement, an applicant or processor licensee must submit:¶¶

(a) A form prescribed by the Commission that ~~includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates; and~~ identifies the proposed endorsements. ¶¶

(b) A land use compatibility statement showing that any proposed processing endorsements are not prohibited uses; and¶¶

(c) If applicable, proof of compliance with OAR 845-025-3260(2)(b).¶¶

(5) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.¶¶

(6) An individual processor licensee may hold multiple endorsements.¶¶

(7) For the purposes of endorsements any cannabinoid product that is intended to be consumed or ingested orally or applied in the mouth is considered a cannabinoid edible.¶¶

(8) If a processor is no longer going to process the product for which the processor is endorsed, the processor must notify the Commission in writing and provide the date on which the processing of that product will cease.¶¶

(9) The Commission may deny a processor's request for an endorsement or revoke an existing endorsement if the processor cannot or does not meet the requirements in OAR 845-025-3200 to 845-025-3290 for the endorsement that is requested. If the Commission denies or revokes approval the processor has a right to a hearing under the procedures of ORS chapter 183.

Statutory/Other Authority: ORS 475B.025, 475B.090

Statutes/Other Implemented: ORS 475B.090, 475B.158, 571.336