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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**OLCC 197-2022**

CHAPTER 845

OREGON LIQUOR AND CANNABIS COMMISSION

**FILED**

09/22/2022 4:11 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopt rule that allows for the transfer of Marijuana Items Between State and Tribal Licensees

EFFECTIVE DATE: 09/23/2022 THROUGH 12/31/2022

AGENCY APPROVED DATE: 09/22/2022

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NEED FOR THE RULE(S):

ORS 475C.521 enables the Governor to enter into an agreement with the governing body of a federally recognized Indian tribe for the purpose of cross-jurisdictional coordination and enforcement of marijuana-related businesses licensed to conduct business on tribal trust land by the governing body of the federally recognized Indian Tribe.

OLCC rules do not align with an agreement between the State and a federally recognized Indian tribe with regard to the transfer of marijuana items. OLCC proposes to adopt a rule to provide for the transfer between an OLCC-licensed marijuana business and a marijuana business licensed to conduct business on tribal trust land, and to allow for laboratory sampling and testing of marijuana items.

JUSTIFICATION OF TEMPORARY FILING:

There is no rule that allows for the transfer of marijuana items between the State and Federally recognized Indian Tribes. Adopting this temporary rule will allow for transfers between OLCC-licensed marijuana businesses and a marijuana business licensed to conduct business on tribal trust land, and to allow for laboratory sampling and testing of marijuana items.

(1) Describe the specific consequences that result from the failure to immediately adopt, amend or suspend the rule(s): There would be a delay in the OLCC honoring its responsibilities and relationship pursuant to the Tribal Compact with the Cow Creek Band of Umpqua Indians within the statutory regulation of cannabis. Further, any failure to adopt the temporary rules would delay the Cow Creek Band of Umpqua Indians from being able to stand up their marijuana operation which could have a serious financial impact.

(2) Who would suffer these consequences: The Cow Creek Band of Umpqua Indians and the Confederated Tribes of Warm Springs would not have a legal avenue to transfer marijuana items.

(3) Why or how failure to immediately take rulemaking action would cause these consequences: The 2022 marijuana harvest is current happening and the Cow Creek Band of Umpqua Indians needs a legal avenue to transfer marijuana items in order to get their products to market. Without these rules there would be no legal avenue for marijuana items

to be transferred between the State of Oregon recreational market and the Cow Creek Band of Umpqua Indians.

(4) How the temporary action will avoid or mitigate those consequences: The proposed rules update the permitting process to allow a tribal entity that has a compact with the state to transfer or sell marijuana items into the state system. The proposal would also allow the OLCC to permit its licensees to accept tribally produced and processed marijuana items, and allow these items to be tracked and traced in OLCC's cannabis tracking system (CTS).

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

OLCC - Rulemaking file (Available upon request)

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ADOPT: 845-025-7725

RULE TITLE: Transfer of Marijuana Items Between State and Tribal Licensees

RULE SUMMARY: ORS 475C.521 enables the Governor to enter into an agreement with the governing body of a federally recognized Indian tribe for the purpose of cross-jurisdictional coordination and enforcement of marijuana-related businesses licensed to conduct business on tribal trust land by the governing body of the federally recognized Indian Tribe.

OLCC rules do not align with an agreement between the State and a federally recognized Indian tribe with regard to the transfer of marijuana items. OLCC proposes to adopt a rule to provide for the transfer between an OLCC-licensed marijuana business and a marijuana business licensed to conduct business on tribal trust land, and to allow for laboratory sampling and testing of marijuana items.

RULE TEXT:

(1) For the purposes of these rules, 'tribal licensee' means an entity licensed or approved to produce, process, or wholesale marijuana items by the governing body of a federally recognized Indian tribe located in this state that has entered into an agreement with the Governor pursuant to ORS 475C.521.

(2) Notwithstanding any provision in these rules relating to transfers of marijuana items:

(a) A producer, processor, wholesaler or a retailer may:

(A) Receive marijuana items from a tribal licensee; and

(B) Transfer marijuana items to a tribal licensee that the producer, processor, wholesaler, or retailer has the privilege to transfer to licensees.

(b) A laboratory licensee may engage in sampling and testing of marijuana items produced or processed by the tribal licensee.

(3) Transfers of marijuana items must comply with applicable provisions of these rules.

STATUTORY/OTHER AUTHORITY: ORS 475C.205, ORS 475C.521

STATUTES/OTHER IMPLEMENTED: ORS 475C.205, ORS 475C.521