

News Release

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OLCC, OHA Act to Address Marijuana Pesticide Testing Capacity Flexibility Provided to Industry for Meeting Package Labeling Standards

Portland, Oregon – The Oregon Liquor Control Commission and the Oregon Health Authority today announced temporary rules that will allow flexibility in the collection of marijuana samples bound for pesticide testing, as well as in how marijuana products are packaged and labeled. In doing so, the agencies took into consideration feedback from the Joint Committee for Marijuana Legalization and the marijuana market.

OLCC will allow a smaller number of batches in each harvest lot to be tested, as opposed to all batches in the lot, according to OLCC policy guidance that will be issued to laboratories and the industry no later than Monday Oct. 3, 2016, based on lab capacity. That guidance will describe the required number of tests as laboratory capacity builds and the conditions that will trigger increased testing requirements for marijuana batches destined for the recreational marijuana market.

To protect medical users of marijuana, OHA is prioritizing testing among existing accredited laboratories to ensure they test 100 percent of the 10 pound harvest batches they receive. This scientific process involves testing of 10 pound batches of like harvest strains of marijuana called “lots.” OHA is responsible for developing and implementing testing rules for both medical and recreational marijuana.

OLCC also will work closely with laboratories that will report their testing capacity on a weekly basis. Based on work with OHA and the Oregon Environmental Laboratory Accreditation Program (ORELAP) along with data reported by laboratories that are accredited or seeking accreditation, OLCC will continue to increase laboratory testing capacity and expects to be able to test 100 percent of all 10 pound batches in four to six weeks. However, the actual timing of that move will be based on OLCC’s review of testing lab data to determine when the system has capacity to provide for more testing.

The State of Oregon’s marijuana testing program is the most comprehensive effort to protect consumers and is the first of its kind in the nation. Both industry and state agencies expect the implementation of this groundbreaking effort to be developmental, but it is clear in the law that high standards are required.

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“Based on what we have learned from the nationwide legalization effort, it is more important than ever to ensure certain products that make it to shelves are free from pesticides and contaminants,” Governor Kate Brown said.

Working with industry and laboratories to accomplish this is essential to state policy. “The temporary rules hold to goals the Legislature set out for testing of marijuana and OHA and OLCC are doing all they can to utilize certified lab capacity to screen out products tainted by pesticides and other contaminants”, said Andre Ourso, manager of the Oregon Medical Marijuana Program at OHA.” He also commended the labs that rushed into the market and, invested hundreds of thousands to millions of dollars, to get state certified accreditation by the state to test. “What they have done is remarkable and they will provide a great service to the people of Oregon by ensuring public health is protected.”

While testing capacity for pesticides is being structured to match the recreational market, all other required testing for microbials that can affect human health remain intact and are required for both medical and recreational marijuana. The OLCC believes sufficient laboratory testing capacity exists to achieve the agencies’ objective of fully testing for contaminants other than pesticides.

The OLCC has worked closely with OHA throughout the process of implementing new Oregon Marijuana laws and the OLCC is committed to bring all required testing standards to recreational marijuana. “We will be working with labs and closely monitoring the capacity for pesticide testing,” said Steve Marks, executive director of the OLCC. “As soon as we can we will quickly move to testing every 10 pound batch of recreational marijuana moving through the system.”

The OHA and OLCC have decided they will not change the [packaging and labeling standards](#) for new product entering each system after Oct. 1, 2016. The agencies believe that holding to the Oct. 1, 2016 deadline will not adversely affect the market. If licensees do not have pre-approved packaging and labels, they may use [generic packaging and labeling](#) until their packages and labels are approved by the OLCC. The OLCC is currently caught up on requests for packaging and labeling approvals.

State agencies have created flexibility for products that currently exist in medical dispensaries prior to Oct. 1, 2016 by not requiring those products to be in pre-approved packages. However, they must meet current packaging and labeling standards, including the child safety requirements.

Both the OHA and OLCC recognize that in some cases product packaging and labeling will not be in compliance and both agencies will take an educational approach to regulatory compliance. The OLCC established an approval process for packages and labels months ago, and combined this with a vigorous outreach to the industry; despite those efforts, industry engagement as measured by submissions of packages and labels for approval was limited, until recently.

“Our actions today are a wake-up call to get this work done and we expect many more packages and labels will be approved over the next two weeks,” said Marks. “The OLCC and OHA don’t expect to issue packaging and labeling fines for violations in the near term as it works to get licensees compliant through educational activity. This latitude will be limited and the OLCC and OHA will communicate with its licensees when it shifts to full enforcement of the standards.”

The OLCC also passed a temporary rule that clarifies the restrictions on product wording commonly associated with products marketed by or to children. The Commission’s prior rules allowed it to regulate

marijuana strain names attractive to minors, but not those marketed by minors such as "girl scout cookies". This action directs staff at OLCC to fairly implement criteria to restrict a narrow set of strain names that refer to cartoon characters, or names associated with toys and games marketed to children. Examples would include the marijuana strains like "Candy Land" a well-known children's board game; "Smurfette" a cartoon character; and "Skywalker" and "Jedi Kush" that are a direct reference to the popular Star Wars franchise.

The Commissioners and OLCC staff have reviewed a listing of about 500 marijuana strain names and believe the rule would clearly apply to less than 20 strains. While it is clear that OLCC will deny the inclusion of these names on pre-approved packages and labels, it will work with the industry to correct package and label compliance issues for products in the stream of commerce. Commission staff and Commissioners will have roles in determining products that appeal to children and that are marketed by or to them. In the coming week, the OLCC will work to provide the industry policy guidance and lists of suspect names that will be regulated.

Within the list of strain names are a host of products that appear to use trademarked terms that are owned by other companies. The OLCC will work on these issues as it finalizes its overall permanent rules later this year.

The OLCC is continuing to work with the industry and Joint Committee to ensure the smooth implementation of the recreational marijuana program. "We knew the transition to a regulated marijuana market would be challenging, and the Commission, and the OHA, have again adapted to those concerns," said Rob Patridge, chair of the OLCC. "We owe it to the industry and all Oregonians to make sure the integrity and safeguards of this system are intact and to keep faith with the will of the voters when they approved Measure 91. We are working hard to balance market needs with public health and safety to provide a reasonable transition for this industry to move into compliance."

All of these rules are being adopted as the state experiences a new major milestone in developing its legal recreational marijuana market. This week, the OLCC made final approvals on 25 recreational licensed retailers located throughout the state, and additional retailers are poised to be licensed in the coming weeks. The 25 retailer licenses will go into effect when licensees pay their fees to OLCC and relinquish their medical dispensary license to OHA. Some of these OLCC licensees plan to start operating on Oct. 1, 2016.

[Overview of New OLCC & OHA Temporary Rules on Medical & Recreational Marijuana](#)