



Recreational Marijuana Program Compliance Education Bulletin

Bulletin CE2019-09

October 24, 2019

The Oregon Liquor Control Commission is providing the following information to recreational marijuana licensees and applicants.

The bulletin is part of OLCC's compliance education. It is important that you read it, and understand it. If you don't understand it please contact the OLCC for help.

Failure to understand and follow the information contained in this bulletin *could result in the loss or inactivation of your recreational marijuana license application.*

Bulletin CE2019-09 covers the following issues:

- Producer License Application Inactivation
- New License Application Process Requirements
- New License Application Deadlines

New Application Process Requirements and Deadlines

During the past year, the Oregon Liquor Control Commission (OLCC) has been developing a comprehensive strategy to improve the processing time frame for all licensing actions, to streamline and clarify the standards for license approvals, and to provide more accurate time-to-licensure estimates for stakeholders. As the OLCC Recreational Marijuana Program gets ready to enter its 5th year, with a more robust and mature industry in place, the OLCC is adjusting some of the standards used to accept, assign and process applications. The goal is to make the entire licensing process more efficient, timely and predictable. This Compliance Education Bulletin will be one of several bulletins OLCC will release in the coming months to advance these new requirements.

Since the inception of the recreational marijuana licensing program in 2016, OLCC has provided applicants substantial flexibility during the application process. The agency recognized that in developing Oregon's initial framework for licensing a recreational marketplace it needed to be fluid and dynamic, and has allowed applicants to change most aspects of their applications (multiple times if needed) throughout the process. The OLCC did not impose strict deadlines for completing all licensing requirements, which was an implicit acknowledgement that applicants in a new market often had individually varied circumstances and timeframes required to establish their businesses.

This approach worked well to get the program and industry initially up and running. However, OLCC has identified the lack of deadlines and the allowance of certain application changes as key factors in the current licensing backlog the agency faces. The resulting delays negatively affect new applicants and licensees alike. This Bulletin outlines new deadlines and no longer allowed application changes that are being implemented for all license types.

Because of the passage of SB 218 in June 2019 and the subsequent temporary rules adopted by OLCC Commissioners, some of these new timelines and prohibited changes have already occurred for producer applicants. For clarity this Bulletin will outline the standards and effective dates for different license types separately, even though they may seem very similar.

The OLCC is currently in permanent rulemaking to memorialize the timelines and process requirements described in this Bulletin, so that the standards for all license types are the same. Anyone wanting to provide comment or input on proposed rules should subscribe to [OLCC's email updates](#) to stay apprised of the most recent activities, including dates and deadlines for public comment.

Producer Applicants

Inactivation, New Timelines and Prohibited Application Changes

SB 218, effective June 17, 2019, directs the Commission to ***inactivate*** producer applications received after June 15, 2018. SB 218 also directs the Commission to inactivate producer applications received before that date if the applicant failed to submit an approved Land Use Compatibility Statement (LUCS) by July 8, 2019 (21 days after the bill became effective). This means:

- With the exception of a change of ownership, producer applications in these categories will not be processed by the Commission and will be inactivated.
- Applications that are inactivated will need to reapply in the future when the Commission is able to accept new producer applications.
- Inactivated applications will not be refunded the \$250 application fee.

SB 218 also ***restricts the types of changes*** allowed after a producer application is submitted. However, these changes are allowed after a license is issued. **Effective June 17, 2019**, producer applicants are no longer permitted to change:

- **Location of an application.** If a producer applicant had not notified OLCC of a new location prior to this date, OLCC will not allow the applicant to change the location of the application. If an applicant no longer desires or is not able to seek a producer license at the original location, OLCC will inactivate the application.
- **Ownership of an application.** A change in ownership occurs when 51% or more of the interest in the business has changed. Producer applicants that have changed ownership and had not notified the Commission of a change by this date will not be permitted to proceed with the application. The OLCC will inactivate the application.

Finally, SB 218 directs OLCC to adopt rules establishing **timelines** for producer applicants to complete the licensing application process. At its August 2019 meeting the Commission adopted temporary rules to meet this objective. **Effective September 1, 2019** the following timelines became applicable to ***all pending producer applications***:

- Applications currently assigned to an investigator or in a hold status must continue to follow all previously communicated deadlines for completing the licensing process (from application submission to license issuance). Applications that are not completed within these previously communicated deadlines will be inactivated.
- All producer applications assigned to an investigator **after September 1, 2019** (including those re-assigned from a hold status) **will have 60 days to complete the licensing process**. The 60 day period begins when the applicant is notified of assignment to an investigator.
- If a producer applicant cannot complete the process in 60 days and has not previously been in a hold status, the OLCC will un-assign the application and place it on hold until the Commission is able to reassign it. Because of the volume of other new applications, renewal applications and change requests OLCC staff must process, there could be a significant wait time before the OLCC reassigns the application.
- Once reassigned, applicants will be limited to 60 additional days to complete and submit all required documents and be approved by the OLCC for a license. If the applicant cannot complete the process within the additional 60 days, the application will be deemed incomplete and inactivated.

Retailer, Processor, Wholesaler Applicants

New Timelines and Prohibited Application Changes

Because the OLCC did not initially establish firm deadlines and did not limit changes to some application types, there have been bottlenecks and delays in processing for all applications, not just producer applications. Therefore it is critical that there are uniform completion timelines and restrictions on changes for all license types in order to reduce the waiting time for all applicants that need investigation and approval.

Effective November 1, 2019, the Commission will by policy and practice ***apply the same timelines described above for producers to retailer, processor and wholesaler applications.***¹ This means:

- Applications assigned or placed in a hold status **prior to November 1, 2019** must continue to follow all previously communicated deadlines for completing the licensing process. Any application that is not completed within previously communicated deadlines and has previously been in a hold status **will be inactivated**.
- All retailer, processor and wholesaler applications assigned **after November 1, 2019** (including those re-assigned from a hold status) will have **60 days to complete the licensing process**.

¹The Commission will use these timelines in determining whether an application should be deemed incomplete under OAR 845-025-1030, until permanent rulemaking establishes specific timelines in rule through the formal APA process.

- If an applicant cannot complete the process in 60 days and has not previously been in a hold status, the OLCC will un-assign the application and place it on hold until the Commission is able to reassign it; the reassignment will NOT take place until after other applications have been processed. Due to the volume of other license actions waiting to be processed, there could be a significant wait time before the OLCC reassigns the application.
- Once reassigned, applicants will be limited to 60 additional days to complete and submit their application and be approved by the OLCC for a license. . If the applicant cannot complete the process within the additional 60 days, the application will be deemed incomplete and inactivated.

In addition, **effective November 1, 2019**, OLCC will ***no longer allow certain changes*** to be made to retailer, processor or wholesaler applications:

- **Change in Location.** Applicants for a retailer, processor or wholesaler application will not be permitted to change the location named in their original application unless they submitted an approved LUCS for a new location to the Commission **prior to November 1, 2019**. Applicants that fail to submit a LUCS and cannot proceed with their original application will be deemed incomplete and the OLCC will inactivate it.
- **Changing assigned applications.** Applications are not processed solely based on the date & time of submission; available agency resources and the Commission’s licensing priorities are factors used to determine the assignment order. When the OLCC is ready to assign an application for investigation, the applicant **will NOT** be allowed to substitute or “swap” out the originally submitted application with a different application submitted at a later date. This applies to all license types.
- **Change in license type.** This means, for example, that an applicant for a retailer license will not be able to change their application to obtain a processor license, without submitting a new application.

The OLCC will accept notice of these types of changes in writing via email **until 5p.m. on October 31, 2019**. Applicants can send a notice of changes and necessary supporting documentation to marijuana.licensing@oregon.gov. Applicants seeking to transfer ownership of an application, which will also result in a change of location or application type, may use this [application transfer form](#) to notify the OLCC of the transfer and requested changes sought. OLCC staff will assist applicants who submitted timely documentation in making the requested changes when the application is ready to be assigned.

After November 1, 2019, OLCC will no longer accept the type of changes to applications outlined in this Bulletin. Applicants that cannot complete the licensing process without changes will be deemed incomplete and inactivated.

Laboratory Applicants

Due to the various complexities associated with obtaining and maintaining a laboratory license, at this time OLCC will not be applying timelines or limiting changes in the application, except that a laboratory application cannot change license type. Applications for a laboratory license must still be diligent in moving towards completing the licensing process, or may be deemed incomplete and inactivated under OAR 845-025-1030.

New Timelines for Existing Licensees

Producer, Processor, Laboratory, Wholesaler, and Retailer Licensees

In an effort to accelerate the pace of approvals, and hold existing licensees more accountable for maintaining their licensing requirements, **effective November 1, 2019** the Commission will implement the following completion timeline requirements for renewals and change requests submitted by licensees:

- **Renewal of existing licenses.** Once the OLCC assigns a renewal application² for investigation, the licensee will have **60 days** to complete their renewal process, including providing the investigator with any additional requested documents needed to complete an investigation. Licensees who fail to meet this timeframe will be deemed incomplete and will receive a formal Notice proposing to cancel their license.
- **Change requests.** Change requests submitted by licensees must be completed within **60 days** of assignment. This includes: changes of location, changes of ownership, changes of business structure, changes in endorsements, and similar changes that require OLCC approval. If a licensee fails to meet this timeframe the OLCC will inactivate their change request and the licensee will need to submit a new request when they are actually ready.

Questions?

- If you have any questions about these changes or this Bulletin please send them to: marijuana.licensing@oregon.gov.
- Submit notice of changes and documentation described in this Bulletin to marijuana.licensing@oregon.gov. Be sure to include your name, business name, license or application number, and if assigned the name of your investigator.

² Licensees must submit a renewal application through the online licensing within **90 days** of their license expiring in order to continue exercising license privileges. Licensees will automatically be given a Conditional Letter of Authority (sometimes referred to as a “CLA”) to continue operating while the Commission is investigating the application.