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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 845
OREGON LIQUOR CONTROL COMMISSION

FILED

12/28/2018 2:33 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: The amendments enable industrial hemp to be sold into and processed in the recreational market.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/29/2019 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.

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Filed By:
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HEARING(S)

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

DATE: 01/15/2019

TIME: 10:00 AM - 11:00 AM

OFFICER: Bryant Haley

ADDRESS: Oregon Liquor Control
Commission

9079 SE McLoughlin Blvd.
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NEED FOR THE RULE(S):

Division 25 of Chapter 845 of the Oregon Administrative Rules sets forth the privileges and prohibitions for licensees and permittees of the Commission regarding the recreational cannabis market. The revisions within this package were made to implement the changes made by the 2018 Oregon legislature (HB 4089) relating to industrial hemp.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

2018 Oregon Legislature House Bill 4089 (available from the Oregon State Legislature, Office of Legislative Counsel).

2018 Oregon Legislature House Bill 4089 Fiscal and Revenue Impact (available from Oregon State Legislature, Legislative Revenue Office).

ORS 475B (available from the Oregon State Legislature, Office of Legislative Counsel).

OLCC 2018 Industrial Hemp Package rule file (available from the Oregon Liquor Control Commission).

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 rules will implement the provisions of 2018 HB 4089 which allows for hemp growers and handlers licensed by the ODA to transfer industrial hemp and industrial hemp products into the OLCC marijuana market. The Commission forecasts that this package will have the following effects upon different layers of licensees:

Marijuana Producers will see an infusion of usable hemp and hemp-derived consumables into the regulated market. The Commission forecasts that this could affect the price of usable marijuana. Specifically, industrial hemp has much lower fees, oversight and security requirements. Hemp growers and handlers may be able to price their products at a lower price point due the lower costs of regulation. Further, marijuana producers will compete for "shelf space" with industrial hemp products.

Marijuana Processors with an industrial hemp endorsement will be able to accept and blend industrial hemp products. The Commission forecasts that this will have a positive impact upon marijuana processors, as they will be able to purchase industrial hemp flower, concentrates or extracts at a lower price point than marijuana items.

Marijuana Wholesalers will be able to purchase and resell industrial hemp flower and industrial hemp items. This provides wholesalers with an additional pool of potential clients by serving as the distribution channel for makers of consumer-ready hemp items to access marijuana retailers.

Marijuana Retailers: Will see an infusion of industrial hemp items into the market. This will give retailers the ability to sell more cannabidiol (CBD) products to consumers and compete with non-licensed entities that are already selling these products.

(b) Local Government.

The Commission forecasts that these rules will have a neutral impact, as the rules do not apply to them.

(c) State Agencies.

These rules will incur costs to state agencies.

The Oregon Liquor Control Commission (OLCC) will need to certify hemp handlers and growers who wish to transfer products into the recreational system. This will also require the Commission to issue industrial hemp endorsements to

processor licensees that wish to accept, process and sell hemp items. Further, the Commission will subsequently be required to monitor and track this new input into the market.

The Oregon Department of Agriculture (ODA) will need to ensure that all of their rules and regulations are being followed. Further, the ODA will need to coordinate with the Commission over policy and compliance issues surrounding industrial hemp. Additional businesses may register with ODA in order to access sales through marijuana retailers.

(d) The Public.

The Commission expects the proposed rules package may have a positive impact upon consumers of industrial hemp, as all OLCC retail shops will be able to sell industrial hemp products.

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 expects a neutral impact upon local government, as the rules do not apply to them.

The Oregon Liquor Control Commission will need to certify hemp handlers and growers who wish to transfer products into the recreational system. The Commission will subsequently be required to monitor and track this new input into the market.

The Oregon Department of Agriculture will need to ensure that all of their rules and regulations are being followed. Further, the ODA will need to coordinate with the Commission over policy and compliance issues surrounding industrial hemp. Additional businesses may register with ODA in order to access sales through marijuana retailers.

The Commission forecasts that the public should continue to benefit from the regulation of marijuana and hemp items and the taxation of marijuana items. However, regulation and enforcement will have impacts upon the agencies listed above.

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 December 26, 2018, the Commission has issued 2,091 licenses to marijuana producers, processors, wholesalers, laboratories and retailers. As of December 20, 2018, the Oregon Department of Agriculture has 633 industrial hemp grower registrations and 220 industrial hemp handler registrations.

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

In order to comply with these rules, licensees who wish to process or sell industrial hemp may incur costs relating to reporting, receiving the proper hemp endorsement, record keeping and other administrative activities required for compliance.

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

In order to comply with these rules, licensees who wish to process or sell industrial hemp may incur costs relating to reporting, receiving the proper hemp endorsement, record keeping and other administrative activities required for compliance.

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

On September 27, 2018 the Commission held an advisory committee meeting on the topic.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

845-025-1015, 845-025-1060, 845-025-1335, 845-025-2700, 845-025-2705, 845-025-2750, 845-025-2755, 845-025-2760, 845-025-2775, 845-025-2785, 845-025-2800, 845-025-3210, 845-025-3215, 845-025-3285, 845-025-3500, 845-025-8520, 845-025-8590

AMEND: 845-025-1015

RULE SUMMARY: The amendments add definitions for industrial hemp due to the legislative changes made by House Bill 4089 passed during the 2018 legislative session.

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 item impure by adding foreign or inferior ingredients or substances.

A marijuana item may be considered to be adulterated if:

- (a) It bears or contains any poisonous or deleterious substance in a quantity rendering the marijuana item injurious to 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) "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.
- (4) "Authority" means the Oregon Health Authority.
- (5) "Business day" means Monday through Friday excluding legal holidays.
- (6) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana or industrial hemp.
- (7) "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.
- (8) "Cannabinoid edible" means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.
- (9) "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.
- (10) 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.¶

(11) "Cannabinoid tincture" means a liquid cannabinoid product packaged in a container of 4 fluid ounces or less intended for human consumption or ingestion that consists of a non-potable solution comprised of either:¶

(a) At least 25% non-denatured alcohol, in addition to cannabinoid concentrate, extract or usable marijuana, and perhaps other ingredients but does not contain added sweeteners, that is exempt from the Liquor Control Act under ORS 471.035; or¶

(b) Glycerin, plant-based oil, or concentrated syrup, cannabinoid concentrate, extract or usable marijuana, and other ingredients, but does not contain any added sweeteners.¶

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

(13) "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.¶

(14) "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.¶

(15) "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.¶

(146) "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.¶

(157) "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.¶

(168) "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.¶

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

(1820) "Commission" means the Oregon Liquor Control Commission.¶

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

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

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

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

(235) (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.¶

(246) "Financial interest" means having an interest in the business 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 or 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 or licensee for use in the business; or¶

(D) Being the spouse or domestic partner of an applicant or licensee. For purposes of this subsection, "domestic partners" includes adults who qualify for a "domestic partnership" as defined under ORS 106.310.¶

(b) Financial interest does not include any investment that the investor does not control in nature, amount or timing.¶

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

(268) "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.¶

(279)(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.¶

(2830) "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.¶

(31) "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.¶

(329) "Hemp Grower" means a person or entity that is registered with the Oregon Department of Agriculture under ORS 571.305 to produce industrial hemp.¶

(303) "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.¶

(314) "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.¶
- (35) "Immature marijuana plant" means a marijuana plant that is not flowering.¶
- (326) "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.¶
- (337) "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.¶
- (348) "Inventory Tracking" means all of the activities and documentation processes required by these rules to track marijuana and marijuana items from seed to sale in the cannabis tracking system.¶
- (359) "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.¶
- (40) "Invited guests" means family member and business associates of the licensee, not members of the general public.¶
- (3641) "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.¶
- (3742) "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.¶
- (438) "Licensee" means any person who holds a license issued under ORS 475B.070, 475B.090, 475B.100, or 475B.105 and includes:¶
 - (a) 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 added to 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 the license under OAR 845-025-1030.¶
- (3944) "Licensee representative" means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity.¶
- (405) "Limited access area" means a building, room, or other contiguous area on a licensed premises where a marijuana item is produced, processed, stored, weighed, packaged, labeled, or sold, but does not include a consumer sales area on a licensed retailer premises.¶
- (416) "Marijuana"¶
 - (a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.¶

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.¶

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

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

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

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

(4651) "Marijuana producer" means a person who produces marijuana in this state.¶

(4752) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.¶

(4853) "Marijuana wholesaler" means a person who purchases marijuana items in this state for resale to a person other than a consumer.¶

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

(505) "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.¶

(516) "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.¶

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

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

(549) "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.¶

(5560) "ORELAP" means the Oregon Environmental Laboratory Accreditation Program administered by the Authority pursuant to ORS 438.605 to 438.620. ¶

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

(5762) "Permittee" means any person who holds a Marijuana Workers Permit.¶

(5863) "Person" has the meaning given that term in ORS 174.100.¶

(5964) "Person responsible for a marijuana grow site" or "PRMG" has the meaning given that term in OAR 333-008-0010.¶

(605) "Premises" or "licensed premises" includes the following areas of a location licensed under section ORS 475B.070, 475B.090, 475B.100, or 475B.105:¶

(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.¶

(616) "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.¶

(627) "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.¶

(638) "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.¶

(649) "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.¶

(6570) "Producer" means a marijuana producer licensed by the Commission.¶

(6671) "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.¶

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

(6873) "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.¶

(6974) "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.¶

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

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

(727) "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.¶

(738) "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.¶

(749) "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.¶

(7580) "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.¶

(7681) "These rules" means OAR 845-025-1000 to 845-025-8750.¶

(7782) UID Tags.¶

(a) "UID tag" means unique identification tag ordered and received from the Commission's designated vendor for CTS.¶

(b) "Assigned UID tag" means a unique identification tag that has been designated in CTS and physically attached to a marijuana plant or receptacle holding marijuana items.¶

(c) "UID number" means the 24-digit number on the UID tag that was provided by the Commission's designated vendor for CTS.¶

(783)(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.¶¶

(7984) "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.¶¶

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

Statutory/Other Authority: ORS 475B.025

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

AMEND: 845-025-1060

RULE SUMMARY: The amendments add a \$1,000 fee for a hemp certificate.

CHANGES TO RULE:

845-025-1060

Fees ¶¶

(1) At the time of initial license or certificate application an applicant must pay a \$250 non-refundable application fee. ¶¶

(2) If the Commission approves an application and grants an annual license, the following fees must be paid, prorated for an initial license that is issued for six months or less: ¶¶

(a) Producers: ¶¶

(A) Micro Tier I \$1,000. ¶¶

(B) Micro Tier II \$2,000. ¶¶

(C) Tier I \$3,750. ¶¶

(D) Tier II \$5,750. ¶¶

(E) Medical Canopy \$100¶¶

(b) Processors: \$4,750. ¶¶

(c) Wholesalers: \$4,750. ¶¶

(d) Micro Wholesalers: \$1,000. ¶¶

(e) Retailers: \$4,750. ¶¶

(f) Laboratories: \$4,750. ¶¶

(g) Sampling Laboratory: \$2,250.¶¶

(3) If the Commission approves an application and grants a research certificate, the fee is \$4,750 for a three-year term. ¶¶

(4) If the Commission approves an application and grants a hemp certificate, the fee is ~~\$5~~1000 for one year.¶¶

(5) At the time of license or certificate application renewal, an applicant must pay a \$250 non-refundable application fee. ¶¶

(6) If the Commission receives a renewal application, the renewal license or certificate fees must be paid in the amounts specified in subsections (2), (3) and ~~(34)~~ of this rule at the time of application. ¶¶

(7) If the Commission approves an initial or renewal application and grants a marijuana worker permit, the individual must pay a \$100 permit fee. ¶¶

(8) The Commission shall charge the following fees: ¶¶

(a) Criminal background checks: \$50 per individual listed on a license application (if the background check is not part of an initial or renewal application).¶¶

(b) Transfer of location of premises review: \$1000 per license. ¶¶

(c) Packaging preapproval: \$100. ¶¶

(d) Labeling preapproval: \$100. ¶¶

(e) Change to previously approved package or label: \$25.¶¶

(f) Transferring packaging or labeling application to another individual or entity: \$25 per application.

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.105, 475B.266, 475B.560, 475B.610, 475B.620, 2018 OL Ch. 116 Sec. 14, ORS 571.336, 2018 OL Ch. 116

AMEND: 845-025-1335

RULE SUMMARY: The amendments add industrial hemp plants and hemp items to the allowable items that licensees may display at promotional events.

CHANGES TO RULE:

845-025-1335

Marijuana Promotional Events ¶¶

(1) Eligibility. ~~Oregon Laws 2017, chapter 183, section 17~~RS 475B.539 allows businesses licensed by the Commission under ORS 475B.010 to 475B.395 to transport marijuana items to and exhibit marijuana items at a trade show or similar event. This rule sets the qualifications and requirements for promotional events.¶¶

(2) Definitions.¶¶

(a) "Approved area" means the area approved by the Commission to display and store marijuana items.¶¶

(b) "Event organizer" means a person licensed under ORS 475B.010 to 475B.395 who submits a promotional event application and serves as the primary contact with the Commission.¶¶

(c) "Participating licensee" means a person licensed under ORS 475B.010 to 475B.395 who has been named as a participant in a promotional event application.¶¶

(d) "Promotional event" means an event at which marijuana items are displayed pursuant to the requirements of this rule.¶¶

(3) Event Organizer.¶¶

(a) One participating licensee listed on the application must be identified as the event organizer. Participating licensees and the event organizer may be charged with any violations of this rule.¶¶

(b) Event Organizers must:¶¶

(A) Receive approval from the Commission prior to the event date that specifies all approved participating licensees;¶¶

(B) Update and maintain the application;¶¶

(C) Verify that all participating licensees' manifests accurately reflect the marijuana items and hemp items that are transported to the promotional event;¶¶

(D) Maintain a log of participating licensees' attendance;¶¶

(E) Keep a copy of the approved application at the event; and¶¶

(F) Be present or designate another license representative to be present during the event.¶¶

(4) Promotional events may not be held:¶¶

(a) At a location licensed under ORS 475B.010 to 475B.395 or 475B.560; or¶¶

(b) In a city or county that has adopted an ordinance to prohibit recreational marijuana businesses.¶¶

(5) Promotional events may be held at a location that holds a license under ORS 471, as long as no alcohol beverages are stored or consumed within the approved area.¶¶

(6) Approved promotional events allow participating licensees to display:¶¶

(a) Marijuana plants from the inventory of the participating licensee; and¶¶

(b) Marijuana items from the inventory of the participating licensee;¶¶

(c) Hemp plants or hemp items from the inventory of the participating licensee if received, processed, and otherwise in compliance with these rules.¶¶

(7) An event organizer or participating licensee may not:¶¶

(a) Display any marijuana items or hemp items not in the participating licensee's inventory;¶¶

~~(b) Display any hemp items;~~¶¶

~~(c) Sell, transfer or distribute any marijuana items or hemp items at the promotional event;~~¶¶

~~(d) Distribute any samples of marijuana items or hemp items; or~~¶¶

~~(e) Allow consumption or use of alcohol ~~or~~, marijuana items, or hemp items of any kind in the approved area.~~¶¶

(8) Transportation and Possession.¶¶

(a) Participating licensees may not transport to or possess at the promotional event more than the following

amounts:¶¶

(A) 24 ounces of usable marijuana;¶¶

(B) 4 mature marijuana plants;¶¶

(C) 10 immature plants;¶¶

(D) 500 seeds, tracked by count in CTS;¶¶

(E) 16 ounces of cannabinoid products in solid form; or¶¶

(F) 72 ounces of cannabinoid products in liquid form.¶¶

(b) All participating licensees must immediately return all marijuana items and hemp items to their licensed premises after the conclusion of the event.¶¶

(9) Promotional event CTS requirements.¶¶

(a) All marijuana items or hemp items must be tracked and tagged pursuant to CTS rule requirements.¶¶

(b) Each marijuana item or hemp item is required to have the item's associated UID tag affixed to the item or package;¶¶

(c) All participating licensees must generate a printed transport manifest in CTS that accompanies all marijuana items or hemp items for the duration of the promotional event that contains the following information:¶¶

(A) The name, contact information of a licensee representative, licensed premises address and license number of the licensee transporting the marijuana items or hemp items;¶¶

(B) Product name and quantities (by weight or unit) of each marijuana item or hemp item contained in each transport, along with the UIDs for every item;¶¶

(C) The date of transport and approximate time of departure;¶¶

(D) Date and estimated time when the marijuana items or hemp items will be returned to the licensed premises at the conclusion of the promotional event; and¶¶

(E) Delivery vehicle make and model and license plate information.¶¶

(d) Failure to properly track marijuana items or hemp items as required in this subsection is a Category III violation. An intentional violation of this rule is a Category I violation and may result in license revocation.¶¶

(10) Application Requirements.¶¶

(a) The Commission may refuse to process any application that is not made in writing at least 28 days before the date of the event in a form and manner prescribed by the Commission.¶¶

(b) The Commission may only accept one application per promotional event.¶¶

(c) The Commission may require additional forms, documents, or information as part of the application.¶¶

(d) The Commission may refuse to process any application that is not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate and process the application.¶¶

(e) The Commission may limit approval of any application to a single day or to any consecutive number of days, not to exceed sixteen consecutive days.¶¶

(11) The application for a promotional event under this rule shall include:¶¶

(a) The names of all participating licensees;¶¶

(b) A description of the amount and types of marijuana items or hemp items proposed to be transported and displayed at the promotional event;¶¶

(c) A written control plan that the Commission determines:¶¶

(A) Adequately manages the event to prevent unlawful activity and violations; and¶¶

(B) Prevents any person under 21 years to be admitted to the areas where marijuana items are present at the event.¶¶

(d) The names of the licensee representatives onsite at the promotional event and if applicable, their worker permit numbers issued under OAR 845-025-5500;¶¶

(e) Identification of the premises or area proposed for the promotional event;¶¶

(f) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall, minor control plan and proposed hours of operation; and¶¶

(g) A statement signed by every participating licensee indicating that the licensee agrees to follow the final

approved control plan.¶¶

(12) Denial.¶¶

(a) The Commission may deny any application for a promotional event that does not meet the requirements of this rule. The Commission may deny, cancel or restrict an application for a promotional event:¶¶

(b) For any reason for which the Commission may deny, cancel or restrict a regular license or if the Commission, in its discretion, determines that promotional event presents a risk to public health and safety or;¶¶

(c) If any participating licensee has been found to have violated ORS 475B.010 to 475B.395 or any rules adopted there under in the past 24 months.¶¶

(13) When the Commission approves a written control plan required under this rule, the licensee(s) must follow that written plan. Failure to follow that written plan is a Category III violation. An intentional violation of this rule is a Category I violation and may result in license revocation.¶¶

(14) The Commission may immediately revoke authority of any participating licensee to participate in the promotional event if the Commission has reasonable grounds to believe continued operation of the event presents a risk to public health and safety.

Statutory/Other Authority: ORS 475B.025 & ~~2017 SB 1057~~

Statutes/Other Implemented: ~~2017 SB 1057~~ ORS 475B.539

AMEND: 845-025-2700

RULE SUMMARY: The amendments restructure the rule to align with statutory changes made by House Bill 4089.

CHANGES TO RULE:

845-025-2700

Application for Industrial Hemp Grower Certificate Application; Denial; Revocation

~~(1) Hemp growers and handlers may apply for an industrial hemp grower certificate to transfer industrial hemp to a marijuana processor that holds a processor licensed under ORS 475B.090 or a wholesaler license issued under ORS 475B.1090. Hemp handlers may apply for an industrial hemp certificate to transfer industrial hemp concentrates and industrial hemp extracts to a marijuana processor that holds a license.~~¶

~~(2) The application must:~~¶

~~(a) Include proof of registration under ORS 571.305;~~¶

~~(b) Include the certificate and application fees specified in OAR 845-025-1060;~~¶

~~(c) Identify the registered Oregon Department of Agriculture location from which the industrial hemp will be transferred from for transport to a Commission licensee; and~~¶

~~(d) Include any other information identified in the application form.~~¶

~~(3) Incomplete Applications.~~¶

~~(a) 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 certificate fee has not been paid, or some or all of the additional information required under these rules is not submitted.~~¶

~~(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 ten days of the date the incomplete notice was mailed to the applicant. The Commission shall give the applicants the opportunity to be heard if an application is rejected. A hearing under this section is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.~~¶

~~(2) The application must include~~ subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.¶

~~(4) Denial.~~¶

~~(a) The Commission may deny any application under this rule if:~~¶

~~(aA) Proof of registration under ORS 571.305; The application does not meet the requirements of subsection (2) of this rule;~~¶

~~(B) The applicant submits false or misleading information; or~~¶

~~(bC) The license and application fees specified in OAR 845-025-1060; and~~¶

~~(c) Any other information Commission has reasonable cause to believe that the applicant does not have a good record of compliance with ORS 475B.010 to 475B.395 or applicable rules adopted thereunder, or with ORS 571.300 to ORS 571.348 or applicable rules adopted thereunder prior to or after certification.~~¶

~~(b) If the Commission denies an application, identified in the application form shall issue a notice of denial in accordance with ORS 183. The applicant has the right to a hearing in accordance with ORS 183.~~¶

~~(35) Denial. The Commission will deny any application under this rule that does not meet~~ Revocation. ¶

~~(a) The Commission shall revoke any industrial hemp grower certificate if the holder no longer holds a valid industrial hemp grower registration issued under ORS 571.305.~~¶

~~(b) The Commission may revoke any industrial hemp grower certificate if:~~¶

~~(A) The holder violates a provision of ORS 475B.010 to 475B.395, ORS 475B.550 to 475B.590, 475B.600 to 475B.655 or Commission rules adopted the requirements of (2) or contains false or misleading information under;~~¶

~~(B) The holder violates a provision of ORS 571.300 to ORS 571.348 or a rule adopted thereunder; or~~¶

~~(C) The holder submits false or misleading information to the Commission.~~¶

~~(c) If the Commission revokes a certificate, the holder has a right to a hearing in accordance with ORS 183.~~

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: 2017~~8~~ OL Ch. 534-116 Sec. 15, ORS 571.336

ADOPT: 845-025-2705

RULE SUMMARY: The new rule outlines the application, denial and revocation process for industrial hemp handlers. This rule is being adopted to align the Commission's rules with the changes made by HB 4089.

CHANGES TO RULE:

845-025-2705

Industrial Hemp Handler Certificate Application; Denial; Revocation

(1) Hemp handlers may apply for an industrial hemp certificate to transfer industrial hemp or hemp items to a processor licensed under ORS 475B.090, a wholesaler licensed under ORS 475B.100, or a retailer licensed under ORS 475B.105.¶

(2) The application must:¶

(a) Include proof of registration under ORS 571.305;¶

(b) Include the certificate and application fees specified in OAR 845-025-1060; ¶

(c) Identify the registered Oregon Department of Agriculture location from which the industrial hemp or hemp items will be transferred from for transport to a Commission licensee; and¶

(d) Include any other information identified in the application form.¶

(3) Incomplete Applications.¶

(a) 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 certificate fee has not been paid, or some or all of the additional information required under these rules is not submitted.¶

(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 ten days of the date the incomplete notice was mailed 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.¶

(4) Denial.¶

(a) The Commission may deny any application under this rule if:¶

(A) The application does not meet the requirements of subsection (2) of this rule; ¶

(B) The applicant submits false or misleading information; or¶

(C) The Commission has reasonable cause to believe that the applicant does not have a good record of compliance with ORS 475B.010 to 475B.395 or applicable rules adopted thereunder, or with ORS 571.300 to ORS 571.348 or applicable rules adopted thereunder prior to or after certification.¶

(b) If the Commission denies an application, it shall issue a notice of denial in accordance with ORS 183. The applicant has the right to a hearing in accordance with ORS 183.¶

(5) Revocation. ¶

(a) The Commission shall revoke any industrial hemp handler certificate if the holder no longer holds a valid industrial hemp handler registration issued under ORS 571.305.¶

(b) The Commission may revoke any industrial hemp certificate if:¶

(A) The holder violates a provision of ORS 475B.010 to 475B.395, ORS 475B.550 to 475B.590, 475B.600 to 475B.655 or Commission rules adopted thereunder; ¶

(B) The holder violates a provision of ORS 571.300 to ORS 571.348 or a rule adopted thereunder; or¶

(C) The holder submits false or misleading information to the Commission.¶

(c) If the Commission revokes a certificate, the holder has a right to a hearing in accordance with ORS 183.

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 571.336, 2018 OL 116 Sec. 15

AMEND: 845-025-2750

RULE SUMMARY: The amendments restructure the rule to align with the statutory changes made by HB 4089.

CHANGES TO RULE:

845-025-2750

Industrial Hemp Grower Certificate Privileges; Prohibitions

(1) A Commission-certified hemp grower may deliver industrial hemp to a ~~marijuana processor or wholesaler~~ that holds a license issued under ORS 475B.090 or 475B.100 in accordance with ~~subsection (3) and (4) of this rule.~~this rule.¶

(2) ~~If transferring, selling or transporting to a Commission licensee, a Commission-certified hemp grower may:~~¶

(2a) ~~A hemp handler may deliver industrial hemp concentrates and industrial hemp extracts to a marijuana processor that holds a license issued under ORS 475B.090 in accordance with subsection (3) and (4) of this rule.~~Transfer, sell, or transport harvested industrial hemp to a processor licensed under ORS 475B.090 that holds an industrial hemp endorsement; or¶

(b) ~~Transfer, sell, or transport harvested industrial hemp to a wholesaler licensed under ORS 475B.100.~~¶

(3) ~~When transferring, selling, or transporting pursuant to section (2) of this rule, a Commission-certified hemp grower:~~¶

(a) ~~May only transfer, sell, or transport industrial hemp that:~~¶

(A) ~~Has been tested in accordance with the Authority's rules for testing usable marijuana in OAR 333-007-0300 to 333-007-0500 and OAR 333, division 64;~~ ¶

(B) ~~Has been tested for potency in accordance with OAR 333-007-0430, notwithstanding whether a test for potency would be required for usable marijuana; and~~ ¶

(C) ~~Otherwise complies with the requirements for marijuana items under ORS 475B.010 to 475B.545, ORS 475B.550 to 475B.590, and 475B.600 to 475B.655 and Commission rules.~~¶

(3b) ~~The~~May only transfer industrial hemp grower or handler at the location identified in the application under ~~m~~OAR 845-025-2700(2)(c); ¶

(c) ~~Must:~~¶

(aA) ~~Hold a valid Industrial Hemp Grower Certificate issued by the Commission;~~¶

(bB) ~~Only deliver to a marijuana processor licensed under ORS 475B.090 that holds an industrial hemp endorsement~~Provide the licensee a copy of any test result conducted on the industrial hemp. Test results include, but are not limited to, any pre-harvest test result conducted under OAR 603-048-0600 and any results from research & development testing;¶

(C) ~~Comply with CTS requirements in accordance with OAR 845-025-2775; and~~¶

(eD) ~~Provide the marijuana processor a copy of any test result conducted on the industrial hemp, industrial hemp concentrate or extract pursuant to OAR 603-048-0600 and~~Transport industrial hemp in compliance with the requirements for marijuana items under OAR 845-025-7700(2), (3)(a)-(b), (5)-(16).¶

(d) ~~May not transfer:~~¶

(A) ~~Any industrial hemp that has failed the testing described in OAR 603-048-0600 to 603-048-0650;~~¶

(B) ~~Any batch of harvested industrial hemp to a licensee that exceeds the THC limits specified in OAR 845-025-2760;~~¶

(C) ~~Any living industrial hemp plants; or~~¶

(D) ~~Industrial hemp seed.~~¶

(4) ~~Failed potency testing; remediation.~~¶

(a) ~~If a batch of industrial hemp tested under OAR 333-007-0430 exceeds the THC limits specified in OAR 845-025-2760 when a compliance test is conducted under OAR 60333-048-2300-07-0430, it fails potency testing for the purposes of these rules.~~ ¶

(4b) ~~If a batch of industrial hemp fails potency testing, the Commission-certified hemp grower or handler may only deliver industrial hemp and industrial hemp concentrates or extracts if they have passed required testing under OAR 603-048-0600 and OAR 603-048-2300~~must;¶

(A) Store and segregate the batch in a secure area until it is transferred or destroyed;¶

(B) Label the batch clearly to indicate it has failed a test and the label must include a test batch number; and¶

(C) Either: ¶

(i) Transfer the batch of industrial hemp that failed potency testing to a Commission-certified hemp handler for the purposes of processing the industrial hemp into a hemp item that does not exceed the THC limits specified in OAR 845-025-2760; or¶

(ii) Destroy the batch of industrial hemp that failed potency testing in a manner specified by the Commission.¶

(c) A Commission-certified hemp grower may not transfer, sell, or transport industrial hemp that fails potency testing other than as provided in these rules.

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.025, ORS 571.336, 20178 OL, Ch. 531116

ADOPT: 845-025-2755

RULE SUMMARY: The new rule clarifies both the privileges and prohibitions for industrial hemp handler certificate holders.

CHANGES TO RULE:

845-025-2755

Industrial Hemp Handler Certificate Privileges; Prohibitions

(1) A Commission-certified hemp handler may deliver industrial hemp or hemp items to a processor, wholesaler, or retailer that holds a license issued under ORS 475B.090, 475B.100, or 475B.105 in accordance with this rule.¶

(2) If transferring, selling or transporting to a Commission licensee, a Commission-certified hemp handler may only:¶

(a) Transfer, sell, or transport harvested industrial hemp or hemp items to a processor licensed under ORS 475B.090 that holds an industrial hemp endorsement;¶

(b) Transfer, sell, or transport harvested industrial hemp or hemp items to a wholesaler licensed under ORS 475B.100; or¶

(c) Transfer, sell, or transport hemp items to a retailer licensed under ORS 475B.105.¶

(3) When transferring, selling, or transporting pursuant to subsection (2) of this rule a Commission-certified hemp handler:¶

(a) May only transfer, sell, or transport industrial hemp and hemp items that:¶

(A) Have been tested in accordance with the Authority's rules for testing the equivalent marijuana item in OAR 333-007-0300 to 333-007-0500 and OAR 333, division 64;¶

(B) Have been tested for THC and CBD concentration in accordance with OAR 333-007-0430, notwithstanding whether a test for potency would be required for the equivalent marijuana item; and¶

(C) Otherwise complies with the requirements for marijuana items under ORS 475B.010 to 475B.545, ORS 475B.550 to 475B.590, and 475B.600 to 475B.655 and Commission rules. ¶

(b) May only transfer industrial hemp or hemp items from the location identified in the application under OAR 845-025-2705(2)(c).¶

(c) Must:¶

(A) Hold a valid Industrial Hemp Handler Certificate issued by the Commission.¶

(B) Provide the licensee a copy of any test result conducted on the industrial hemp or hemp items. Test results include, but are not limited to, any pre-harvest test result conducted under OAR 603-048-0600 and any results from research & development testing. ¶

(C) Comply with CTS requirements in accordance with OAR 845-025-2775.¶

(D) Transport industrial hemp or hemp items in compliance with the requirements for marijuana items under OAR 845-025-7700(2), (3)(a)-(b), (5) -(16).¶

(d) May not transfer to a licensee:¶

(A) Any industrial hemp that has failed the testing described in OAR 603-048-0600 to 603-048-0650;¶

(B) Any batch of harvested industrial hemp that exceeds the THC limits specified in OAR 845-025-2760;¶

(C) Any hemp item that exceeds the THC limits specified in OAR 845-025-2760;¶

(D) Any living industrial hemp plants; or¶

(E) Industrial hemp seed.¶

(4) Failed potency testing; remediation.¶

(a) If a batch of industrial hemp or hemp items tested under OAR 333-007-0430 exceeds the THC limits specified in OAR 845-025-2760 when a compliance test is conducted under OAR 333-007-0430, it fails potency testing for the purposes of these rules. ¶

(b) If a batch of industrial hemp or hemp items fails potency testing, the Commission-certified hemp handler must:¶

(A) Store and segregate the batch in a secure area until it is transferred or destroyed;¶

(B) Label the batch clearly to indicate it has failed a test and the label must include a test batch number; and¶

- (c) For each batch of industrial hemp or hemp items that fails potency testing, the Commission-certified hemp handler must:
- (A) Process the batch into a hemp item that does not exceed the THC limits specified in OAR 845-025-2760;
 - (B) Transfer the batch to a Commission-certified hemp handler for the purposes of processing the industrial hemp into a hemp item that does not exceed the THC limits specified in OAR 845-025-2760; or
 - (C) Destroy the batch in a manner specified by the Commission.
- (d) A Commission-certified hemp handler may not transfer, sell, or transport:
- (A) Any hemp item derived from a batch of industrial hemp or hemp items that failed potency testing except to a licensee or laboratory licensee as provided in these rules.
 - (B) Industrial hemp that fails potency testing other than as provided in these rules.
- (5) Equivalent marijuana items. For the purposes of this rule:
- (a) Cannabinoid capsule as defined in OAR 603-048-2310 is equivalent to cannabinoid capsule as defined in OAR 333-007-0310.
 - (b) Cannabinoid product as defined in OAR 603-048-2310 is equivalent to cannabinoid product as defined in OAR 333-007-0310.
 - (c) Harvested industrial hemp is equivalent to usable marijuana as defined in OAR 603-048-2310.
 - (d) Hemp concentrate or extract as defined in OAR 603-048-2310 is equivalent to cannabinoid concentrate or extract as defined in OAR 333-007-0310.
 - (e) Hemp edible as defined in OAR 603-048-2310 is equivalent to cannabinoid edible as defined in OAR 333-007-0310.
 - (f) Hemp stalk as defined in OAR 603-048-2310 is equivalent to usable marijuana as defined in OAR 333-007-0310.
 - (g) Hemp tincture as defined in OAR 603-048-2310 is equivalent to cannabinoid tincture as defined in OAR 333-007-0310.
 - (h) Hemp topical as defined in OAR 603-048-2310 is equivalent to cannabinoid topical as defined in OAR 333-007-0310.
 - (i) Hemp transdermal patch as defined in OAR 603-048-2310 is equivalent to cannabinoid transdermal patch as defined in OAR 333-007-0310.
 - (j) Usable hemp as defined in OAR 603-048-2310 is equivalent to usable marijuana as defined in OAR 333-007-0310.

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.025, ORS 571.336, 2018 OL Ch. 116

ADOPT: 845-025-2760

RULE SUMMARY: The new rule defines THC concentration limits for industrial hemp and hemp items within the recreational market.

CHANGES TO RULE:

845-025-2760

THC Concentration Limits for Industrial Hemp and Hemp Items

(1) This rule applies to:

(a) Commission-certified hemp growers and Commission-certified hemp handlers transferring industrial hemp or hemp items to licensees;

(b) Licensees receiving industrial hemp or industrial hemp items from licensees, Commission-certified hemp growers, or Commission-certified hemp handlers; and

(c) Retailers selling, transferring, or delivering hemp items to a consumer, patient, or primary caregiver in accordance with OAR 845-025-2800.

(2) For the purposes of this rule:

(a) "Total THC" means the amount or percentage of THC as calculated pursuant to OAR 333-064-0100.

(b) "Container" has the meaning given that term in OAR 845-025-7000.

(c) "Serving" has the meaning given that term in OAR 845-025-7000.

(3) Concentration, serving size, and container limits.

(a) Harvested industrial hemp may not exceed a concentration of one percent total THC.

(b) A hemp item may not exceed a concentration of one percent total THC.

(c) A hemp item other than usable hemp may not exceed 10 milligrams total THC in a container.

(d) A hemp item that is intended for human consumption may not exceed one milligram total THC per serving.

Statutory/Other Authority: ORS 475B.025, 2018 OL Ch 116 Ch. 15

Statutes/Other Implemented: ORS 475B.025, 2018 OL Ch 116 Ch. 15, ORS 571.336

ADOPT: 845-025-2775

RULE SUMMARY: The new rule outlines the Cannabis Tracking System (CTS) for industrial hemp and industrial hemp items that a Commission-certified hemp grower or Commission-certified hemp handler intends to transfer, sell or transport to a licensee.

CHANGES TO RULE:

845-025-2775

CTS Requirements for Industrial Hemp and Hemp Items

(1) This rule applies only to industrial hemp and industrial hemp items that a Commission-certified hemp grower or Commission-certified hemp handler intends to transfer, sell or transport to a licensee. ¶

(2) Commission-certified hemp growers and Commission-certified hemp handlers must:¶

(a) Enter any industrial hemp or hemp items into CTS prior to transfer to a licensee or laboratory licensee.¶

(b) Complete tracking as specified by Commission rules as applicable to industrial hemp and hemp items, including but not limited to: OAR 845-025-7500, 845-025-7520(1)(a),(b),(d),(e), (2), 845-025-7540, 845-025-7560, and 845-025-7580(1)(a)-(c), (e), (2), (5).¶

(c) Use CTS to record all transfers of industrial hemp and hemp items to a licensee or laboratory licensee.¶

(d) Use CTS to record all transfers of industrial hemp and hemp items that failed potency testing to a Commission-certified hemp handler in accordance with OAR 845-025-2750 to OAR 845-025-2755.¶

(3) Manifest. ¶

(a) A Commission-certified hemp grower transferring industrial hemp to a processor, wholesaler, or laboratory must generate a manifest in CTS that contains the following information:¶

(A) The name, contact information of the hemp grower's representative, address of where the industrial hemp is being transferred from as identified under OAR 845-025-2700(2)(c), and the hemp grower registration number designated by the Oregon Department of Agriculture;¶

(B) The name, contact information of the licensee representative, licensed premises address, and license number of the licensee receiving the delivery;¶

(C) Product name and quantities (by weight) of the industrial hemp contained in each transport, along with the UIDs for every item;¶

(D) The date of transport and approximate time of departure;¶

(E) Arrival date and estimated time of arrival;¶

(F) Delivery vehicle make and model and license plate number; and¶

(G) Name and signature of the hemp grower's representative accompanying the transport.¶

(b) A Commission-certified hemp handler transferring industrial hemp or hemp items to a processor, wholesaler, retailer, or laboratory must generate a manifest in CTS that contains the following information:¶

(A) The name, contact information of the hemp handler's representative, address of where the industrial hemp or hemp items are being transferred from as identified under OAR 845-025-2705(2)(c), and the hemp handler registration number designated by the Oregon Department of Agriculture;¶

(B) The name, contact information of the licensee representative, licensed premises address, and license number of the licensee receiving the delivery;¶

(C) Product name and quantities (by weight) of the industrial hemp or hemp items contained in each transport, along with the UIDs for every item;¶

(D) The date of transport and approximate time of departure;¶

(E) Arrival date and estimated time of arrival;¶

(F) Delivery vehicle make and model and license plate number; and¶

(G) Name and signature of the hemp handler's representative accompanying the transport.¶

(c) A Commission-certified hemp grower transferring industrial hemp that failed potency testing to a Commission-certified hemp handler in accordance with OAR 845-025-2750 must generate a manifest in CTS that contains the following information:¶

(A) The name, contact information of the hemp grower's representative, address of where the industrial hemp is

being transferred from as identified under OAR 845-025-2700(2)(c), and the hemp grower registration number designated by the Oregon Department of Agriculture;¶

(B) The name, contact information of the hemp handler's representative, address of where the industrial hemp is being transferred to as identified under OAR 845-025-2705(2)(c), and the hemp handler registration number designated by the Oregon Department of Agriculture;¶

(C) Product name and quantities (by weight) of the industrial hemp or hemp items contained in each transport, along with the UIDs for every item;¶

(D) The date of transport and approximate time of departure;¶

(E) Arrival date and estimated time of arrival;¶

(F) Delivery vehicle make and model and license plate number; and¶

(G) Name and signature of the hemp grower's representative accompanying the transport.¶

(d) A Commission-certified hemp handler transferring industrial hemp or industrial hemp items that failed potency testing to a Commission-certified hemp handler in accordance with OAR 845-025-2755 must generate a manifest in CTS that contains the following information:¶

(A) The name, contact information of the hemp handler's representative, address of where the industrial hemp or hemp items are being transferred from as identified under OAR 845-025-2705(2)(c), and the hemp handler registration number designated by the Oregon Department of Agriculture of the hemp handler transporting the industrial hemp or hemp items;¶

(B) The name, contact information of the hemp handler's representative, address of where the industrial hemp or hemp items are being transferred to as identified under OAR 845-025-2705(2)(c), and the hemp grower registration number designated by the Oregon Department of Agriculture of the hemp handler receiving the industrial hemp or hemp items;¶

(C) Product name and quantities (by weight) of the industrial hemp or hemp items contained in each transport, along with the UIDs for every item;¶

(D) The date of transport and approximate time of departure;¶

(E) Arrival date and estimated time of arrival;¶

(F) Delivery vehicle make and model and license plate number; and¶

(G) Name and signature of the hemp grower's representative accompanying the transport.¶

(4) Once industrial hemp or a hemp item has been entered into CTS, it may not be transferred, sold, or transported except in accordance with these rules.

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.025, 2018 OL Ch 116 Ch. 15, ORS 571.336

ADOPT: 845-025-2785

RULE SUMMARY: The new rule outlines both the privileges and requirements for recreational licensees in regards to industrial hemp.

CHANGES TO RULE:

845-025-2785

Licensee Industrial Hemp Privileges; Requirements

- (1) A processor with an industrial hemp endorsement may transfer, sell, transport, purchase, possess, accept, return, or receive industrial hemp and hemp items in accordance with OAR 845-025-3215. ¶
- (2) A wholesaler may transfer, sell, transport, purchase, possess, accept, return, or receive industrial hemp and hemp items in accordance with OAR 845-025-3500.¶¶
- (3) A retailer may:¶
 - (a) Transfer, sell, transport, purchase, possess, accept, return, or receive hemp items in accordance with OAR 845-025-2800.¶¶
 - (b) Sell, transfer, or deliver hemp items to a consumer, patient, or designated primary caregiver in accordance with all requirements for selling or transferring marijuana items.¶¶
- (4) A licensee may only receive industrial hemp and hemp items from a Commission-certified hemp grower or Commission-certified hemp handler if:¶¶
 - (a) The industrial hemp or hemp item does not exceed the THC limits specified in OAR 845-025-2760;¶¶
 - (b) The licensee receives a copy of any test result conducted on the industrial hemp or hemp item as a condition of receipt. Test results include, but are not limited to, any pre-harvest test result conducted under OAR 603-048-0600 and any results from quality control and research and development testing conducted under OAR 333-007-0500; and¶¶
 - (c) The licensee complies with any applicable requirements of ORS 571.305 to ORS 571.348 or any rules adopted thereunder.¶¶
- (5) A licensee may only deliver industrial hemp and hemp items if the industrial hemp and hemp items are:¶¶
 - (a) Delivered to a licensed marijuana retailer or wholesaler, or to a processor with an industrial hemp endorsement in compliance with all rules for delivering marijuana; ¶¶
 - (b) Meet any applicable requirement for marijuana items set forth in ORS 475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655 and rules adopted thereunder; and¶¶
 - (c) Were entered into and tracked by CTS prior to receipt.¶¶
- (6) Licensees must track industrial hemp or any hemp item using CTS in the same manner that they track marijuana items. ¶¶
- (7) All requirements for marijuana items under ORS 475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655 and any rules adopted thereunder apply to industrial hemp and hemp items received, delivered, or manufactured by a licensee unless specifically excluded by these rules.¶¶
- (8) A laboratory licensee must comply with all of the requirements of OAR 845-025-5045 when performing sampling or testing of industrial hemp or hemp items entered in CTS by a processor, wholesaler, retailer, Commission-certified hemp grower, or Commission-certified hemp handler in accordance with OAR 845-025-2775.¶¶
- (9) A licensee may not:¶¶
 - (a) Transfer, sell, transport, purchase, possess, accept, return, or receive any industrial hemp or hemp item other than as provided in this rule; ¶¶
 - (b) Transfer, sell, transport, purchase, possess, accept, return, or receive any industrial hemp or hemp item that exceeds the THC limits specified in OAR 845-025-2760; ¶¶
 - (c) Transfer, sell, transport, purchase, possess, accept, or receive hemp items that exceeded 0.3 percent THC when imported into the state;¶¶
 - (d) Purchase, possess, or receive any industrial hemp that has failed the testing described in OAR 603-048-0600 to 603-048-0650; or¶¶

(e) Plant, propagate, cultivate, grow or harvest industrial hemp within their licensed premises.

Statutory/Other Authority: ORS 475B.025, ORS 475B.090, ORS 475B.299, ORS 571.336, 2018 OL Ch. 116

Statutes/Other Implemented: ORS 475B.090, ORS 571.336, 2018 OL Ch. 116

AMEND: 845-025-2800

RULE SUMMARY: The amendments align the rule with the changes made by House Bill 4089 in regards to the procurement and sale of industrial hemp items by a retailer.

CHANGES TO RULE:

845-025-2800

Retailer Privileges; Prohibitions ¶¶

- (1) A retailer is authorized to sell, transfer or deliver a marijuana item or hemp item to a consumer. ¶¶
- (2) A retailer may: ¶¶
- (a) Between the hours of 7:00 AM and 10:00 PM local time, sell marijuana items and hemp items from the licensed premises to a consumer 21 years of age or older; ¶¶
- (b) Sell, transfer or deliver: ¶¶
- (A) Marijuana items, ~~industrial hemp concentrates, industrial hemp extracts or industrial hemp commodities or product~~ or hemp items to a consumer 21 years of age or older pursuant to a bona fide order as described in OAR 845-025-2880. ¶¶
- (B) Marijuana items or hemp items to a patient or designated primary caregiver between ages 18-21, so long as: ¶¶
- (i) The registry identification cardholder has a valid OMMP card; and ¶¶
- (ii) The retailer has a valid medical endorsement. ¶¶
- (C) Marijuana waste to a producer, processor, wholesaler, or research certificate holder. ¶¶
- (D) Hemp waste to a wholesaler, processor with an industrial hemp endorsement, or research certificate holder. ¶¶
- (E) Industrial hemp concentrates, industrial hemp extracts or industrial hemp commodities or products as long as those items were received from an OLCC processor with an approved industrial hemp processor endorsement as required by 845-025-3285. ¶¶
- (c) Accept or make returns, as long as the retailer: ¶¶
- (A) Only accepts or returns usable marijuana, marijuana items, hemp commodities and products, immature marijuana plants and seeds; ¶¶
- (B) Only accepts or returns eligible items listed in subsection (A) of this section from either the original licensee that supplied the item or the customer or registry identification cardholder that purchased or was given the item; ¶¶
- (C) Accurately records the transaction in the CTS; and ¶¶
- (D) Does not resell any items returned by customers. ¶¶
- (d) Purchase, possess or receive: ¶¶
- (A) Usable marijuana, immature marijuana plants, and seeds from a producer or from a research certificate holder; ¶¶
- (B) Cannabinoid concentrates, extracts, and products from a processor with an endorsement to manufacture the type of product received or from a research certificate holder; ¶¶
- (C) Any marijuana item, except for whole, non-living marijuana plants, from a wholesaler; ¶¶
- (D) Any marijuana item from a laboratory; ~~and~~ ¶¶
- (E) Marijuana items from a retailer that is owned by the same or substantially the same persons. For purposes of this rule, substantially the same means that individuals named on the approved license or persons with a financial interest in the licensed businesses are identical. ¶¶
- (EE) Marijuana Hemp items from a Commission-certified hemp handler, a wholesaler, a laboratory licensee, or a processor with an industrial hemp endorsement; and ¶¶
- (G) Hemp items from a retailer that is owned by the same or substantially the same persons. For purposes of this rule, substantially the same means that individuals named on the approved license or persons with a financial interest in the licensed businesses are identical. ¶¶
- (e) Refuse to sell marijuana items or hemp items to a consumer; ¶¶
- (f) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and

OAR 333-007-0300 to 333-007-0500; ¶

(g) Accept returned marijuana items or hemp items that the retailer sold to a consumer and provide a refund or exchange with a product of equal or lesser value as long as the product is not resold; and ¶

(h) Sell marijuana items for medical purposes, as long as the retailer follows the provisions set forth in 845-025-2900. ¶

(3) Hemp items sold, transferred, or delivered under subsection (2) of this rule must have been received from a Commission-certified hemp handler, a processor with an industrial hemp endorsement, a wholesaler, or a retailer owned by the same or substantially the same persons in accordance with these rules. ¶

(4) A retailer may not: ¶

(a) Knowingly sell more than the following amounts to an individual at any one time or within one day: ¶

(A) One ounce of usable marijuana; ¶

(B) 16 ounces of a cannabinoid product in solid form; ¶

(C) 72 fluid ounces of a cannabinoid product in liquid form; ¶

(D) Five grams of cannabinoid extracts or concentrates, whether sold alone or contained in an inhalant delivery system or combined with usable marijuana; ¶

(E) Five grams of cannabinoid products intended for inhalation; ¶

(F) Four immature marijuana plants; and ¶

(G) Ten marijuana seeds. ¶

(b) Knowingly provide more than the following amounts to registry identification cardholders or designated primary caregivers: ¶

(A) 8 ounces of usable marijuana at any one time or within one day per patient; and ¶

(B) No more than 32 ounces in one calendar month per patient. ¶

(c) Transfer, sell, transport, purchase, possess, accept, return, or receive any hemp item that exceeds the THC limits specified in OAR 845-025-2760. ¶

(d) Provide free marijuana items to a recreational consumer. ¶

~~(de)~~ Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts. ¶

~~(ef)~~ Sell or give away any non-marijuana items, including hemp items, that are attractive to minors as defined by these rules. ¶

~~(fg)~~ Discount a marijuana item if the retail sale of the marijuana is made in conjunction with the retail sale of any other items, including other marijuana items or hemp items. ¶

~~(gh)~~ Sell a marijuana item at a nominal price for promotional purposes. ¶

~~(hi)~~ Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day. ¶

~~(ij)~~ Permit a licensed representative to handle an unpackaged marijuana item or hemp item without the use of protective gloves, tools or instruments that prevent the marijuana item from coming into contact with the licensed representative's skin. ¶

~~(jk)~~ Sell or transfer a returned marijuana item or hemp item to another consumer. ¶

~~(kl)~~ Sell, transfer, deliver, purchase, possess, accept, return or receive any marijuana item or hemp item other than as provided in ~~section (2)~~ of this rule. ¶

~~(lm)~~ Permit a consumer to open or alter a package containing a marijuana item or hemp item or otherwise remove a marijuana item or hemp item from packaging required by these rules within the licensed premises or in an area that the licensee controls. ¶

~~(mn)~~ Permit a consumer to bring marijuana items or hemp items onto the licensed premises except for ~~marijuana items~~ being returned for refund or exchange as allowed by this rule. ¶

~~(no)~~ Sell a marijuana item to an individual that exceeds the concentration limits in OAR 333-007-0210 and 333-007-0220. ¶

~~(op)~~ Sell any item not allowed under OAR 845-025-3220 or any of the following items: ¶

(A) Pet or animal food, treats, or other pet or animal products containing hemp or marijuana; ¶

(B) Injectable marijuana or hemp items; or¶¶

(C) Any other marijuana items not meant for human consumption or use.

Statutory/Other Authority: ORS 475B.025, ORS 475B.105

Statutes/Other Implemented: ORS 475B.025, ORS 475B.105

AMEND: 845-025-3210

RULE SUMMARY: The amendments align the rule with the changes made by HB 4089 in regards to processor licensees obtaining an endorsement to process industrial hemp.

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 ~~as by required by 845-025-3285.~~¶¶
- (3) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.¶¶
- (4) To apply for an endorsement an applicant or processor licensee must submit 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.¶¶
- (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, 2017 OL 531

AMEND: 845-025-3215

RULE SUMMARY: The amendments clarify the privileges and prohibitions for a processor licensee with an industrial hemp endorsement.

CHANGES TO RULE:

845-025-3215

Processor Privileges; Prohibitions ¶

(1) A processor may: ¶

(a) Transfer, sell or transport: ¶

(A) Cannabinoid concentrates, extracts, and products for which the processor has an endorsement to a processor, wholesaler, retailer, non-profit dispensary, or research certificate holder; and ¶

(B) Marijuana or Industrial Hemp waste to a producer, processor, wholesaler, or research certificate holder. ¶

(b) Purchase, possess or receive as allowed by these rules: ¶

(A) Whole, non-living marijuana plants that have been entirely removed from any growing medium from a producer, wholesaler, patient or designated primary caregiver, or from a research certificate holder; ¶

(B) Usable marijuana from a producer, wholesaler, patient or designated primary caregiver, or from a research certificate holder; ¶

(C) Industrial hemp concentrates or extracts from a hemp handler certified by the Commission; ¶

(D) Industrial hemp from a hemp grower certified by the Commission; ¶

(E) Cannabinoid concentrates, extracts and products from a processor with an endorsement to manufacture the type of product received, or from a research certificate holder; ¶

(F) Marijuana or industrial hemp waste from a producer, processor, wholesaler, retailer, laboratory, or research certificate holder; and ¶

(G) Cannabinoid concentrates, extracts, and products produced by the licensee that have been held in bailment by a wholesaler. ¶

(c) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0500. ¶

(d) Accept or make returns of marijuana items, as long as the processor: ¶

(A) Only accepts or returns usable marijuana, marijuana items, immature marijuana plants, seeds and whole non-living marijuana plants; ¶

(B) Only accepts or returns eligible items listed in paragraph (A) of this subsection from the original licensee that supplied or purchased the item; and ¶

(C) Accurately records the transaction in the CTS. ¶

(2) A processor with an industrial hemp endorsement may: ¶

(a) Transfer, sell, or transport hemp items to a wholesaler, a retailer, or a processor with an industrial hemp endorsement. ¶

(b) Purchase, possess, or receive as allowed by these rules: ¶

(A) Hemp items from a wholesaler, a processor with an industrial hemp endorsement, or a Commission-certified hemp handler; and ¶

(B) Harvested industrial hemp from a wholesaler, a Commission-certified hemp handler, or a Commission-certified hemp grower. ¶

(c) Process industrial hemp and hemp items into any hemp item in compliance with all rules for processing marijuana. ¶

(d) Use industrial hemp and hemp items as an ingredient in the processing of marijuana items. ¶

(3) A processor may not: ¶

(a) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana, industrial hemp or hemp item other than as provided in ~~section (1)~~ of this rule; ¶

(b) Use any unapproved process set forth in OAR 845-025-3200 to OAR 845-025-3305; ¶

(c) Allow minors on any portion of the licensed premises except as allowed by OAR 845-025-1230. A violation of this is a Category I violation;~~or~~¶

(d) Make any product that is prohibited from sale in a retail store, as set forth in OAR 845-025-2800;or¶

(e) Transfer, sell, transport, purchase, possess, accept, return, or receive any industrial hemp or hemp item that exceeds the THC limits specified in OAR 845-025-2760.¶

~~(34)~~ A processor must be licensed by the Commission and obtain the proper endorsement for the type of processing they perform per OAR 845-025-3210.

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

Statutes/Other Implemented: ORS 475B.025, ORS 475B.090

REPEAL: 845-025-3285

RULE SUMMARY: The rule is being repealed, as the pertinent parts of the rule have been consolidated into other rules.

CHANGES TO RULE:

~~845-025-3285~~

~~Industrial Hemp Processor Requirements~~

~~(1) A processor with an industrial hemp endorsement may:~~

~~(a) Receive industrial hemp from a hemp grower who holds an industrial hemp certificate issued by the Commission;~~

~~(b) Receive industrial hemp concentrates or industrial hemp extracts from a hemp handler who holds an industrial hemp certificate issued by the Commission;~~

~~(c) Process industrial hemp, industrial hemp concentrates, and industrial hemp extracts into any industrial hemp commodity or product;~~

~~(d) Use industrial hemp, industrial hemp concentrates and industrial hemp extracts as an ingredient in the processing of marijuana items; and~~

~~(e) Transfer industrial hemp concentrates, industrial hemp extracts, or hemp commodities or products only to marijuana retailers, wholesalers and processors licensed by the Commission.~~

~~(2) A processor may only receive industrial hemp and industrial hemp concentrates or extracts if:~~

~~(a) The industrial hemp or industrial hemp concentrate or extract has passed required testing under OAR 603-048-0600 and OAR 603-048-2300.~~

~~(b) The processor receives a copy of any test result conducted on the industrial hemp, industrial hemp concentrate or extract pursuant to OAR 603-048-0600 and OAR 603-048-2300 as a condition of receipt.~~

~~(c) The processor complies with any applicable requirements of ORS 571.305 to ORS 571.315 or any rules adopted thereunder.~~

~~(3) A processor with an industrial hemp endorsement must track receipt of industrial hemp or any hemp concentrate or extract using the CTS system. The processor must track any industrial hemp commodity or product upon manufacture using the CTS system.~~

~~(4) A processor with an industrial hemp endorsement may not receive, manufacture or distribute industrial hemp concentrates or extracts that exceed five percent THC. In addition to any testing required by OHA and ODA rules, a processor must submit concentrates and extracts derived from industrial hemp for potency testing with a licensed laboratory before transferring these concentrates or extracts to another licensee, converting these concentrates or extracts to a new product type, or combining them with marijuana items. The results of tests required under this rule must be recorded in CTS.~~

~~(5) All requirements for marijuana items under ORS 475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655 and any rules adopted thereunder apply to industrial hemp and hemp items received or manufactured by a processor with a hemp endorsement unless specifically excluded by these rules.~~

~~(6) Industrial hemp concentrate, industrial hemp extract or hemp commodities or products may be delivered by a marijuana processor registered under this section to a licensee as described in ORS 475B.160, provided that the industrial hemp concentrate, industrial hemp extract or hemp commodities or products meet any applicable requirement for marijuana items set forth in ORS 475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655 and rules adopted under ORS 475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655.~~

~~Statutory/Other Authority: ORS 475B.025, 475B.090, 2017 OL Ch. 531~~

~~Statutes/Other Implemented: 475B.090, 2017 OL Ch. 531~~

AMEND: 845-025-3500

RULE SUMMARY: The amendments clarify privileges and prohibitions for wholesale licensees in regards to industrial hemp.

CHANGES TO RULE:

845-025-3500

Wholesale License Privileges; Prohibitions ¶¶

(1) A wholesale licensee may:¶¶

(a) Sell, including sale by auction, transfer, deliver or transport:¶¶

(A) Any type of ~~or~~ marijuana item or hemp item to a retailer, wholesaler, non-profit dispensary or research certificate holder, except that whole, non-living marijuana plants may not be transferred to a retailer or to a non-profit dispensary;¶¶

(B) Immature marijuana plants and seeds to a producer;¶¶

(C) Usable marijuana to the producer licensee that the wholesale licensee has stored on the producer's behalf;¶¶

(D) Usable marijuana, cannabinoid extracts and concentrates to a processor licensee;¶¶

(E) Marijuana or hemp waste to a producer, processor, wholesaler or research certificate holder; ~~and~~¶¶

(F) ~~An~~ Harvested industrial hemp commodity or product received from a processor licensee of the Commission to a wholesaler or to a processor with an industrial hemp endorsement; and¶¶

(G) Industrial hemp items to a processor with an industrial hemp endorsement.¶¶

(b) Purchase, possess or receive:¶¶

(A) Any type of marijuana item or hemp item from a wholesaler;¶¶

(B) Cannabinoid concentrates, extracts, and products from a processor with an endorsement to manufacture the type of product received;¶¶

(C) Seeds, immature plants or usable marijuana from a producer;¶¶

(D) Whole, non-living marijuana plants that have been entirely removed from any growing medium from a producer;¶¶

(E) Marijuana waste from a producer, processor, wholesaler, retailer, laboratory, or research certificate holder; ~~and~~¶¶

(F) ~~Industrial hemp commodities and products from a processor licensee of the Commission~~ Hemp Items from a processor with an industrial hemp endorsement or a Commission-certified hemp handler; and ¶¶

(G) Harvested industrial hemp from a wholesaler, a processor with an Industrial Hemp endorsement, a Commission-certified hemp handler, or a Commission-certified hemp grower.¶¶

(c) Transport and store marijuana items and hemp items received from other licensees, pursuant to the requirements of OAR 845-025-7500 to 845-025-7590 and 845-025-7700.¶¶

(d) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0500.¶¶

(e) Accept or make returns of marijuana items, as long as the wholesaler:¶¶

(A) Only accepts or returns usable marijuana, marijuana items, harvested industrial hemp, hemp items immature marijuana plants, seeds and whole non-living marijuana plants;¶¶

(B) Only accepts or returns eligible items listed in (A) of this section from the original licensee whom supplied or purchased the item; and¶¶

(C) Accurately records the transaction and its disposition once returned in the CTS.¶¶

(f) Trim whole non-living plants and usable marijuana on behalf of a producer licensee, as long as both the wholesale licensee and producer licensee comply with all applicable rules including tracking all transactions and any packaging of marijuana items in CTS; and if:¶¶

(A) Trimming is performed on the wholesaler's licensed premises; or¶¶

(B) Trimming is performed at the producer's licensed premises and the wholesale licensee holds a "For Hire Trimming Privilege" as set forth in OAR 845-025-3505.¶¶

(2) A wholesale licensee may not ~~sell, transfer, deliver:~~[¶]

(a) Sell, deliver, purchase, or receive any marijuana item, industrial hemp, or hemp item other than as provided in this rule.[¶]

(b) Transfer, sell, transport, purchase, possess, ~~receive, store,~~ accept, return, or ~~trim any marijuana it~~ receive any industrial hemp other than as provided in hemp item that exceeds the THC limits spection (1) of this ruleified in OAR 845-025-2760.[¶]

(3) For purposes of this rule, "marijuana item" does not include a mature marijuana plant.

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

Statutes/Other Implemented: ORS 475B.100, 2017 OL Ch. 531

AMEND: 845-025-8520

RULE SUMMARY: The amendments add the terms industrial hemp and industrial hemp items to the rule.

CHANGES TO RULE:

845-025-8520

Prohibited Conduct ¶¶

(1) Sale to a Minor. A licensee or permittee may not sell, deliver, transfer or make available any marijuana item or hemp item to a person under 21 years of age unless the individual holds a valid OMMP patient or designated primary caregiver card.¶¶

(a) Violation of this section for an intentional sale to a minor by a licensee, permittee or licensee representative is a Category II violation.¶¶

(b) Violation of this section for other than intentional sales is a Category II(b) violation.¶¶

(2) Identification. A licensee or licensee representative must require a person to produce identification as required by ORS 475B.216 before selling or providing a marijuana item or hemp item to that person. Violation of this section is a Category IV violation.¶¶

(3) Access to Premises.¶¶

(a) A licensee, laboratory licensee, or permittee may not:¶¶

(A) During regular business hours for the licensed premises, refuse to admit or fail to promptly admit a Commission regulatory specialist who identifies him or herself and who enters or wants to enter a licensed premises to conduct an inspection to ensure compliance with ORS 475B affecting the licensed privileges; or these rules;¶¶

(B) Outside of regular business hours or when the premises appear closed, refuse to admit or fail to promptly admit a Commission regulatory specialist who identifies him or herself and requests entry on the basis that there is a reason to believe a violation of ORS 475B affecting the licensed privileges; or these rules is occurring; or¶¶

(C) Once a regulatory specialist is on the licensed premises, ask the regulatory specialist to leave until the specialist has had an opportunity to conduct an inspection to ensure compliance with ORS 475B affecting the licensed privileges; or these rules.¶¶

(b) Violation of this section is a Category II violation.¶¶

(c) A licensee or laboratory licensee must at all times retain control of, or the right of access to, all or any part of the licensed premises. Failure to retain such control or right of access is a Category I violation and may be grounds for immediate suspension or cancellation of the license.¶¶

(4) Use or Consumption of Intoxicants on Duty and Under the Influence on Duty.¶¶

(a) No licensee, licensee representative, laboratory licensee, laboratory licensee representative, or permittee may consume any intoxicating substances while on duty, except for employees as permitted under OAR 845-025-1230(6)(b). Violation of this subsection is a Category III violation.¶¶

(b) No licensee, licensee representative, laboratory licensee, laboratory licensee representative, or permittee may be under the influence of intoxicating substances while on duty. Violation of this subsection is a Category II violation.¶¶

(c) Whether a person is paid or scheduled for a work shift is not determinative of whether the person is considered "on duty."¶¶

(d) As used in this section:¶¶

(A) "On duty" means:¶¶

(i) From the beginning to the end of a work shift for the licensed business, including any and all coffee, rest or meal breaks; or¶¶

(ii) Performing any acts on behalf of the licensee or the licensed business outside of a work shift if the individual has the authority to put himself or herself on duty.¶¶

(B) "Intoxicants" means any substance that is known to have or does have intoxicating effects, and includes alcohol, marijuana, or any other controlled substances.¶¶

(5) Permitting Use of Marijuana at Licensed Premises. A licensee, laboratory licensee, or permittee may not permit the use or consumption of marijuana, hemp items, or any other intoxicating substance, anywhere in or on the licensed premises, or in surrounding areas under the control of the licensee, except for employees as permitted under OAR 845-025-1230(6)(b). Violation of this section is a Category III violation.¶

(6) Import and Export. A licensee, laboratory licensee, or permittee may not import marijuana items into this state or export marijuana items out of this state. Violation of this section is a Category I violation and could result in license or permit revocation.¶

(7) Permitting, Disorderly or Unlawful Conduct. A licensee, laboratory licensee, or permittee may not permit disorderly activity or activity that is unlawful under Oregon state law on the licensed premises or in areas adjacent to or outside the licensed premises under the control of the licensee.¶

(a) If the prohibited activity under this section results in death or serious physical injury, or involves unlawful use or attempted use of a deadly weapon against another person, or results in a sexual offense which is a Class A felony such as first degree rape, sodomy, or unlawful sexual penetration, the violation is a Category I violation and could result in license or permit revocation.¶

(b) If the prohibited activity under this section involves use of a dangerous weapon against another person with intent to cause death or serious physical injury, it is a Category II violation.¶

(c) As used in this section:¶

(A) "Disorderly activities" means activities that harass, threaten or physically harm oneself or another person.¶

(B) "Unlawful activity" means activities that violate the laws of this state, including but not limited to any activity that violates a state criminal statute.¶

(d) The Commission does not require a conviction to establish a violation of this section except as required in ORS 475B.045.¶

(8) Marijuana as a Prize, Premium or Consideration. No licensee or permittee may give or permit the giving of any marijuana item as a prize, premium, or consideration for any lottery, contest, game of chance or skill, exhibition, or any competition of any kind on the licensed premises.¶

(9) Visibly Intoxicated Persons. No licensee or permittee may sell, give, or otherwise make available any marijuana item to any person who is visibly intoxicated. Violation of this section is a Category III violation.¶

(10) Additional Prohibitions. A licensee or permittee may not:¶

(a) Sell or deliver any marijuana item or hemp item through a drive-up or walk-up window.¶

(b) Use any device or machine that both verifies the age of the consumer and delivers marijuana or hemp items to the consumer; ~~or~~.¶

(c) Deliver marijuana or hemp items to a consumer off the licensed premises, except that retail licensees may provide delivery as set forth in OAR 845-025-2880.¶

(d) Violation of this subsection is a Category III violation.¶

(e) Permit ~~hemp item or product derived from industrial hemp that contains cannabinoids~~ industrial hemp or a hemp item to be present on the licensed premises, except as allowed by these rules. Violation of this subsection is a Category I violation.

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

Statutes/Other Implemented: ORS 475B.070, 475B.090, 475B.100, 475B.105, 475B.227, 475B.329, 475B.333, 475B.119

AMEND: 845-025-8590

RULE SUMMARY: The amendments add Commission certified hemp grower and handler to the violation section.

CHANGES TO RULE:

845-025-8590

Suspension, Cancellation, Civil Penalties, Sanction Schedule ¶¶

(1) The Commission may suspend or revoke:¶¶

(a) A license issued under ORS 475B.010 to 475B.545 or 475B.560.¶¶

(b) A marijuana worker permit issued under ORS 475B.261.¶¶

(c) A research certificate issued under ORS 475B.286.¶¶

(d) An industrial hemp certificate issued under OAR 845-025-2700 or 845-025-2705.¶¶

(2) Civil Penalties.¶¶

(a) The Commission may impose a civil penalty under ORS 475B.416. Civil penalties will be calculated by multiplying:¶¶

(A) The number of days in a suspension, if suspension could be or is being imposed, by \$165 for licensees or certificate holders; or¶¶

(B) The number of days in a suspension, if suspension could be or is being imposed, by \$25 for permittees.¶¶

(b) The Commission may impose for each violation of a provision of ORS 475B.600 to 475B.655 or OAR 845-025-7000 to 845-025-7190, a civil penalty of no more than \$500 for each day the violation occurs.¶¶

(3) The Commission uses the following violation categories for licensees licensed under ORS 475B.010 to 475B.545:¶¶

(a) Category I - Violations that make licensee ineligible for a license;¶¶

(b) Category II - Violations that create a present threat to public health or safety;¶¶

(c) Category II (b) - Violations for sales to a minor;¶¶

(d) Category III - Violations that create a potential threat to public health or safety;¶¶

(e) Category IV - Violations that create a climate conducive to abuses associated with the sale or manufacture of marijuana items;¶¶

(f) Category V - Violations inconsistent with the orderly regulation of the sale or manufacture of marijuana items.¶¶

(4) Violation sanctions.¶¶

(a) The Commission may sanction a licensee ~~or permittee~~, permittee, Commission-certified hemp grower, or Commission-certified hemp handler in accordance with the guidelines set forth in Exhibit 1, incorporated by reference. Exhibit 1 also contains the categories for the most common violations.¶¶

(b) Exhibit 1 lists the proposed sanctions for single or multiple violations that occur within a two year period for each category described in section (3) of this rule. The Commission may allege multiple violations in a single notice or may count violations alleged in notices issued within the previous two year period toward the total number of violations. In calculating the total number of violations, the Commission may consider a proposed violation for which the Commission has not yet issued a final order.¶¶

(c) The proposed sanctions in Exhibit 1 are guidelines. If the Commission finds one or more mitigating or aggravating circumstances, it may assess a lesser or greater sanction, up to and including revocation. The Commission may decrease or increase a sanction to prevent inequity or to take account of particular circumstances in the case.¶¶

(d) Mitigating circumstances include, but are not limited to:¶¶

(A) Making a good faith effort to prevent a violation.¶¶

(B) Extraordinary cooperation in the violation investigation demonstrating the licensee or permittee accepts responsibility.¶¶

(e) Aggravating circumstances include, but are not limited to:¶¶

(A) Receiving a prior warning about one or more compliance problems.¶¶

(B) Repeated failure to comply with laws.¶¶

- (C) Failure to use age verification equipment purchased as an offset to a previous penalty.¶
- (D) Efforts by licensee or permittee to conceal a violation.¶
- (E) Intentionally committing a violation.¶
- (F) A violation involving more than one consumer or employee.¶
- (G) A violation involving a juvenile.¶
- (H) A violation resulting in injury or death.¶
- (I) A violation that occurred at a licensed premises that has been granted a security waiver.¶
- (J) Three or more violations within a two-year-period, regardless of the category, where the number of the proposed or final violations indicate a disregard for the law or failure to control the premises.¶
- (5) A licensee may not avoid the sanction for a violation or the application of the provision for successive violations by changing the corporate structure for example, by adding or dropping a partner or converting to another form of legal entity when the individuals who own, operate, or control the business are substantially similar.

Statutory/Other Authority: ORS 475B.025

Statutes/Other Implemented: ORS 475B.256, 475B.416, 475B.560, 475B.635, 475B.119

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

Exhibit 1, OAR 845-025-8590
Oregon Liquor Control Commission - Recreational Marijuana Sanctions

Category	1 Violation in a 2-year period	2 Violations in a 2-year period	3 Violations in a 2-year period	4 Violations in a 2-year period	5 Violations in a 2-year period	6 Violations in a 2-year period
I	Revoke					
II	30 days	Revoke				
II(b)	30 days or \$4950	30 days	Revoke			
III	10 days or \$1650	30 days or \$4950	30 days	Revoke		
IV	7 days or \$1155	10 days or \$1650	20 days or \$3300	30 days	Revoke	
V	3 days or \$495	7 days or \$1155	10 days or \$1650	20 days or \$3300	30 days	Revoke

Categories for Most Common Violations

Category	Violation
I	Failure to verify the age of a minor (intentional)
	Conviction of a felony (licensee)
	Operating other than the license permits
	Intentional false statement to the Commission
	Intentional destruction or concealment of evidence
	Intentional failure to pay taxes to Department of Revenue
	Permitted noisy, disorderly or unlawful activity that results in death or serious physical injury, or that involves unlawful use or attempted use of a deadly weapon against another person, or that results in a sexual offense which is a Class A felony, such as first degree rape, sodomy, or unlawful sexual penetration
	Failure to notify prior to complete change of ownership/allowed interest in licensed business without prior Commission approval
	Operated licensed business while suspended

Exhibit 1, OAR 845-025-8590
Oregon Liquor Control Commission - Recreational Marijuana Sanctions

Category	Violation
II	False statement or representation to Commission (other than intentional)
	Under the influence of intoxicants while on duty
	Failure to promptly admit regulatory specialist or law enforcement into licensed retail premises
	Destruction or concealment of evidence (other than intentional)
	Denial of access by law enforcement or regulatory specialist to the licensed premises during regular business hours
	Permitted noisy, disorderly or unlawful activity that involves use of a dangerous weapon against another person with intent to cause death or serious physical injury
	Failure to promptly admit regulatory specialist or law enforcement onto the licensed premises when premises appear closed (for producer, processor, wholesale or lab licensees, and research certificate holders)
	Failure to permit premises or records inspection

Category	Violation
II(b)	Sale to a minor (unintentional)

Exhibit 1, OAR 845-025-8590
Oregon Liquor Control Commission - Recreational Marijuana Sanctions

Category	Violation
III	Permitted minor to enter or remain in a prohibited area
	Conviction of a crime other than a felony (licensee)
	Permitted sales by an employee without a marijuana worker permit
	Sold or made recreational marijuana available to a visibly intoxicated person
	Consumption of marijuana, alcohol or other intoxicants while on duty
	Permitted consumption (by employees, customers or the public) of alcohol, marijuana or other intoxicants on the licensed premises or in areas adjacent to the licensed premises under licensee's control (such as parking lots)
	Failure to keep required records (other than as required in 845-025-7500, seed-to-sale tracking requirements)
	Failure to follow an approved security plan
	Permitted disorderly activity
	Permitted unlawful (under state law) activity
	Failure to complete manifest before transport
	Failure to pay taxes to the Department of Revenue

Category	Violation
IV	Operated the licensed business after lawful hours for sale of marijuana items (retail licensees)
	Removed, altered or covered license suspension or other required notice sign
	Advertising violations

Category	Violation
V	Permitted marijuana items to be given as a prize (retail licensees)
	Failure to notify the Commission of a temporary closure of the licensed business (all licenses and certificates)