OREGON LIQUOR & CANNABIS COMMISSION
CHAPTER 845
PROPOSED AMENDMENTS

Note: This draft of proposed amendments has been prepared for the Rules Advisory Committee scheduled for September 14, 2022 to discuss technical changes. This is part of a larger package of Bill and Technical amendments. Draft language for additional rules was previously provided for the Rules Advisory Committee held on September 6, 2022 to discuss violation reclassification changes.

Division 25
RECREATIONAL MARIJUANA

845-025-1015
Definitions

For the purposes of OAR 845-025-1000 to 845-025-8590 and OAR 845-026-0100 to 845-026-4100 unless otherwise specified, the following definitions apply:

(1) “Added substance” means any component or ingredient added to usable marijuana, cannabinoid concentrate or cannabinoid extract during or after processing that is present in the final cannabinoid product, including but not limited to flavors, non-marijuana derived terpenes, and any substances used to change the viscosity or consistency of the cannabinoid product.

(2) “Adulterated” means to make a marijuana or hemp item impure by adding foreign or inferior ingredients or substances. A marijuana or hemp item may be considered to be adulterated if:

(a) In the Commission’s judgment, it bears or contains any poisonous or deleterious substance in a quantity rendering the marijuana or hemp item injurious in a manner that may pose a risk to human health, including but not limited to tobacco or nicotine;

(b) It bears or contains any added poisonous or deleterious substance exceeding a safe tolerance if such tolerance has been established;

(c) It consists in whole or in part of any filthy, putrid, or decomposed substance, or otherwise is unfit for human consumption;

(d) It is processed, prepared, packaged, or is held under improper time-temperature conditions or under other conditions increasing the probability of contamination with excessive microorganisms or physical contaminants;

(e) It is processed, prepared, packaged, or held under insanitary conditions increasing the probability of contamination or cross-contamination;

(f) It is held or packaged in containers composed, in whole or in part, of any poisonous or deleterious substance rendering the contents potentially injurious to health;

(g) Any substance has been substituted wholly or in part therefor;

(h) Damage or inferiority has been concealed in any manner; or

(i) Any substance has been added thereto or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(3)(a) “Artificially derived cannabinoid” means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant Cannabis family Cannabaceae.

(b) “Artificially derived cannabinoid” does not include:

(A) A naturally occurring chemical substance that is separated from the plant Cannabis family Cannabaceae by a chemical or mechanical extraction process;

(B) Cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst; or

(C) Any other chemical substance identified by the ~~c~~Commission, in consultation with the authority and the department, by rule.

(4) “Assign and affix a UID tag” means to designate a UID number to a marijuana item in CTS and to also physically attach the corresponding UID tag to a marijuana plant or a receptacle holding a marijuana item.

(5) “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.

(6) “Authority” means the Oregon Health Authority.

(7) “Business day” means Monday through Friday excluding legal holidays.

(8) “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana or industrial hemp.

(9) “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.

(10) “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated.

(11) “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.

(12) "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 571.269.

(13) "Cannabinoid tincture" means a liquid cannabinoid product packaged in a container of ~~4~~four fluid ounces or less that consists of either:

(a) A non-potable solution consisting of at least 25 percent non-denatured alcohol, in addition to cannabinoid concentrate, extract or usable marijuana, and perhaps other ingredients intended for human consumption or ingestion, that is exempt from the Liquor Control Act under ORS 471.035; or

(b) A non-potable solution comprised of glycerin, plant-based oil, or concentrated syrup; cannabinoid concentrate, extract or usable marijuana; and other ingredients that does not contain any added sweeteners and is intended for human consumption or ingestion.

(14) "Cannabinol" or "CBN" means 6,6,9-trimethyl-3-pentyl-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 521-35-7.

(15) "Cannabis Tracking System" or "CTS" means the system for tracking the transfer of marijuana items and other information as authorized by ORS 475C.117.

(16) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature which may exhibit the following criteria:

(a) The use of comically exaggerated features;

(b) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or

(c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.

(17) “Commission” means the Oregon Liquor and Cannabis Commission.

(18) “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.

(19) “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.

(20) “Commissioner” means a member of the Oregon Liquor and Cannabis Commission.

(21) “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 that have a financial interest or management responsibilities for an additional license or licenses.

(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.

~~(22~~(22) “Compliance test” means a laboratory test required by OAR chapter 333, division 7 or OAR 845-025-5800 to 845-025-5850 conducted by a laboratory licensee to allow the transfer or sale of a marijuana item, hemp item, or industrial hemp.

(23) “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.

(~~23~~24) “Consumer” means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.

(~~24~~25) “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.

(~~25~~26) “Contractor” means a person, other than a licensee representative, who temporarily visits the licensed premises to perform a service, maintenance or repair.

(~~26~~27) “CTS Administrator” means a CTS user who may add, edit or disable access for other CTS users.

(~~27~~28) “CTS User” means an individual with online access to CTS.

(~~28~~29) “Date of Harvest” means the day the last mature marijuana plant in the harvest lot was harvested.

(~~29~~30) “Delta-8-tetrahydrocannabinol” or “delta-8-THC” means (6aR, 10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 5957-75-5.

(~~30~~31) “Delta-9-tetrahydrocannabinol” or “delta-9-THC” means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 1972-08-3.

(~~31~~32) “Delta-9-tetrahydrocannabinolic acid” or “delta-9-THCA” means (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid, Chemical Abstracts Service Number 23978-85-0.

(~~32~~33) “Designated primary caregiver” has the meaning given that term in ORS 475C.777.

(~~33~~34) “Elementary school”

(a) Means a learning institution containing any combination of grades kindergarten through 8.

(b) Does not mean a learning institution that includes only pre-kindergarten, kindergarten, or a combination of pre-kindergarten and kindergarten.

~~-~~(3~~4~~5)(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 475C.305.

(~~35~~36) “Financial interest” means having an interest in an applicant, licensee, or laboratory licensee, such that the performance of the business causes, or is capable of causing, an individual, or a legal entity with which the individual is affiliated, to benefit or suffer financially.

(a) Financial interest includes but is not limited to:

(A) Receiving, as an employee or agent, out-of-the-ordinary compensation, either in the form of overcompensation or under compensation;

(B) Lending money, real property or personal property to an applicant, licensee, or laboratory licensee for use in the business that constitutes a substantial portion of the business cost or is lent at a commercially unreasonable rate;

(C) Giving money, real property or personal property to an applicant, licensee, or laboratory licensee for use in the business;

(D) Being the spouse or domestic partner of an applicant, licensee, or laboratory licensee. For purposes of this subsection, “domestic partners” includes adults who share the same regular and permanent address and would be financially impacted by the success or failure of the business as well as adults who qualify for a “domestic partnership” as defined under ORS 106.310; or

(E) Having an ownership interest as described in OAR 845-025-1045.

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

(~~36~~37) “Flowering” means a marijuana plant that has formed a mass of pistils measuring greater than two centimeters wide at its widest point.

(~~37~~38) “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 475C.792.

(~~38~~39)(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.

~~(39) “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.~~

~~(40~~(40) “Harvest lot” has the meaning given that term in OAR 333-007-0310.

(41) “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 571.269;

(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.

~~(41~~(42) “Hemp cannabinoid product”

(a) Means a hemp edible or any other industrial hemp commodity or product intended for human consumption or use, including a hemp topical or hemp transdermal patch, that contains cannabinoids from industrial hemp or the dried leaves or flowers of hemp.

(b) Includes:

(A) Usable hemp, industrial hemp extracts, and industrial hemp concentrates that have been combined with an added substance; or

(B) Any combination of usable hemp, industrial hemp extracts, and industrial hemp concentrates.

(c) Does not include usable hemp by itself, hemp stalk by itself, an industrial hemp concentrate or industrial hemp extract by itself, hemp seed incapable of germination by itself, or other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients.

(43) “Hemp Grower” means a person or entity that is licensed with the Oregon Department of Agriculture under ORS 571.281 to produce industrial hemp.

(~~42~~44) “Hemp Handler” means a person or entity that is licensed with the Oregon Department of Agriculture under ORS 571.281 to process industrial hemp into commodities, products or agricultural hemp seed.

(~~43~~45) “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 hemp 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.

(~~44~~46) “Immature marijuana plant” means a marijuana plant that is not flowering.

(~~45~~47) “Industrial hemp” has the meaning given that term in ORS 571.269.

(~~46~~48) “Industrial hemp-derived vapor item” means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269, whether alone or combined with non-cannabis additives that is intended for use in an inhalant delivery system.

(~~47~~49) “Inhalable cannabinoid product” means a cannabinoid product or hemp cannabinoid product that is intended for human inhalation.

(~~48~~50) “Inhalant delivery system” has the meaning given that term in ORS 431A.175.

(~~49~~51) “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.

(~~50~~52) “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.

(~~51~~53) “Inventory Tracking” means activities and documentation processes to track marijuana items from seed to sale, including establishing an accurate record from one marijuana item to another, in the cannabis tracking system.

(~~52~~54) “Invited guests” means family member and business associates of the licensee, not members of the general public.

(~~53)~~55) “Laboratory licensee” or “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.~~

~~(54) “Laboratory licensee” means a laboratory~~this state licensed under ORS 475C.548 and includes each applicant listed on an application that the Commission has approved and each person who is added to the license as described in OAR 845-025-~~1160(4).~~1165.

(~~55~~56) “Licensee” means any person who holds a license issued under ORS 475C.065, 475C.085, 475C.093, or 475C.097 and includes each applicant listed on an application that the Commission has approved and each person who is added to the license as described in OAR 845-025-~~1160(4).~~1165.

(~~56~~57) “Licensee of record” means a licensee listed on the license certificate as a license holder for a producer, processor, wholesaler, retailer, or laboratory license. There will be more than one licensee of record for the same license if:

(a) The business is operated as a joint venture or other similar arrangement between two or more persons; or

(b) A person who qualifies as an applicant for the license has no direct or indirect ownership or control of any other licensee of record on the same license.

(~~57~~58) “Licensee representative” means an owner, director, officer, manager, employee, agent, or other representative of a licensee or laboratory licensee, to the extent that the person acts in a representative capacity.

(~~58~~59) “Limit of quantification” or “LOQ” means the minimum levels, concentrations, or quantities of a target variable, for example, an analyte that can be reported by a laboratory with a specified degree of confidence.

(~~59~~60) “Limited access area” means a building, room, or other contiguous area on a licensed premises where a marijuana item is present, but does not include a consumer sales area on a licensed retailer premises.

(~~60~~61) “Marijuana” means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. “Marijuana” does not include:

(a) Industrial hemp, as defined in ORS 571.269; or

(b) Prescription drugs, as that term is defined in ORS 689.005, including those containing one or more cannabinoids, that are approved by the United State Food and Drug Administration and dispensed by a pharmacy, as defined in ORS 689.005.

(~~61~~62) “Marijuana flowers” means the flowers of the plant genus Cannabis within the plant family Cannabaceae.

(~~62~~63) “Marijuana items” means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(~~63~~64) “Marijuana leaves” means the leaves of the plant genus Cannabis within the plant family Cannabaceae.

(~~64~~65) “Marijuana processor” means a person who processes marijuana items in this state.

(~~65~~66) “Marijuana producer” means a person who produces marijuana in this state.

(~~66~~67) “Marijuana retailer” means a person who sells marijuana items to a consumer in this state.

(~~67~~68) “Marijuana wholesaler” means a person who purchases marijuana items in this state for resale to a person other than a consumer.

(~~68~~69) “Mature marijuana plant” means a marijuana plant that is not an immature marijuana plant.

(~~69~~70) “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 475C.620 for consumers who hold a valid registry identification card issued under ORS 475C.783.

(~~70~~71) “Micro-Wholesaler” means a marijuana wholesaler licensed by the Commission that only purchases or receives seeds, immature marijuana plants or usable marijuana from a producer with a micro tier I or tier II canopy.

(~~71~~72) “Minor” means any person under 21 years of age.

(~~72~~73) “Non-cannabis additive” means a substance or group of substances that are derived from a source other than marijuana or industrial hemp.

(a) “Non-cannabis additive” includes but is not limited to purified compounds, essential oils, oleoresins, essences or extractives, protein hydrolysates, distillates, or isolates.

(b) “Non-cannabis additive” does not include plant material that is in the whole, broken, or ground form.

(~~73~~74) “Non-profit Dispensary” means a medical marijuana dispensary registered under ORS 475C.833, owned by a nonprofit corporation organized under ORS ~~c~~Chapter 65, and that is in compliance with the Authority’s rules governing non-profit dispensaries in OAR chapter 333, ~~D~~division 8.

(~~74~~75) “Non-~~T~~toxic” means not causing illness, disability or death to persons who are exposed.

(~~75~~76) “ORELAP” means the Oregon Environmental Laboratory Accreditation Program administered by the Authority pursuant to ORS 438.605 to 438.620.

(~~76~~77) “Patient” has the same meaning as “registry identification cardholder.”

(~~77~~78) “Permittee” means any person who holds a Marijuana Workers Permit.

(~~78~~79) “Person” has the meaning given that term in ORS 174.100.

(~~79~~80) “Person Responsible for a Marijuana Grow Site” or “PRMG” has the meaning given that term in OAR 333-008-0010.

(~~80~~81) “Points of ingress and egress” means any point that may be reasonably used by an individual to enter into an area and includes but is not limited to doors, gates, windows, crawlspace access points, and openings whether or not those points are secured by a locked door, window, or means capable of being unlocked or unsealed by a key, code, or other method intended to allow access.

(~~81~~82) “Premises” or “licensed premises” includes the following areas of a location licensed under sections ORS 475C.005 to 475C.525 or 475C.548:

(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.

(~~82~~83) “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.

(~~83~~84) “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.

(~~84~~85) “Process lot” means:

(a) Any amount of cannabinoid concentrate, cannabinoid extract, industrial hemp concentrate, or industrial hemp 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~~product or hemp cannabinoid product 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~~, cannabinoid extract, industrial hemp concentrate, or industrial hemp extract.

(~~85~~86) “Processes”

(a) “Processes” means the processing, compounding or conversion of:

(A) Marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts; or

(B) Pursuant to ORS 571.336, industrial hemp or industrial hemp commodities or products into industrial hemp commodities or products that contain cannabinoids and are intended for human consumption or use.

(b) “Processes” does not include packaging or labeling.

(~~86~~87) “Producer” means a marijuana producer licensed by the Commission.

(~~87~~88) “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.

(~~88~~89) “Propagate” means to grow immature marijuana plants or to breed or produce seeds.

(~~89~~90) “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.

(~~90~~91) “Registry identification cardholder” has the meaning given that term in ORS 475C.777.

(~~91~~92) “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~~ORS Chapter 471, ORS 474.005 to 474.095, 474.115, 475C.005 to 475C.525, 475C.540 to 475C.586 and 475C.600 to 475C.644, Commission rules, and any other statutes the Commission considers related to regulating liquor or marijuana.

(~~92~~93) “Retailer” means a marijuana retailer licensed by the Commission.

~~(93) “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.~~

(94) “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.

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

(96) “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.

(97) “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.

(98) “These rules” means OAR 845-025-1000 to 845-025-8750.

(99) “Tissue culture plantlet” or “plantlet” means plant cells or tissues introduced into a culture from nodal cutting and cultivated under sterile conditions. A tissue culture plantlet from a marijuana plant is an immature marijuana plant.

(100) “Total delta-9-tetrahydrocannabinol” or “total delta-9-THC” means the sum of the concentration or mass of delta-9-THCA multiplied by 0.877 plus the concentration or mass of delta-9-THC.

(101) “UID number” means the 24-digit number on the UID tag.

(102) “UID tag” means a unique identification tag ordered and received from the Commission’s designated vendor for CTS for the purpose of tracking marijuana items in CTS.

(103)(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.

~~(104) “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.~~

~~(105~~(104) “Wholesaler” means a marijuana wholesaler licensed by the Commission.

Statutory/Other Authority: ORS 475C.017
Statutes/Other Implemented: ORS 475C.017 & ORS 475C.009
History:
OLCC 26-2022, minor correction filed 03/23/2022, effective 03/23/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 18-2021, minor correction filed 08/02/2021, effective 08/02/2021
OLCC 2-2021, amend filed 04/09/2021, effective 04/13/2021
OLCC 24-2020, amend filed 12/21/2020, effective 12/22/2020
OLCC 22-2020, temporary amend filed 10/15/2020, effective 10/15/2020 through 04/12/2021
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 3-2019, amend filed 02/25/2019, effective 03/01/2019
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 9-2016(Temp), f. 6-28-16, cert. ef. 6-30-16 thru 12-26-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1045
True Name on Application; Interest in Business

(1) True name on application. An application for a license must specify the real and true names of all individuals and legal entities required to be disclosed in the application under OAR 845-025-1030 and this rule.

(2) License privileges. License privileges are available only to licensees or laboratory licensees and licensee representatives and only for the premises designated on the license.

(3) The following individuals and legal entities are applicants:

(a) Any individual or legal entity who holds or controls a direct or indirect interest of 20 percent or more in the business proposed to be licensed;

(b) Any individual or legal entity who is entitled to receive a portion of revenue, proceeds, or profits from the business proposed to be licensed totaling 20 percent or more;

(c) Any individual or legal entity that has an ownership interest in the business as described in OAR 845-025-1045(5); and

(d) Any individual or entity required to be listed as applicants under section (4) of this rule.

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

(a) If an applicant is a limited partnership, each general partner in the limited partnership;

(b) If an applicant is a manager-managed limited liability company, each manager of the manager-managed limited liability company as those terms are defined in ORS 63.001; and

(c) If an applicant is a corporation, each principal officer of the corporation.

(5) Ownership interest. The Commission may refuse to issue a license if the applicant is not the owner of the business proposed to be licensed, a person with an ownership interest is not identified as an applicant, or an undisclosed or unapproved ownership interest exists other than as provided in OAR 845-025-~~1160(4).~~1165. For purposes of these rules, an “ownership interest” is indicated by the following behaviors, benefits or obligations:

(a) Any individual or legal entity, other than an employee acting under the direction of an applicant, licensee, or laboratory licensee, that exercises control over, or is entitled to exercise control over, the business;

(b) Any individual or legal entity, other than an employee acting under the direction of an applicant, licensee, or laboratory licensee, that has the authority to bind the applicant, licensee, or laboratory licensee to contracts or other legal obligations, including the authority to cause the applicant, licensee, or laboratory licensee to incur debt or similar obligations on behalf of the business; or

(c) Any individual or legal entity identified as a lessee, tenant, or renter (or similar term) of the premises proposed to be licensed;

(d) Any individual or legal entity owning the real or personal property of the premises proposed to be licensed, unless the owner of the property has given control over the property to another party via a lease or rental agreement or similar agreement; or

(e) When an applicant is a legal entity, any individual or legal entity required to be listed as an applicant under sections (3) or (4) of this rule.

Statutory/Other Authority: ORS 475C.017 & ORS 475C.033
Statutes/Other Implemented: ORS 475C.033, 475C.037, 475C.049, 475C.065, 475C.085, 475C.093, 475C.097 & 475C.548
History:
OLCC 28-2022, minor correction filed 03/23/2022, effective 03/23/2022
OLCC 2-2021, amend filed 04/09/2021, effective 04/13/2021
OLCC 22-2020, temporary amend filed 10/15/2020, effective 10/15/2020 through 04/12/2021
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 9-2016(Temp), f. 6-28-16, cert. ef. 6-30-16 thru 12-26-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

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 $1,000 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 s~~ubs~~ections (2), (3) and (4) of this rule at the time of application. The Commission will not refund a renewal fee for a licensee who submits a license renewal application in accordance with OAR 845-025-1190(1)(a) or (b) and exercises any license privileges after the date the license expires.

(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: $1,000 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 475C.017
Statutes/Other Implemented: ORS 475C.017, ORS 475C.065, 475C.085, 475C.093, 475C.097, 475C.273, 475C.548, 475C.608, 475C.616 & 571.336
History:
OLCC 29-2022, minor correction filed 03/23/2022, effective 03/23/2022
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 3-2019, amend filed 02/25/2019, effective 03/01/2019
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017
OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17
OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 9-2016(Temp), f. 6-28-16, cert. ef. 6-30-16 thru 12-26-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1100
Approval of Application and Issuance of License

(1) If the Commission determines that an applicant is in compliance with ORS 475C.017 to 475C.289 and these rules the Commission must notify the applicant in writing that the application has been approved and after payment by the applicant of the license fee, provide the applicant with proof of licensure that includes a unique license number, the effective date of the license, date of expiration,

and a description of premises for which the license was issued. If the applicant paid the license fee with a check the Commission will not issue a license until it has confirmation that the check has cleared.

(a) For an initial producer, processor, wholesaler, retailer, or laboratory license is effective from the date of issuance for a term of one year.

(b) For an initial research certificate, the certificate is effective from the date of issuance for a term of three years.

(2) A licensee or laboratory licensee:

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

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

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

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

(4) A license may not be transferred except as provided in OAR 845-025-116~~6~~70.

Statutory/Other Authority: ORS 475C.017
Statutes/Other Implemented: ORS 475C.045
History:
OLCC 33-2022, minor correction filed 03/23/2022, effective 03/23/2022
OLCC 2-2021, amend filed 04/09/2021, effective 04/13/2021
OLCC 22-2020, temporary amend filed 10/15/2020, effective 10/15/2020 through 04/12/2021
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1135
Application Processing Deadlines

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

(2) Assigned Applications

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

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

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

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

(3) Applications on Hold

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

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

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

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

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

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

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

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

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

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

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

(b) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Commission within 10 calendar days of the date the incomplete notice was sent or transmitted pursuant to s~~ubs~~ection (7) of this rule. The Commission may give the applicant the opportunity to be heard if an application is inactivated. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

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

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

Statutory/Other Authority: ORS 475C.017
Statutes/Other Implemented: ORS 475C.065, 475C.085, 475C.093 & 475C.097
History:
OLCC 38-2022, minor correction filed 03/23/2022, effective 03/23/2022
OLCC 2-2021, amend filed 04/09/2021, effective 04/13/2021
OLCC 17-2019, adopt filed 12/27/2019, effective 01/01/2020

845-025-1160
Notification of Changes

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

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

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

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

(d) The permanent closure of the business.

(2) An applicant, licensee, or laboratory licensee must notify the Commission in a manner prescribed by the Commission within 72 hours of an arrest, a citation issued in lieu of arrest, or a conviction for any misdemeanor or felony of an individual listed in an application or subsequently identified as an applicant, or licensee.

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

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

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

~~(4) Changes in Business Structure.~~

~~(a) A licensee or laboratory licensee that changes its ownership structure by adding an individual or legal entity who will meet the qualifications of an applicant as described in OAR 845-025-1045 or by removing an individual or legal entity that is a licensee or laboratory licensee must, prior to making the change, submit:~~

(4~~(A) A form prescribed by the Commission; and~~

~~(B) Any information identified in the form to be submitted to the Commission.~~

~~(b) The Commission must review the form and other information submitted under subsection (4)(a) of this rule.~~

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

~~(d) Notwithstanding subsection (4)(a) of this rule, a licensee or laboratory licensee does not need to notify the Commission prior to the following changes occurring, but must notify the Commission within 60 calendar days of the following change occurring:~~

~~(A) A shareholder of a publicly traded corporation acquiring or accumulating twenty percent or more of the voting stock.~~

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

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

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

~~(b) A business proposes a change in its ownership structure that is 51 percent or greater. For the purposes of this rule, a change is considered to be 51 percent or greater if natural persons who did not hold a direct or indirect interest in the business at the start of the license year will collectively hold a direct or indirect interest of 51 percent or greater.~~

~~(6) Change of Location.~~

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

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

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

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

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

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

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

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

~~(7~~) Addition or Change of Trade Name.

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

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

(5) Violations.

(a) A violation of section (1) or (3) of this rule is a Category III violation.

(b) A violation of section (4) of this rule is a Category IV violation.

Statutory/Other Authority: ORS 475C.017
Statutes/Other Implemented: ORS 475C.037 & 475C.045
History:
OLCC 40-2022, minor correction filed 03/23/2022, effective 03/23/2022
OLCC 2-2021, amend filed 04/09/2021, effective 04/13/2021
OLCC 22-2020, temporary amend filed 10/15/2020, effective 10/15/2020 through 04/12/2021
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1165
Change of Business Structure

(1) For the purpose of this rule, “change of business structure”:

(a) Means a licensee or laboratory licensee proposes to change its ownership structure by adding an individual or legal entity who will meet the qualifications of an applicant as described in OAR 845-025-1045 or by removing an individual or legal entity that is a licensee or laboratory licensee.

(b) Does not mean a “change of ownership” as described in OAR 845-025-1170.

(2) A licensee or laboratory licensee proposing a change of business structure must, prior to making the change, submit:

(a) A form prescribed by the Commission; and

(b) Any information identified in the form to be submitted to the Commission.

(3) The Commission must review the form and other information submitted under section (2) of this rule. If the Commission determines that the submission appears to be complete, the Commission will notify the licensee or laboratory licensee that the change is conditionally approved.

(4) Notwithstanding section (2) of this rule:

(a) A licensee or laboratory licensee does not need to notify the Commission prior to making the following changes:

(A) A shareholder of a publicly traded corporation acquiring or accumulating twenty percent or more of the voting stock.

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

(b) The changes described in subsection (a) of this section are considered conditionally approved if, within 60 calendar days of the changes occurring, the licensee or laboratory licensee submits:

(A) A form prescribed by the Commission; and

(B) Any information identified in the form to be submitted to the Commission.

(c) The Commission must review the form and other information submitted under subsection (b) of this section. If the Commission determines that the submission appears to be complete, the Commission will provide the licensee or laboratory licensee with written confirmation that the change is conditionally approved.

(5) The Commission may withdraw the conditional approval and deny a change requested under sections (2) or (4) of this rule if:

(a) The requested change constitutes a “change of ownership” as described in OAR 845-025-1170.

(b) The Commission determines that the addition of an individual or legal entity who meets the qualifications of an applicant as described in OAR 845-025-1045 would result in an initial or renewal application denial under OAR 845-025-1115, or serve as the basis of a license suspension or revocation.

(c) The Commission determines that the form or information submitted under section (2) or subsection (4)(b) of this rule are incomplete.

(d) The form or information submitted under section (2) or subsection (4)(b) of this rule contains false or misleading information.

(e) The licensee fails to pay the fee specified in OAR 845-025-1060(8)(a) if the Commission requires a criminal background check for any persons that the licensee or laboratory licensee requests to add to the license.

(6) If the Commission denies a change requested under this rule, the licensee or laboratory licensee has a right to a hearing under the procedures of ORS Chapter 183.

(7) Violations. Failure to notify the Commission of changes in business structure as described in this rule is a Category III violation.

Statutory/Other Authority: ORS 475C.017
Statutes/Other Implemented: ORS 475C.037 & 475C.189
History:

845-025-1170
Change of Ownership

(1) For the purpose of this rule, “change of ownership”:

(a) Means a licensee or laboratory licensee proposes to:

(A) Add a licensee of record;

(B) Replace a current licensee of record; or

(C) Change its ownership structure such that natural persons who did not hold a direct or indirect interest in the business at the start of the license year will collectively hold a direct or indirect interest of 51 percent or greater.

(b) Does not mean a “change of business structure” as described in OAR 845-025-1165.

(2) To submit a change of ownership request:

(a) The proposed licensee or laboratory licensee must submit a new application in accordance with OAR 845-035-1030; and

(b) The current licensee or laboratory licensee must submit a completed change of ownership notification form, as prescribed by the Commission, signed by the current licensee or laboratory licensee;

(3) The proposed licensee or laboratory licensee may not operate the licensed business until the Commission approves the change of ownership application and grants a license.

(4) The Commission shall review a change of ownership application in accordance with OAR 845-025-1090;

(5) A change of ownership application must be completed in accordance with OAR 845-025-1135.

(6) A change of ownership application may be submitted for a proposed licensed premises at a different location than the current licensed premises if the current licensee or laboratory licensee:

(a) Requests to surrender their license prior to being assigned to a Commission staff member following OAR 845-025-8750, understanding that the license surrender request will be processed even if the change of ownership application is not completed; and

(b) Transfers all marijuana items and hemp items to another license in accordance with their license privileges or destroys any marijuana items and hemp items remaining on the licensed premises in accordance with OAR 845-025-7750; and

(c) Reconciles their inventory in CTS as required by OAR 845-025-7580 so the CTS account shows that there are no active packages or pending transfers.

(7) The Commission may refuse to process a change of ownership application if the change of ownership notification form is submitted by:

(a) A person other than the licensee or licensee representative of the licensed business for which the change of ownership is proposed;

(b) A business that is not currently licensed.

(8) Violations. Allowing a person other than the licensee to operate the licensed business before the Commission approves the change of ownership application is a Category I violation.

Statutory/Other Authority: ORS 475C.017
Statutes/Other Implemented: ORS 475C.037 & 475C.045
History:

845-025-1180
Change of Location

(1) For the purpose of this rule, “change of location” means a transfer of a license or laboratory license from the premises for which the license or laboratory license is currently issued to another premises that does not include any part of the premises for which the license or laboratory license is currently issued.

(2) To request a change of location, a licensee or laboratory licensee must submit:

(a) A change of location request form as prescribed by the Commission;

(b) Any additional forms, documents and information identified in the form to be submitted to the Commission;

(c) Additional information requested by the Commission if there is a reason to believe that the information is needed to determine the merits of the change of location request; and

(d) The fee specified in OAR 845-025-1060.

(3) A licensee or laboratory licensee who requests a change of location does not need to submit information and fingerprints required for a criminal background check if there are no changes to the individuals listed on the initial application.

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

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

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

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

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

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

(5) The licensee or laboratory licensee may not begin engaging in activities that require a license in the new location prior to the Commission approving a change of location request.

(6) The Commission shall review a change of location request to determine if it is complete. A request may be considered incomplete if an application form is not complete, the fee specified in OAR 845-025-1060 has not been paid, or some or all of the additional information required under these rules is not submitted.

(a) The licensee or laboratory licensee will be notified in writing that its request is incomplete and has been inactivated by the Commission.

(b) The licensee or laboratory licensee may submit a written request for reconsideration of a decision that a change of location request is incomplete. Such a request must be received by the Commission within 10 calendar days of the date the incomplete notice was sent or transmitted to the licensee or laboratory licensee. The Commission may give the licensee or laboratory licensee the opportunity to be heard if change of location request is inactivated. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(7) The Commission may deny a change of location request for any of the reasons that it may deny a license under OAR 845-025-1115. If the Commission denies a change of location request, the licensee or laboratory licensee has a right to a hearing under the procedures of ORS Chapter 183.

(8) The Commission will refuse to process a change of location request submitted by:

(a) A person other than the licensee or licensee representative of the licensed business for which the change of ownership is proposed;

(b) A business that is not currently licensed.

(9) The Commission may allow a marijuana retailer to change its location if the Commission becomes aware that a school established prior to issuance of the license is located within 1,000 feet of the retailer's premises.

(10) Violations. A violation of this rule is a Category II violation.

Statutory/Other Authority: ORS 475C.017
Statutes/Other Implemented: ORS 475C.037 & 475C.045
History:

845-025-1190
License Renewal

(1) Renewal Applications:

(a) Any licensee who submits a renewal application with the Commission at least 20 days before the date the license expires may continue to operate as if the license were renewed, pending a decision by the Commission;

(b) Any licensee who does not submit a renewal application at least 20 days before the existing license expires must stop engaging in any licensed activity when the license expires. However:

(A) If the licensee submits a license renewal application less than 20 days before the date the existing license expires, the Commission ~~will~~may, upon receipt of the appropriate late renewal fee in OAR 845-025-1070, issue a letter of authority to operate beyond the expiration of the license, pending a decision by the Commission. The Commission may limit this term of authority to operate to not less than one year from the date of expiration for the license year prior to the one for which the renewal was submitted.

(B) A licensee must not engage in any licensed activity after the license expires. If the licensee submits a license renewal application within 30 days after the date the existing license expires, the Commission ~~will~~may, upon receipt of the appropriate late renewal fee in OAR 845-025-1070, issue a letter of authority to resume operation, pending a decision by the Commission.

(C) The Commission may revoke a letter of authority issued under this section at any time if the renewal application is deemed incomplete by the Commission.

(D) Annually, prior to the date the license would expire were any pending renewal approved, the Commission may obligate a licensee to submit a new renewal application and fee for the following year. Upon receipt of the renewal application and fee, the Commission may extend the authority to operate described in paragraph (A) of this subsection for another license year..

(c) The Commission will not renew a license if the Commission receives the renewal application more than 30 days after the license expires. A person who wants to resume licensed activity in this circumstance:

(A) Must submit a new application, including the application fee, license fee, documents and information required by the Commission; and

(B) Must not engage in any licensed activity unless and until they receive authority to operate from the Commission after submitting the new application.

(d) A person relicensed under subsection (1)(c) of this rule who engaged in any activity that would require a license while not licensed in violation of ~~section~~paragraph (1)(b)(B) of this rule may be subject to administrative and criminal sanctions.

(e) A person who engages in any activity that requires a license but is not licensed may be subject to criminal prosecution.

(2) For purposes of this rule, an application is considered submitted when:

(a) The application is signed by an applicant and includes the appropriate application and license fees; and

(b) The application is received by the Commission.

(3) The Commission may require a licensee with a pending renewal application to submit forms, documents and information described in OAR 845-025-1030 in order to complete an investigation of a renewal application. Failure to submit fees, forms, documents or information requested by the Commission under this subsection within a time period prescribed by the Commission may result in denial of the renewal application.

(4) If the Commission approved a renewal application, the Commission must notify the licensee in writing that the renewal application has been approved and provide the licensee with proof of licensure that includes a unique license number, the effective date of the license, date of expiration, and a description of premises for which the license was issued.

(a) For a renewal of a producer, processor, wholesaler, retailer, or laboratory license, the renewed license is effective beginning one year after the effective date of the previous license term, for a term of one year.

(b) For a renewal of a research certificate, the renewed certificate is effective beginning three years after the effective date of the previous license term, for a term of three years.

Statutory/Other Authority: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097 & 475C.584
Statutes/Other Implemented: ORS 475C.033
History:
OLCC 42-2022, minor correction filed 03/23/2022, effective 03/23/2022
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-1300
Licensee Prohibitions

(1) A licensee may not:

(a) Import into this state or export from this state any marijuana items;

(b) Give marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or game of skill, or competition of any kind;

(c) Sell, give, or otherwise make available any marijuana items to any person who is visibly intoxicated;

(d) Make false representations or statements to the Commission in order to induce or prevent action by the Commission;

(e) Maintain a noisy, disorderly, or insanitary establishment or supply adulterated marijuana items;

(f) Misrepresent any marijuana item to a customer or to the public;

~~(g) Sell any marijuana item through a drive-up or walk-up window;~~

~~(h~~(g) Deliver or transfer marijuana items to any consumer off the licensed premises or to any unlicensed location except as permitted by OAR 845-025-2500~~ or OAR~~, 845-025-2880, or 845-025-2885;

(~~i~~h) Sell or offer to sell a marijuana item that does not comply with the minimum standards prescribed by the statutory laws of this state; or

(~~j~~i) Use or allow the use of a mark or label on the container of a marijuana item that is kept for sale if the container does not precisely and clearly indicate the nature of the container's contents or in any way might deceive a customer as to the nature, composition, quantity, age or quality of the marijuana item.

(2) No licensee or licensee representative may be under the influence of intoxicants while on duty.

(a) For purposes of this rule "on duty" means:

(A) The beginning of a work shift that involves the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, to the end of the shift including all breaks;

(B) For an individual working outside a scheduled work shift, the performance of acts on behalf of the licensee that involve the handling or sale of marijuana items, checking identification or controlling conduct on the licensed premises, if the individual has the authority to put himself or herself on duty; or

(C) A work shift that includes supervising those who handle or sell marijuana items, check identification or control the licensed premises.

(b) Whether a person is paid or scheduled for work is not determinative of whether the person is considered "on duty" under this subsection.

(3) Violations.

(a) A violation of subsection (1)(a), (1)(d)through (1)(f), (1)(h), or (1)(i) of this rule is a Category I violation.

(b) A violation of subsection (1)(b), (1)(c), or (1)(g) or section (2) of this rule is a Category II violation.

Statutory/Other Authority: ORS 475C.017, 475C.065, 475C.085, 475C.093 & 475C.097
Statutes/Other Implemented: ORS 475C.229, 475C.233, 475C.237, 475C.245, 475C.329 & 475C.333
History:
OLCC 51-2022, minor correction filed 03/23/2022, effective 03/23/2022
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2040
Production Size Limitations

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

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

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

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

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

(2) General Requirements.

(a) A producer must maintain documentation clearly identifying the size, production method, measurements, and shapes for each mature and immature canopy area in the licensed premises. The documentation may be kept in either paper or electronic form and must be made available for inspection if requested by an employee of the Commission.

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

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

(d) A producer engaging in mixed production may only request to increase its designated mature canopy of one production method by decreasing the designated mature canopy of another production method once per license year.

(3) Mature Canopy Size Limits.

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

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

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

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

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

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

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

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

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

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

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

(4) Immature Canopy Size Limits. Unless otherwise provided by these rules, the maximum canopy size limits for immature canopy area shall be:

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

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

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

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

(5) Canopy Area Measurements and Shapes.

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

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

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

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

(6) Production Tier Changes.

(a) A producer licensed under ORS 475C.065 for at least one year may request to increase its approved production tier at any time after the first license year, up to the maximum production tier allowed under this rule. A producer must make a request for an increase in writing, in a form and manner prescribed by the Commission.

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

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

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

(C) Has not been sanctioned by the Commission for violating a provision of ORS 475C.005 to 475C.525 or a rule adopted under ORS 475C.005 to 475C.525 during the past year.

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

(d) If the Commission determines a producer meets the requirements to increase its production tier at a time other than renewal, the producer must submit payment to the Commission for the difference in the fee paid by the producer at the prior renewal and the fee described in OAR 845-025-11~~1~~060 for the increased tier size before the Commission will provide the producer with written approval.

(e) The Commission may deny a producer's request to increase its production tier if the producer does not meet the requirements of this or any other pertinent rule. If the Commission denies the request, the producer has a right to a hearing under the procedures of ORS ~~c~~Chapter 183.

(7) Producer Type Changes.

(a) A producer licensed under ORS 475C.065 for at least one year may request to change its approved producer type at any time after the first license year. A producer must make a request for the change of producer type in writing, in a form and manner prescribed by the Commission.

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

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

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

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

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

(8) Violations. An intentional violation of this rule is a Category II violation. All other violations are Category III violations.

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

Statutory/Other Authority: ORS 475C.017, 475C.065 & ORS 475C.077
Statutes/Other Implemented: ORS 475C.077
History:
OLCC 71-2022, minor correction filed 03/24/2022, effective 03/24/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 2-2021, amend filed 04/09/2021, effective 04/13/2021
OLCC 22-2020, temporary amend filed 10/15/2020, effective 10/15/2020 through 04/12/2021
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2500
Registration to Produce Usable Marijuana for Patients

(1) Eligibility. A licensed producer may produce a medically designated mature canopy in an amount equal to 10 percent of their production tier licensed under ORS 475C.077, as long as the producer provides at least seventy five percent of the annual yield of usable marijuana from their medically designated mature canopy to patients or a patient's designated primary caregivers for no consideration.

(2) In order to produce a medically designated mature grow canopy, a licensed producer must:

(a) Register in a form and manner specified by the ~~c~~Commission;

~~(b) Pay the fee specified in OAR 845-025-1060;~~

~~(c~~(b) Submit a control plan in a form prescribed by the Commission describing how the producer will:

(A) Identify the medically designated mature canopy and separate the medically designated mature canopy from the recreational canopy; and

(B) Segregate usable marijuana harvested from the medically designated mature canopy from the usable marijuana harvested from other plants.

(3) Land-use Compatibility Statement.

(a) Licensed producers who have previously submitted a land use compatibility statement are not required to submit an additional land use compatibility statement when registering to produce usable marijuana for patients.

(b) Licensed producers who were exempt from submitting a land use compatibility statement under these rules at the time of licensure must submit a land use compatibility statement when registering to produce marijuana for patients if the producer's total canopy of mature medical and recreational plants exceeds 5000 square feet for outdoor producers and 1250 square feet for indoor producers.

(4) Notwithstanding OAR 845-025-2020(2), a producer registered under this section may transfer or deliver in accordance with OAR 845-025-2550:

(a) Usable marijuana to a registry identification cardholder or designated primary caregiver at the licensed premises of the producer or to a location in Oregon that is the residence of a registry identification cardholder or designated primary caregiver;

(b) Immature marijuana plants to a registry identification cardholder or designated primary caregiver at the licensed premises of the producer or to a location in Oregon that is the residence of a registry identification cardholder or designated primary caregiver; or

(c) Immature marijuana plants to a PRMG at the PRMG's grow site.

(5) Prior to the transfer of marijuana items under this rule, a producer must obtain and retain, if not already on file, a copy of ~~the patient's or designated primary caregiver's~~:

(a) ~~Registry~~The registry identification card if transferring to a registry identification cardholder;

(b) The OMMP identification card if transferring to designated primary caregiver; or

(c) ~~Marijuana~~The marijuana grow site registration card if transferring to a PRMG.

(6) A producer may not sell, deliver, or transfer any marijuana item under this rule to an individual who does not possess a valid card identified in section (5) of this rule.

(7) A producer may maintain the records required under section (5) of this rule in electronic or physical form.

(a) For records maintained electronically, a producer shall maintain a backup system or sufficient data storage so that records are retained for no less than two years after the transfer of marijuana for which the records were last obtained or used.

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

(A) Are legible and complete;

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

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

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

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

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

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

~~(9~~(8) Denial. A registration request will be denied if the producer has not complied with this rule or if any information submitted by the producer is false or misleading. A notice of denial must be issued in accordance with ORS Chapter 183.

(~~10~~9) The Commission may revoke a registration under this section for any of the reasons that it may deny a registration under this section.

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

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

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

~~(12)~~ (10) Violations.

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

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

(c) All other violations of this rule are Category III violations.

Statutory/Other Authority: ORS 475C.017
Statutes/Other Implemented: ORS 475C.137
History:
OLCC 84-2022, minor correction filed 03/24/2022, effective 03/24/2022

OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 2-2021, amend filed 04/09/2021, effective 04/13/2021
OLCC 22-2020, temporary amend filed 10/15/2020, effective 10/15/2020 through 04/12/2021
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017
Suspended by OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17
OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17

845-025-2550
Requirements for Producing and Providing Marijuana for Patients

(1) A licensed producer who has been registered by the Commission to produce marijuana for patients must:

(a) Comply with all seed-to-sale tracking requirements required in these rules;

(b) Comply with testing rules in OAR ~~333-007-0300 to 333-007-0500~~chapter 333, division 7 applicable to licensee testing of usable marijuana prior to transferring usable marijuana to a patient or the patient's designated primary caregiver and upon request by a patient, provide a patient with a copy of all testing results;

(c) Comply with all applicable testing, labeling and packaging rules when transferring or selling usable marijuana to any licensee of the Commission;

(d) In addition to subsection (a) of this section, use CTS to document the amount of usable marijuana transferred to each patient or designated primary caregiver, the date of the transfer, and the patient or designated primary caregiver's OMMP number;

(e) Provide at least 75 percent of the annual yield of usable marijuana to patients or their designated primary caregivers; and

(f) Generate a manifest in CTS and carry a physical copy of the manifest when delivering usable marijuana to a patient or designated primary caregiver~~.~~. If a patient or designated primary caregiver is picking up the usable marijuana, the producer must generate a manifest in CTS but a physical copy is not required.

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

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

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

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

(2) Notwithstanding OAR 845-025-2020(2), a producer registered to produce marijuana for patients may:

(a) Transfer immature marijuana plants, seeds and tissue cultures from the producer's recreational plant stock to the area used for the production of marijuana for patients;

(b) Provide a patient or a designated primary caregiver:

(A) No more than 24 ounces of usable marijuana per patient in any one transfer or in any 24 hour period;

(B) An aggregate amount of no more than three pounds of usable marijuana per patient in a calendar year; ~~or~~

(C) No more than 12 immature marijuana plants over 24 inches in ~~one transfer or~~height in any 24~~-~~ hour period~~.~~; and

~~(c) Provide a PRMG with~~(D) No more than 36 immature marijuana plants~~;~~ under 24 inches in height in any 24 hour period.

(c) Provide to a PRMG:

(A) No more than 12 immature marijuana plants over 24 inches in height per patient that the PRMG is growing for in any 24 hour period; and

(B) No more than 36 immature marijuana plants under 24 inches in height per patient that the PRMG is growing for in any 24 hour period.

(d) Terminate their registration with prior notice to the ~~c~~Commission; and

(e) Upon termination, the producer must:

(A) Cease production in the medically designated canopy area; and

(B) Transfer any remaining usable marijuana yielded from the medically designated canopy to either a registry identification cardholder or designated primary caregiver, as allowed by these rules.

(3) May not:

(a) Be compensated for producing or providing usable marijuana to a patient or the patient's designated primary caregiver;

(b) Transfer more than 25 percent of the total annual yield of usable marijuana from the producer's medically designated canopy to licensees of the Commission; or

(c) Transfer marijuana to a patient or designated primary caregiver other than as described in ~~section~~sections (1) and (2) of this rule.

(4) Violations. A violation of section (~~3~~2) of this rule is a Category II violation. All other violations of this rule are Category III violations.

Statutory/Other Authority: ORS 475C.017 & ORS 475C.137
Statutes/Other Implemented: ORS 475C.017 & ORS 475C.137
History:
OLCC 85-2022, minor correction filed 03/24/2022, effective 03/24/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017

Suspended by OLCC 11-2017(Temp), f. & cert. ef. 8-1-17 thru 12-27-17
OLCC 4-2017, f. 4-28-17, cert. ef. 5-1-17

845-025-2750
Industrial Hemp Grower Certificate Privileges; Prohibitions

(1) A Commission-certified hemp grower may deliver industrial hemp to a processor or wholesaler that holds a license issued under ORS 475C.085 or 475C.093 in accordance with this rule.

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

(a) Transfer, sell, or transport harvested industrial hemp to a processor licensed under ORS 475C.085 that holds an industrial hemp endorsement; or

(b) Transfer, sell, or transport harvested industrial hemp to a wholesaler licensed under ORS 475C.093.

(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 harvested industrial hemp that:

(A) Has been tested in accordance with ~~the Authority's rules for testing usable marijuana in OAR 333-007-0300~~OAR 845-025-5800 to ~~333-007-0500~~845-025-5850; 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~~(B) Otherwise complies with the requirements for marijuana items under ORS 475C.005 to 475C.525, 475C.540 to 475C.586, and 475C.600 to 475C.644 and Commission rules.

(b) May only transfer harvested industrial hemp from the location identified in the application under OAR 845-025-2700(2)(c~~);~~), and only if the Commission-certified hemp grower holds an active hemp grower license issued under ORS 571.281 at that location;

(c) Must:

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

(B) 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.

(D) Transport industrial hemp in compliance with the requirements for a licensee transporting marijuana items under OAR 845-025-7700(3)(a)-(2)(a), (2)(b)(A)-(C), (2)(b)(F)-(K), and (2)(d)(A)-(D); and

(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 ~~to a licensee~~ that ~~exceeds the THC limits specified~~has failed a test described in OAR 845-025-~~2760~~5800 to 845-025-5850;

(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 333-007-0430, it fails potency testing for the purposes of these rules.~~

~~(b) If a batch of industrial hemp fails potency testing, the Commission-certified hemp grower 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 475C.017
Statutes/Other Implemented: ORS 475C.017, ORS 571.336 & 571.337
History:
OLCC 89-2022, minor correction filed 03/24/2022, effective 03/24/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 6-2019, amend filed 03/13/2019, effective 03/13/2019
OLCC 3-2019, amend filed 02/25/2019, effective 03/01/2019
OLCC 15-2017, adopt filed 12/22/2017, effective 12/28/2017

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 475C.085, 475C.093, or 475C.097 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 475C.085 that holds an industrial hemp endorsement;

(b) Transfer, sell, or transport harvested industrial hemp or hemp items to a wholesaler licensed under ORS 475C.093; or

(c) Transfer, sell, or transport hemp items to a retailer licensed under ORS 475C.097.

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

(a) May only transfer, sell, or transport harvested 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~~845-025-5800 to ~~333-007-0500~~845-025-5850; 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~~B) Otherwise complies with the requirements for marijuana items under ORS 475C.005 to 475C.525, 475C.540 to 475C.586, and 475C.600 to 475C.644 and Commission rules.

(b) May only transfer harvested industrial hemp or hemp items from the location identified in the application under OAR 845-025-2705(2)(c~~).~~), and only if the Commission-certified hemp handler holds an active hemp handler license issued under ORS 571.281 at that location.

(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 a licensee transporting marijuana items under OAR 845-025-7700(2)(a), (2)(b)(A)-(C), (2)(b)(F)-(K), and (2)(d)(A)-(D).

(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~~or hemp item that has failed a test described in OAR 845-025-~~2760;~~

~~(C) Any hemp item that exceeds the THC limits specified in OAR~~5800 to 845-025-~~2760~~5850;

(~~D~~C) Any hemp item containing artificially derived cannabinoids except items the licensee may receive as allowed under OAR 845-025-1310.

(~~E~~D) Any living industrial hemp plants;

(~~F~~E) Industrial hemp seed; or

(~~G~~F) On or after July 1, 2021, any inhalable cannabinoid product that a licensee is prohibited from receiving under OAR 845-025-8520.

~~(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 333-007-0310.~~

~~(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 475C.017
Statutes/Other Implemented: ORS 571.336 & 571.337
History:
OLCC 90-2022, minor correction filed 03/24/2022, effective 03/24/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 24-2020, amend filed 12/21/2020, effective 12/22/2020
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 5-2019, adopt filed 03/11/2019, effective 03/11/2019

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), (1)(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 as described in OAR 845-025-5850(1) to a Commission-certified hemp handler in accordance with OAR 845-025-~~2750 to OAR 845-025-2755.~~5850(6)(a).

(3) Manifest.

(a) A Commission-certified hemp grower or Commission-certified hemp handler transferring industrial hemp or hemp items to a processor, retailer, wholesaler, or laboratory must generate a manifest in CTS ~~that contains~~.

(b) A Commission-certified hemp grower or Commission-certified hemp handler transferring industrial hemp or hemp items that failed potency testing as described in OAR 845-025-5850(1) to a Commission-certified hemp handler in accordance with OAR 845-025-5850(6)(a) must generate a manifest in CTS.

(c) A manifest that must be generated under this section must contain the following information:

(A) The name, contact information of the hemp grower's or hemp handler's representative, address of where the industrial hemp ~~is~~or hemp items are being transferred from as identified under OAR 845-025-2700(2)(c) or 845-025-2705(2)(c), and the hemp grower ~~registration~~or hemp handler license number designated by the Oregon Department of Agriculture;

(B) The name, contact information of the licensee or hemp handler's representative, licensed premises address~~,~~ or address where the industrial hemp is being transferred to as identified under OAR 845-025-2705(2)(c), and license number or certificate number of the licensee or Commission-certified hemp handler 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~~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 or 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. A Commission-certified hemp grower or Commission-certified hemp handler may remove industrial hemp or a hemp item from CTS if the industrial hemp or hemp item will not be transferred to a licensee.

Statutory/Other Authority: ORS 475C.017
Statutes/Other Implemented: ORS 571.336 & 571.337
History:
OLCC 92-2022, minor correction filed 03/24/2022, effective 03/24/2022
OLCC 3-2019, adopt filed 02/25/2019, effective 03/01/2019

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~~(b) The industrial hemp or hemp item has passed testing as described in OAR 845-025-5800 to 845-025-5850;

(c) 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 chapter 333~~-007-0500~~, division 7; and

(~~c~~d) The licensee complies with any applicable requirements of ORS 571.281 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 475C.005 to 475C.525, 475C.540 to 475C.586 and 475C.600 to 475C.644 and rules adopted thereunder;~~ and~~

~~(c~~(c) Comply with the testing requirements in OAR 845-025-5800 to 845-025-5850; and

(d) 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 475C.005 to 475C.525, 475C.540 to 475C.586 and 475C.600 to 475C.644 and any rules adopted thereunder apply to industrial hemp and hemp items received, delivered, or manufactured by a licensee or laboratory 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 and 845-025-5800 to 845-025-5850.

(9) A licensee or laboratory 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 total delta-9-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~~(e) Purchase, possess, or receive any industrial hemp that has failed the testing described in OAR 845-025-5800 to 845-025-5850; or

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

Statutory/Other Authority: ORS 475C.017
Statutes/Other Implemented: ORS 475C.085, ORS 475C.301, ORS 571.336 & ORS 571.337
History:
OLCC 190-2022, minor correction filed 03/28/2022, effective 03/28/2022
OLCC 93-2022, minor correction filed 03/24/2022, effective 03/24/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 3-2019, adopt filed 02/25/2019, effective 03/01/2019

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~~ a.m. and 10~~:00 PM~~ p.m. 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 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 seeds to a producer.

(D) Marijuana items and hemp items to a retailer under common ownership;

(E) Marijuana waste to a producer, processor, wholesaler, or research certificate holder.

(~~E~~F) Hemp waste to a wholesaler, processor with an industrial hemp endorsement, or research certificate holder.

(c) Accept or make returns, as long as the retailer:

(A) Only accepts or returns usable marijuana, marijuana items, hemp items, immature marijuana plants and seeds;

(B) Only accepts or returns eligible items listed in paragraph (A) of this subsection 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, seeds, and kief from a producer or from a research certificate holder;

(B) Cannabinoid concentrates from a micro tier producer with a concentrate endorsement issued under OAR 845-025-2025;

(C) Cannabinoid products, cannabinoid extracts and cannabinoid concentrates from a marijuana producer that were made using only marijuana produced by the producer;

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

(E) Any marijuana item, except for whole, non-living marijuana plants, from a wholesaler;

(F) Any marijuana item from a laboratory licensee;

(G) Trade samples as allowed by 845-025-1330;

(H) Marijuana items and hemp items from a retailer under common ownership; and

(I) Hemp items from a Commission-certified hemp handler, a wholesaler, a laboratory licensee, or a processor with an industrial hemp endorsement~~; and~~.

~~(J) 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~~chapter 333, division 7;

(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 section (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 under common ownership 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) Two ounces 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;

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

(F) Four immature marijuana plants; and

(G) 10 marijuana seeds.

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

(A) ~~8~~Eight 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) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana or hemp item containing artificially derived cannabinoids except as allowed under OAR 845-025-1310 and in accordance with sections (2) and (3) of this rule.

(e) Provide free marijuana items to a recreational consumer.

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

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

(h) 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~~contingent on the purchase of a non-marijuana item.

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

(i) Prior to the application of a discount or the retail marijuana tax, require a registry identification cardholder to pay a higher price for the same marijuana item that is charged to a person without a registry identification card.

(j) 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.

(k) 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.

(l) Sell or transfer a returned marijuana item or hemp item to another consumer.

(m) Sell, transfer, deliver, purchase, possess, accept, return or receive any marijuana item or hemp item other than as provided in this rule.

(n) 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.

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

(p) Sell a marijuana item to an individual that exceeds the concentration limits in OAR 845-026-0210 and 845-026-0220.

(q) 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.

(r) Impose or collect a tax on the retail sale of a marijuana item to a patient or designated primary caregiver who is purchasing a marijuana item for a registry identification cardholder.

(s) Process marijuana items.

(t) Produce marijuana.

(5) Notwithstanding paragraph (2)(c)(B) of this rule, a retailer may transfer its entire inventory of marijuana items and hemp items to a single wholesaler if all requirements in OAR 845-025-7700 are met.

(6) Violations.

(a) A violation of paragraph (2)(d)(A) through (2)(d)(I), (4)(a)(A) through (4)(a)(G), or (4)(b)(A) through (4)(a)(D), or section (3) of this rule is a Category II violation.

(b) A violation of paragraph (2)(b)(A) or (2)(b)(B) of this rule is a Category II(b) violation.

(c) A violation of paragraph (2)(b)(E), (2)(c)(A) through (2)(c)(D), or subsection (2)(e) or (4)(e) through (4)(r) of this rule is a Category III violation.

Statutory/Other Authority: ORS 475C.017 & ORS 475C.097
Statutes/Other Implemented: ORS 475C.017 & ORS 475C.097
History:
OLCC 94-2022, minor correction filed 03/24/2022, effective 03/24/2022

OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 7-2020, temporary amend filed 03/22/2020, effective 03/22/2020 through 09/17/2020
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 3-2019, amend filed 02/25/2019, effective 03/01/2019
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 10-2018, temporary amend filed 08/23/2018, effective 08/24/2018 through 12/27/2018
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 9-2016(Temp), f. 6-28-16, cert. ef. 6-30-16 thru 12-26-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-2885
On-Site Delivery of Marijuana by Retailer

(1) Notwithstanding OAR 845-025-2880, a retailer may deliver a bona fide order to an individual who is on-site but outside of the store, such as to the retailer's parking lot or the front entrance.

(2) "On-site" means an area within 150 feet of the boundary of the retail licensee's licensed premises.

(3) Bona Fide Orders for On-Site Delivery.

(a) A bona fide order must be received by a retailer from the individual requesting delivery.

(b) The bona fide order must contain:

(A) The individual requestor's name, date of birth, and the date delivery is requested; and

(B) A document that describes the marijuana items proposed for delivery and the amounts.

(4) On-Site Delivery Requirements.

(a) A retailer may only make an on-site delivery during regular business hours and between the hours of 7~~:00 AM~~ a.m. and 10~~:00 PM~~ p.m. local time.

(b) Delivery may only occur within 150 feet of the boundary of the licensee's premises.

(c) At the time of on-site delivery, the licensee or licensee representative delivering marijuana items to the customer must check the identification of the individual to whom delivery is being made in compliance with OAR 845-025-2820 in order to determine that the identification matches the individual who submitted the bona fide order. This includes, but is not limited to, ensuring that the individual:

(A) Is 21 years of age or older; or

(B) If the individual is age 18-20, is a current registry identification cardholder.

(d) A retailer may not allow a marijuana item to be purchased by an individual who is visibly intoxicated at the time of pick-up.

(e) Marijuana items being delivered to an individual must comply with the packaging and labeling rules in OAR 845-025-7000 to 845-025-7190.

(f) A retailer licensee or licensee representative must accurately record all on-site delivery sales in CTS in the same manner as a non-delivery sales transaction pursuant to OAR 845-025-7580(~~5~~6).

(5) A licensee or licensee representative may not allow on-site delivery to occur on any federal public land within 150 feet of the licensed premises. Retailers should comply with any time, place and manner ordinances imposed by a local government.

(6) A violation of any section of this rule that is not otherwise specified in OAR 845-025-8590 is a Category III violation.

Statutory/Other Authority: ORS 475C.017, 475C.097 & ORS 475C.205
Statutes/Other Implemented: ORS 475C.205 & E.O. 20-07
History:
OLCC 99-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 19-2020, adopt filed 09/15/2020, effective 09/18/2020
OLCC 7-2020, temporary adopt filed 03/22/2020, effective 03/22/2020 through 09/17/2020

845-025-5800
Definitions for Industrial Hemp and Hemp Item Testing

For the purposes of OAR 845-025-5800 through 845-025-5850, unless otherwise specified:

(1) “Batch” means:

(a) A quantity of industrial hemp or usable hemp from a harvest lot; or

(b) A quantity of Hemp concentrate, hemp extract or hemp cannabinoid product from a process lot.

(2) “Certificate holder” means a Commission-certified hemp grower or Commission-certified hemp handler.

(3) “Finished hemp cannabinoid product”:

(a) Means a hemp cannabinoid product that is in its final form ready for packaging for sale or transfer to a consumer, and includes all ingredients whether or not the ingredients contain cannabinoids.

(b) For sampling and testing purposes, is equivalent to a “finished cannabinoid product” as that term is defined in OAR 333-007-0310.

(4) “Finished industrial hemp concentrate or extract”:

(a) Means an industrial hemp concentrate or industrial hemp extract that is in its final form ready for packaging for sale or transfer to a consumer.

(b) For sampling and testing purposes, is equivalent to a “finished cannabinoid concentrate or extract” as that term is defined in OAR 333-007-0310.

(5) “Finished inhalable hemp cannabinoid product”:

(a) Means a hemp cannabinoid product that is intended for human use via inhalation, is in its final form ready for packaging for sale or transfer to consumer, and includes all ingredients whether or not the ingredients contain cannabinoids.

(b) For sampling and testing purposes, is equivalent to a “finished inhalable cannabinoid product” as that term is defined in OAR 333-007-0310.

(6) “Harvested industrial hemp”:

(a) Has the meaning given that term in OAR 845-025-1015.

(b) For sampling and testing purposes, is equivalent to “usable marijuana” as that term is defined in OAR 333-007-0310.

(7) “Hemp cannabinoid product”:

(a) Has the meaning given that term in OAR 845-025-1015.

(b) For sampling and testing purposes, is equivalent to a cannabinoid product as that term is defined in OAR 333-007-0310.

(8) “Industrial hemp concentrate”:

(a) Has the meaning given that term in ORS 571.269.

(b) For sampling and testing purposes, is equivalent to a “cannabinoid concentrate or extract” as that term is defined in OAR 333-007-0310.

(9) “Industrial hemp extract”:

(a) Has the meaning given that term in ORS 571.269.

(b) For sampling and testing purposes, is equivalent to a “cannabinoid concentrate or extract” as that term is defined in OAR 333-007-0310.

(10) “Usable hemp”:

(a) Has the meaning given that term in OAR 845-025-1015.

(b) For sampling and testing purposes, is equivalent to “usable marijuana” as that term is defined in OAR 333-007-0310.

Statutory/Other Authority: ORS 475C.017 & ORS 571.337
Statutes/Other Implemented: ORS 571.336 & ORS 571.337

845-025-5810
Industrial Hemp and Hemp Item Testing – Purpose and Scope

(1) The purpose of OAR 845-025-5800 to 845-025-5850 is to describe how licensees and certificate holders must comply with the testing requirements for harvested industrial hemp and hemp items that are tracked in CTS.

(2) These requirements do not apply to harvested industrial hemp or hemp items that a certificate holder does not intend to transfer to a licensee.

(3) A certificate holder may not sell or transfer harvested industrial hemp or a hemp item to a licensee unless it is first tested by a laboratory as required by these rules.

(4) A licensee may not sell or transfer harvested industrial hemp or a hemp item unless it is first tested by a laboratory as required by these rules, except for a processor transferring a hemp item to a wholesaler to coordinate testing as described in OAR 845-025-5840.

(5) A licensee may not accept the transfer of harvested industrial hemp or a hemp item that is not sampled and passed any required compliance test in accordance with these rules, except for a wholesaler accepting the transfer of a hemp item from a processor to coordinate testing as described in OAR 845-025-5840.

(6) These rules require harvested industrial hemp and hemp items to be sampled, tested, and reported in a manner consistent with the Authority's marijuana and hemp sampling and testing rules in OAR chapter 333, divisions 7 and 64. In applying those rules:

(a) Industrial hemp and hemp items are treated as their marijuana equivalents as described in OAR 845-025-5800;

(b) References to "licensee or registrant" or "processor or processing site" should be read as "licensee or certificate holder"; and

(c) References to "chapter 845, division 26" or "OAR chapter 845, division 26" should be read as "OAR 845-025-2760."

(7) To be sufficient to meet the requirement for testing under these rules, a licensee or certificate holder must ensure through a testing agreement or contract with the laboratory licensee, that the laboratory:

(a) Samples harvested industrial hemp and hemp items according to OAR 333-007-0360 and OAR 333-064-0100;

(b) Tests harvested industrial hemp and hemp items according to OAR 333-007-0390 to 333-007-0440 and 333-064-0100;

(c) Keeps records in accordance with OAR 333-064-0100;

(d) Provides the licensee, or certificate holder with test reports that meet the requirements in OAR 333-064-0110; and

(e) Provides test reports that clearly identify the batch or process lot identifier.

Statutory/Other Authority: ORS 475C.017 & ORS 571.337
Statutes/Other Implemented: ORS 571.336 & ORS 571.337

845-025-5815
Ordering Tests for Industrial Hemp and Hemp Items

(1) A certificate holder must enter a batch of industrial hemp or a hemp item into CTS prior to requesting testing under these rules.

(2) To request a compliance test a requestor must provide a laboratory licensee, prior to the laboratory taking samples, with at a minimum, the following information as applicable:

(a) The licensee's or certificate holder's license or certificate number.

(b) The name, address and contact information of the licensee or certificate holder.

(c) Whether the item is harvested industrial hemp or a hemp item and, if the item is a hemp item, the type of hemp item.

(d) Harvest lot identifier that is associated with the batch, if applicable.

(e) Process lot number or identifier that is associated with the batch, if applicable.

(f) Batch numbers or identifiers to be sampled.

(g) Total mass of each batch to be sampled.

(h) For hemp cannabinoid products, all intended units of sale.

(i) Identification of the test or tests the laboratory is being requested to conduct.

(j) Whether the test or tests being requested are compliance tests.

(k) Whether the test or tests being requested are for quality control, research and development, or any purpose other than a compliance test.

(l) Whether a batch is being re-sampled because of a failed test and if so, the date the failed test result was received by the licensee and laboratory licensee's license number of the laboratory that conducted the initial test.

(m) Whether the hemp or hemp item was remediated, if remediation is permitted under OAR 845-025-5850.

(n) For tests requested by a certificate holder, whether the harvested industrial hemp or hemp item is intended to be transferred to a licensee.

(o) For tests requested by a processor, whether the hemp item is intended to be transferred to an unlicensed person in accordance with OAR 845-025-3320.

(3) If the licensee or certificate holder informs a laboratory licensee that a batch of hemp or a hemp item is being re-sampled after a failed test, the licensee or certificate holder must provide the laboratory licensee with documentation of the failed test as applicable.

(4) It is the responsibility of the licensee or certificate holder to order the tests necessary to comply with these rules.

(5) Limitations on the testing that a licensee or certificate holder may request.

(a) A licensee may only order a compliance test for a hemp item that the licensee has processed, except a wholesaler who may order a compliance test.

(b) An industrial hemp grower certificate holder may order a compliance test for any harvested industrial hemp in the certificate holder's possession at the location where the certificate is held.

(c) An industrial hemp handler certificate holder may order a compliance test for any harvested industrial hemp or hemp item in the certificate holder's possession at the location where the certificate is held.

(6) More than one compliance test for the same harvested industrial hemp or hemp item may not be ordered.

(7) It is a violation of these rules for a licensee to:

(a) Fail to provide the information required in these rules to the laboratory licensee; or

(b) Submit false or misleading information to a laboratory licensee or a directed agent to submit false or misleading information to a laboratory licensee.

(8) Once a test order has been submitted to a laboratory licensee by a licensee or certificate holder and at least one test has already been performed, the order may not be canceled unless written permission is given by the Commission, the Authority or the Department of Agriculture.

Statutory/Other Authority: ORS 475C.017 & ORS 571.337
Statutes/Other Implemented: ORS 571.336 & ORS 571.337

845-025-5820
Compliance Testing Requirements for Industrial Hemp and Hemp Items

(1) Harvested industrial hemp.

(a) A certificate holder must have every batch from a harvest lot of harvested industrial hemp tested as required and in the same manner as marijuana under OAR 333-007-0320; and

(b) A certificate holder must have every batch from a harvest lot of harvested industrial hemp tested for adult use cannabinoid and CBD concentration in accordance with OAR 333-007-0430, notwithstanding whether this test would be required for marijuana under OAR 333-007-0320.

(2) Usable hemp.

(a) A Commission-certified hemp handler must have every batch from a harvest lot of usable hemp tested as required and in the same manner as usable marijuana under OAR 333-007-0320; and

(b) A Commission-certified hemp handler must have every batch from a harvest lot of usable hemp tested for adult use cannabinoid and CBD concentration in accordance with OAR 333-007-0430, notwithstanding whether this test would be required for usable marijuana under OAR 333-007-0320.

(3) Industrial hemp concentrates and industrial hemp extracts.

(a) A Commission-certified hemp handler or processor must have every process lot of industrial hemp concentrate or extract tested as required and in the same manner as cannabinoid concentrates and extracts under OAR 333-007-0330; and

(b) A Commission-certified hemp handler must have every process lot of industrial hemp concentrate or extract tested for adult use cannabinoid and CBD concentration in accordance with OAR 333-007-0430, notwithstanding whether this test would be required for a cannabinoid concentrate or extract under OAR 333-007-0330.

(4) Hemp cannabinoid products.

(a) A Commission-certified hemp handler or processor must have every process lot of hemp cannabinoid product tested as required and in the same manner as cannabinoid products under OAR 333-007-0340; and

(b) A Commission-certified hemp handler must have every process lot of hemp cannabinoid product tested for adult use cannabinoid and CBD concentration in accordance with OAR 333-007-0430,

notwithstanding whether this test would be required for a cannabinoid product under OAR 333-007-0340.

(5) Finished inhalable hemp cannabinoid products. A Commission-certified hemp handler or processor must have every process lot of finished inhalable hemp cannabinoid product tested as required and in the same manner as finished inhalable cannabinoid products under OAR 333-007-0340.

Statutory/Other Authority: ORS 475C.017 & ORS 571.337
Statutes/Other Implemented: ORS 571.336 & ORS 571.337

845-025-5830
Batch Testing Requirements for Industrial Hemp and Hemp Items

(1) Harvested industrial hemp:

(a) A certificate holder must separate each harvest lot of harvested industrial hemp harvested before July 1, 2022 into no larger than 30 pound batches.

(b) A certificate holder must separate each harvest lot of harvested industrial hemp harvested on or after July 1, 2022 into no larger than 50.0 pound batches.

(2) Usable hemp:

(a) A Commission-certified hemp handler must separate each harvest lot of usable hemp harvested before July 1, 2022 into no larger than 30 pound batches.

(b) A Commission-certified hemp handler must separate each harvest lot of usable hemp harvested on or after July 1, 2022 into no larger than 50.0 pound batches.

(3) Industrial hemp concentrates or extracts:

(a) A process lot of an industrial hemp concentrate or extract is considered a batch.

(b) A batch of industrial hemp concentrate or extract must be produced using a standard operating procedure and result in one finished industrial hemp concentrate or extract that is uniform in texture and form.

(4) Hemp cannabinoid products.

(a) A processor or Commission-certified hemp handler must separate process lots into not larger than 35,000 unit of sale batches.

(b) A batch of a hemp cannabinoid product must be produced using a standard operating procedure and result in a finished hemp cannabinoid product that is uniform in potency, texture, and weight. A standard operating procedure may use different flavors or colors in a batch if the different flavors or colors:

(A) Are substituted for one another at a 1:1 ratio; and

(B) Do not affect the potency, texture, or weight of the finished hemp cannabinoid product.

(c) If a hemp cannabinoid product is or may be sold in different quantities in a unit of sale, then the process lot shall be sampled based on the smallest unit of sale for the purposes of sampling and

testing. All proposed units of sales must meet the Commission's concentration limit rules found in OAR 845-025-2760.

(5) Finished inhalable hemp cannabinoid products.

(a) A process lot of a finished inhalable hemp cannabinoid product is considered a batch.

(b) A batch of a finished inhalable hemp cannabinoid product must be made form a standard operating procedure and result in one finished inhalable cannabinoid product that is uniform in flavor, texture, and form.

(6) Batch identifiers.

(a) A Commission-certified hemp grower must:

(A) Assign each batch grown by the grower a unique numerical identifier as described in OAR 603-048-0500 and enter this information into CTS.

(B) Record the lot identifier or unique identifier for any harvested industrial hemp not grown by the handler as described in OAR 603-048-0500 and enter this information into CTS.

(b) A Commission-certified hemp handler must:

(A) Assign each batch processed by the handler a process lot identifier as described in OAR 603-048-0500 and enter this information into CTS. A handler may not reuse a process lot identifier.

(B) Record the lot identifier or unique identifier for any harvested industrial hemp or hemp item not processed by the handler as described in OAR 603-048-0500 and enter this information into CTS.

(c) A processor must assign every process lot a unique identification number and enter this information into CTS.

(7) Sampling and sample size requirements for compliance testing.

(a) Harvested industrial hemp and usable hemp must be sampled as described for marijuana or usable marijuana in OAR 333-007-0360.

(b) Industrial hemp concentrates, industrial hemp extracts, hemp cannabinoid products, and finished inhalable hemp cannabinoid products must be sampled as described for cannabinoid concentrates, extracts, products, and finished inhalable cannabinoid products in OAR 333-007-0360.

(8) For the purposes of this rule, "flavor" means:

(a) The essential oil or essence which contains the flavoring constituents derived from a spice, fruit, fruit juice, vegetable, vegetable juice, herb, root, leaf, or similar plant material.

(b) Any substance, the function of which is to impart flavor, which is not derived from a spice, fruit juice, vegetable, vegetable juice, herb, root, leaf, or similar plan material.

(c) Flavor does not include flavoring constituents derived from the cannabis plant.

Statutory/Other Authority: ORS 475C.017 & ORS 571.337
Statutes/Other Implemented: ORS 571.336 & ORS 571.337

845-025-5840
Wholesaler Coordination of Sampling and Testing for Industrial Hemp and Hemp Items

A wholesaler:

(1) May accept a batch, as that term is defined in OAR 333-007-0310, from a processor that:

(a) Has not been sampled or tested in accordance with OAR chapter 333, divisions 7 and 64, and these rules and may order tests and arrange for the sampling and testing of the batch in accordance with OAR chapter 333, divisions 7 and 64, and these rules.

(b) Has been sampled but has not yet been tested in accordance with OAR chapter 333, divisions 7 and 64, and these rules.

(2) Must secure, label, and store pre-tested hemp items in accordance with OAR 845-025-5720.

(3) May not transfer or sell a hemp item unless that hemp item:

(a) Has been sampled and tested in accordance with OAR chapter 333, divisions 7 and 64, and these rules.

(b) Has passed all the required tests in OAR 845-025-5820.

(4) Is jointly and severally responsible for ensuring compliance with OAR chapter 333, divisions 7 and 64, and these rules with the licensee who processed the hemp item.

Statutory/Other Authority: ORS 475C.093 & 475C.544
Statutes/Other Implemented: ORS 475C.093 & 475C.544

845-025-5850
Failed Test Samples for Industrial Hemp and Hemp Items

(1) Additional potency testing failures. In addition to the criteria described in OAR 333-007-0430:

(a) A hemp item that a processor intends to transfer to an unlicensed person in accordance with OAR 845-025-3320 fails potency testing if, based on an initial test where no reanalysis is requested or upon reanalysis as described in OAR 333-007-0450(1), the percentage of total delta-9 THC, as calculated pursuant to OAR 333-064-0100, exceeds 0.3 percent. A laboratory licensee shall record a failed test described in this subsection in CTS.

(b) A batch of harvested industrial hemp or usable hemp or a process lot an industrial hemp concentrate, industrial hemp extract, or finished hemp cannabinoid product that is not subject to subsection (a) of this section fails potency testing if, based on an initial test where no reanalysis is requested or upon reanalysis as described in OAR 333-007-0450(1), the amount or percentage of total delta-9 THC, as calculated pursuant to OAR 333-064-0100, exceeds the maximum quantity or concentration limits in OAR 845-025-2760 by over 10 percent. A laboratory licensee shall record a failed test described in this section in CTS.

(2) If a sample or a duplicate sample (collectively referred to as “sample” for purposes of this rule) fails any initial test the laboratory licensee that did the testing may reanalyze the sample. The laboratory licensee that did the initial test may not subcontract the reanalysis. If a primary sample or a duplicate sample fails, both must be reanalyzed. If the sample passes, another laboratory licensee must resample the batch and confirm that result in order for the batch to pass testing.

(a) If a licensee or certificate holder wishes to have a sample reanalyzed, the licensee or certificate holder must request a reanalysis within seven calendar days from the date the laboratory licensee sent notice of the failed test to the licensee or certificate holder. The reanalysis must be completed by the laboratory licensee within 30 days from the date the reanalysis was requested.

(b) If a licensee or certificate holder has requested a reanalysis in accordance with subsection (1)(a) of this rule and the sample passes, the licensee or certificate holder has seven calendar days from the date the laboratory licensee sent notice of the passed test to request that another laboratory licensee resample the batch and confirm the passed test result. The retesting must be completed by the second laboratory licensee within 30 days from the date the retesting was requested.

(c) A licensee or certificate holder must inform the Commission immediately of the following, in a manner prescribed by the Commission:

(A) A request for reanalysis of a sample;

(B) The testing results of the reanalysis;

(C) A request for retesting; and

(D) The results of retesting.

(3) If a sample fails a test or a reanalysis under section (2) of this rule, the batch:

(a) May be remediated or sterilized in accordance with OAR 333-007-0450; or

(b) If it is not or cannot be remediated or sterilized under OAR 333-007-0450, must be destroyed in a manner specified by the Commission.

(4) Except as otherwise permitted under this OAR 333-007-0450, an industrial hemp concentrate, industrial hemp extract, or finished inhalable hemp cannabinoid product that is permitted to undergo remediation cannot be further processed into a cannabinoid product during the remediation process.

(5) If a licensee or certificate holder is permitted under this rule to sell or transfer a batch that has failed a test, the licensee or certificate holder must notify the licensee or registrant to whom the batch is sold or transferred of the failed test.

(6) If the batch fails under section (1) of this rule, the certificate holder must:

(a) Store and segregate the batch in a secure area;

(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, resolve the failure in one of the following ways:

(A) If the certificate holder is a Commission-certified hemp handler, process the batch into a hemp item that does not exceed the THC limits specified in OAR 845-025-2760 in accordance with OAR 333-007-0450(10);

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

(C) Remove the industrial hemp or hemp item from their inventory tracked in CTS and use or transfer the industrial hemp or hemp item in accordance with state law and the privileges of their hemp license issued under ORS 571.281; or

(D) Destroy the batch in a manner specified by the Commission.

Statutory/Other Authority: ORS 475C.017 & ORS 571.337
Statutes/Other Implemented: ORS 571.336 & ORS 571.337

845-025-7000
Packaging and Labeling — Definitions

For the purposes of OAR 845-025-7000 through 845-025-7190, unless otherwise specified:

(1) “Activation time” means the amount of time it is likely to take for an individual to begin to feel the effects of ingesting or inhaling a marijuana or hemp item.

(2) “Added substances” 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 added flavors, non-marijuana derived terpenes, and any substances used to change viscosity or consistency of the cannabinoid product.

(3) “Attractive to minors” means packaging, receptacles, inhalant delivery devices, labeling and marketing 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; and

(e) Words that refer to products that are commonly associated with minors or marketed by minors.

(4) “Authority” means the Oregon Health Authority.

(5) “Cannabinoid” for the purposes of labeling means any of the chemical compounds that are the active constituents of marijuana or industrial hemp.

(6) “Cannabinoid capsule” means a small, soluble pill, tablet, or container that contains liquid or powdered cannabinoid product, concentrate or extract and is intended for human ingestion.

(7) “Cannabinoid concentrate or extract” means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process. For the purposes of labeling, cannabinoid concentrate or extract also includes concentrates and extracts derived from industrial hemp.

(8)(a) “Cannabinoid edible” means:

(A) Food or potable liquid into which a cannabinoid concentrate, or extract or the dried leaves or flowers of marijuana have been incorporated; or

(B) For purposes of labeling, includes any marijuana, cannabinoid concentrate, extract or cannabinoid product that is intended for human consumption or marketed in a manner that implies the item is for human consumption.

(b) For purposes of labeling “cannabinoid edible” does not include a cannabinoid tincture or capsule.

(9) “Cannabinoid product” means:

(a) A cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person’s skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana; or

(b) Usable marijuana, cannabinoid extracts and cannabinoid concentrates that have been combined with an added substance.

(c) “Cannabinoid product” does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate or extract by itself; or

(C) Industrial hemp, as defined in ORS 571.269.

(10) “Cannabinoid tincture” means a liquid cannabinoid product packaged in a container of ~~4~~four fluid ounces or less that consists of either:

(a) A non-potable solution consisting of at least 25 percent non-denatured alcohol, in addition to cannabinoid concentrate, extract or usable marijuana, and perhaps other ingredients intended for human consumption or ingestion, that is exempt from the Liquor Control Act under ORS 471.035; or

(b) A non-potable solution comprised of glycerin, plant-based oil, or concentrated syrup; cannabinoid concentrate, extract or usable marijuana; and other ingredients that does not contain any added sweeteners and is intended for human consumption or ingestion.

(11) “Cannabinoid topical” means a cannabinoid product intended to be applied to skin or hair.

(12) “Cartoon” means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of 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.

(13) “CBD” means total cannabidiol as calculated pursuant to OAR 333-064-0100.

(14) “Child resistant” means designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly.

(15) “Commission” means the Oregon Liquor and Cannabis Commission.

(16) “Consumer,” for the purposes of these rules, has the meaning given that term in ORS 475C.009 and does not include a patient or designated primary caregiver.

(17) “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, patient, or designated primary caregiver.

(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.

(18) “Date of harvest” means the day the last mature marijuana plant in the harvest lot was removed from the soil or other growing media.

(19)(a) “Designated primary caregiver” means an individual:

(A) Who is 18 years of age or older;

(B) Who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition; and

(C) Who is designated as the person responsible for managing the well-being of a person who has been diagnosed with a debilitating medical condition on that person’s application for a registry identification card or in other written notification submitted to the Authority.

(b) “Designated primary caregiver” does not include a person’s attending physician.

(20) “Exit Package” means a sealed, child-resistant certified receptacle into which marijuana items already within a container are placed at the point of sale.

(21) “Food” means a raw, cooked, or processed edible substance, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum and includes beverages.

(22) “Generic label”

(a) Means a label that does not have any graphics, pictures, or logos, other than symbols required by these rules and has:

(A) Only the information required by rule;

(B) Additional test information not required by rule; or

(C) Additional information described in OAR 845-025-7160(8)(c).

(b) Does not mean:

(A) A label for an inhalable cannabinoid product with a non-cannabis additive that is processed or manufactured on or after April 1, 2021.

(B) A label for a marijuana or hemp item that contains an artificially derived cannabinoid allowed by OAR 845-025-1310 that is sold or transferred on or after July 1, 2022.

(23) “Grower” has the same meaning as “person responsible for a marijuana grow site.”

(24) “Health claim” means any claim made on the label that expressly states or implies a relationship between a substance and a disease or health-related condition.

~~(25~~(25) “Hemp cannabinoid product” has the meaning given that term in OAR 845-025-1015.

(26) “Hemp item” has the meaning given that term in OAR 845-025-1015.

(27) “Hemp symbol” means the image, established by the Commission and made available to licensees, indicating the item ~~contains industrial~~is a hemp item.

~~(26) “Industrial hemp commodity or product” means an item processed by a handler or processor containing any industrial hemp or containing any chemical compounds derived from industrial hemp, including CBD derived from industrial hemp. “Industrial hemp commodity or product” does not include industrial hemp that has been minimally processed or has not been processed in any form.~~

~~(27~~(28) “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.

(~~28~~29) “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.

(~~29~~30) “Label” means any display of written, printed, or graphic matter printed on or affixed to any container, wrapper, liner, or insert accompanying the marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item.

(~~30~~31) “Licensee” has the meaning given that term in ORS 475C.009.

(~~31~~32) “Major food allergen” means an ingredient that contains any of the foods or food groups listed in subsections (a) to (~~h)~~i) of this section or an ingredient that contains protein derived from one of the foods listed in subsections (a) to (~~h):~~i) of this section:

(a) Milk;

(b) Egg;

(c) Fish;

(d) Crustacean shellfish;

(e) Tree nuts;

(f) Wheat;

(g) Peanuts; ~~and~~

(h) Soybeans~~.~~; and

~~(32~~(i) On and after July 1, 2023, sesame.

(33)(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 571.269.

(~~33~~34) “Marijuana item” means marijuana, usable marijuana, a cannabinoid product, or a cannabinoid concentrate or extract.

(~~34~~35) “Medical grade cannabinoid product, cannabinoid concentrate or cannabinoid extract” means a cannabinoid product, cannabinoid concentrate or cannabinoid extract that has a concentration of THC that is permitted under ORS 475C.620 in a single serving of the cannabinoid product, cannabinoid concentrate or cannabinoid extract for a patient.

(~~35~~36) “Medical grade symbol” means the image established by the Commission and made available to licensees indicating the cannabinoid product, concentrate or extract may only be sold or transferred to a designated primary caregiver or patient, for use only by a patient.

(~~36~~37) “Medical marijuana dispensary” means a facility registered under ORS 475C.833.

(~~37~~38) “Net quantity of contents” means a statement on the principal display panel of the net weight or net volume of the product expressed in the terms of weight, measure, or numerical count.

(~~38~~39) “Net volume” means the fluid measure of a liquid product expressed as milliliters and fluid ounces.

(~~39~~40) “Net weight” means the gross weight minus the tare weight of the packaging expressed as ounces and grams or milligrams. “Net weight” as applied to pre-rolled marijuana includes the dried marijuana leaves and flowers, the rolling paper, and the filter or tip.

(~~40~~41)(a) “Other Cannabinoid Product” means a cannabinoid product that contains two or more ingredients and is not intended for human consumption, including but not limited to products that combine usable marijuana and concentrates or extracts; or usable marijuana, concentrates or extracts that contain added substances.

(b) “Other Cannabinoid Product” does not include pre-rolled marijuana consisting of only dried marijuana leaves and flowers, an unflavored rolling paper and a filter or tip.

(~~41~~42) “Patient” has the same meaning as “registry identification cardholder.”

(~~42~~43) “Person responsible for a marijuana grow site” means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose and has the same meaning as “grower.”

(~~43~~44) “Place of address” means the name, mailing address, city, state and zip code of the processor who made the cannabinoid edible or other cannabinoid product.

(~~44~~45) “Principal display panel” means the part of a label on a package or container that is most likely to be displayed, presented, shown or seen under customary conditions of display for sale or transfer.

(~~45~~46) “Processor” means a person:

(a) Licensed by the Commission to process marijuana under ORS 475C.085;

(b) Licensed by the Commission under ORS 475C.065 who produces kief;

(c) Licensed with the Oregon Department of Agriculture under ORS 571.281 who manufactures hemp items; or

(d) Registered with the Authority under ORS 475C.815 as a processing site and who is not exempt from labeling requirements under ORS 475C.604.

(~~46~~47) “Producer” means a person:

(a) Licensed by the Commission to produce marijuana under ORS 475C.065; and

(b) Registered with the Authority under ORS 475C.792 as a grower and who is not exempt from labeling requirements under ORS 475C.604.

(~~47~~48) “Product identity” means a truthful or common name of the product that is contained in the package.

(~~48~~49) “Registrant” means a person registered with the Authority under ORS 475C.770 to 475C.919.

(~~49~~50) “Registry identification cardholder” means a person to whom a registration card has been issued under ORS 475C.783.

(~~50~~51) “Serving” or “serving size” means an amount of product that is suggested for use by a consumer or patient trying the item for the first time.

(~~51~~52) “THC” means total delta-9-tetrahydrocannabinol as calculated pursuant to OAR 333-064-0100.

(~~52~~53) “These rules” means OAR 845-025-7000 through 845-025-7190.

(~~53~~54) “UID number” for the purpose of labeling, means the unique identification number generated by CTS at the time the marijuana item was packaged and labeled for ultimate sale to a consumer, patient, or designated primary caregiver.

(~~54~~55) “Ultimate sale” means the final sale from a retail location or dispensary to a consumer, patient, or designated primary caregiver.

(~~55~~56) “Universal symbol” means the image, established by the Authority and made available to licensees and registrants, indicating the marijuana item contains marijuana.

(~~56~~57) “Usable hemp”

(a) Means the flowers and leaves of industrial hemp intended for human consumption that does not fall within meaning hemp concentrate or extract, hemp edible, or hemp cannabinoid product.

(b) Includes, for purposes of these rules, pre-rolled hemp as long as the pre-roll consists of only dried hemp leaves and flowers, an unflavored rolling paper and a filter or tip.

(~~57~~58)(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.

Statutory/Other Authority: ORS 475C.604 & ORS 475C.608
Statutes/Other Implemented: ORS 475C.604

History:
OLCC 143-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 17-2021, minor correction filed 08/02/2021, effective 08/02/2021
OLCC 24-2020, amend filed 12/21/2020, effective 12/22/2020
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 6-2018, amend filed 05/23/2018, effective 06/01/2018
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 17-2016(Temp), f. & cert. ef. 9-30-16 thru 12-26-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-7010
Purpose, Scope and Effective Date

(1) The purpose of OAR 845-025-7000 through 845-025-7190 is to set the minimum standards for the packaging and labeling of marijuana ~~items~~ and ~~industrial~~ hemp ~~commodities and products~~items that are for ultimate sale or transfer to a consumer, patient, or designated primary caregiver at an OMMP registered dispensary or OLCC licensed retailer. These minimum standards are applicable to:

(a) A Commission licensee as defined in OAR 845-025-1015; and

(b) A person registered with the Authority under ORS 475C.770 to 475C.919 who is not exempt from the labeling requirements as described in section (2) of this rule.

(2) The labeling requirements in these rules do not apply to:

(a) A grower if the grower is transferring usable marijuana or an immature marijuana plant to:

(A) A patient who designated the grower to grow marijuana for the patient; or

(B) A designated primary caregiver of the patient who designated the grower to grow marijuana for the patient.

(b) A designated primary caregiver of a patient if the caregiver is transferring a marijuana item to a patient of the designated primary caregiver.

(c) A licensee or registrant transferring a bulk quantity or amount of marijuana items to another licensee or registrant for processing or packaging.

(d) A licensee, hemp handler, or hemp grower transferring a bulk quantity or amount of ~~industrial hemp or industrial hemp commodities or products~~hemp items to a licensee for processing or packaging.

(e) A marijuana processor registered under ORS 475C.141 when the marijuana processor receives marijuana or usable marijuana from a patient or a designated primary caregiver and processes the marijuana or usable marijuana into cannabinoid products, cannabinoid concentrates and cannabinoid extracts and transfers the processed marijuana items back to the patient or designated primary caregiver.

(3) Nothing in these rules prohibits the Commission, the Authority, or the Oregon Department of Agriculture from:

(a) Imposing additional labeling requirements in their respective rules governing licensees and registrants as long as those additional labeling requirements are not inconsistent with these rules; or

(b) Requiring licensees or registrants to provide informational material to a consumer, patient or designated primary caregiver at the point of sale.

Statutory/Other Authority: ORS 475C.604 & ORS 475C.612
Statutes/Other Implemented: ORS 475C.604 & ORS 475C.612
History:
OLCC 144-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 6-2018, adopt filed 05/23/2018, effective 06/01/2018

845-025-7020
Packaging for Sale to Consumer

(1) Containers or packaging for marijuana ~~items~~ and ~~industrial~~ hemp ~~commodities or products~~items must protect the packaged item from contamination and must not impart any toxic or deleterious substance to the packaged item.

(2) Marijuana ~~items~~ and ~~industrial~~ hemp ~~commodities or products~~items for ultimate sale to a consumer, patient, or designated primary caregiver, except for usable marijuana, usable hemp, immature marijuana plants, and seeds, must:

(a) Be packaged in a container that is resealable and continually child-resistant as certified by a qualified third-party child-resistant package testing firm or placed within an exit package that is resealable and continually child-resistant as certified by a qualified third-party child-resistant package testing firm prior to final sale or transfer to consumer, patient, or designated primary caregiver if the product is a cannabinoid product, cannabinoid concentrate or cannabinoid extract;

(b) Not be packaged or labeled in a manner that is attractive to minors; and

(c) Be labeled in accordance with OAR 845-025-7000 to 845-025-7190.

(3) Packaging may not contain any untruthful or misleading content.

(4) Nothing in this rule:

(a) Prevents the re-use of packaging that is capable of continuing to be child-resistant, as long as the package is in good working order and maintains its child-resistant properties, and as permitted by rules established by the Commission or the Authority; or

(b) Prohibits the Commission or the Authority from imposing additional packaging requirements in their respective rules governing licensees and registrants.

(5) A licensee or registrant must provide to the Commission or the Authority upon that agency's request, additional information about the testing that was performed by the qualified third party child-resistant package testing firm in accordance with 16 CFR 1700.

(6) Licensees and registrants are prohibited from selling packages, containers or devices intended for intravenous delivery.

Statutory/Other Authority: ORS 475C.612
Statutes/Other Implemented: ORS 475C.612, ORS 475C.065, 475C.085 & 475C.093

History:
OLCC 145-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 6-2018, amend filed 05/23/2018, effective 06/01/2018
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 12-2016(Temp), f. & cert. ef. 8-23-16 thru 12-26-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 2-2016(Temp), f. & cert. ef. 2-23-16 thru 8-18-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

845-025-7030
Labeling for Sale to Consumer

(1) A label required by these rules must:

(a) Be printed on or affixed to the container holding the marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item and printed on or affixed to any outer package or container that is used to display the marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item for sale or transfer to a consumer, patient or designated primary caregiver;

(b) Comply with the National Institute of Standards and Technology (NIST) Handbook 130 (2016), Uniform Packaging and Labeling Regulation, incorporated by reference;

(c) Contain all required information in any typed, legible font that is easy to read and contrasts sufficiently with the background and is at least ~~1/16th~~one-sixteenth of an inch in height based on the uppercase “K”;

(d) Be in English, though it can also be in other languages; and

(e) Be unobstructed and conspicuous.

(2) A label may not:

(a) Contain any untruthful or misleading statements including, but not limited to, a health claim that is not supported by the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner that is consistent with generally recognized scientific procedures and principles), and for which there is significant scientific agreement, among experts qualified by scientific training and experience to evaluate such claims; or

(b) Be attractive to minors, as that is defined in OAR 845-025-7000.

(3) Principal Display Panel.

(a) Every container that holds a marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item for sale or transfer to a consumer, patient or designated primary caregiver must have a principal display panel, as that term is defined in OAR 845-025-7000.

(b) If a container holding the marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item is placed within another container for sale or transfer to a consumer, patient or designated primary caregiver, both containers must have a principal display panel as that term is defined in OAR 845-025-7000 in addition to the other labeling requirements provided in these rules.

(c) The principal display panel must contain the product identity, net quantity of contents, and universal symbol or hemp symbol, whichever is applicable.

(d) If the product is a medical grade cannabinoid product, concentrate or extract processed by a licensee, or medical marijuana processing site, the principal display panel must also include the medical grade symbol.

(e) If the product is ~~an industrial~~ a hemp ~~commodity or product processed by a licensee~~item, the principal display must include the hemp symbol in place of the universal symbol.

(f) On or after July 1, 2022, if the package or container is a jar and is 1.75 inches or less in height and has a lid with a width of ~~2~~two inches or less, then the principal display panel must be on the top of the lid.

(4) Product Identity

(a) The product identity be in bold type, in a size reasonably related to the most prominent printed matter on the principal display panel, and shall be parallel to the base on which the package rests as it is designed and displayed.

(b) The product identity must clearly identify whether the item is derived from marijuana or hemp. An item that contains both industrial hemp and marijuana must identify the item as a marijuana item.

(c) The product identity for cannabinoid and hemp extracts and concentrates must correctly identify whether the product is an extract or a concentrate.

(5) Net Quantity Declaration

(a) The net quantity of contents provided on the principal display panel must be the average net quantity of contents of all of the packages in the batch.

(b) The net quantity declaration shall be in terms of fluid measure if the item is liquid, or in terms of weight if the item is solid, semi-solid, or viscous.

(c) The net quantity declaration shall be a distinct item separated from other printed label information on all sides by at least a space equal to the height of the lettering used in the declaration. The declaration shall be presented in bold type in the bottom 30 percent of the principal display panel and in lines generally parallel with the base of the container.

(6) Potency Labeling. ~~The~~Unless required to be relabeled as described in OAR 845-025-5760, the THC and CBD amounts required to be on a label must be the value calculated by the laboratory that did the testing in accordance with OAR 333-064-0100.

(a) The potency value shall be expressed as an average of the samples taken and tested under OAR 333-007-0360. A label may not have a THC value that exceeds the applicable maximum concentration limit by over 10 percent as specified in OAR 845-026-0200 to 845-026-0220, as applicable.

(b) For products tested on or after February 1, 2020, if the potency value for THC or CBD is reported by the laboratory as less than the limit of quantification, the value on the label must be listed as “<LOQ~~”~~.”

(7) The universal symbol. The universal symbol must be at least 0.48 inches wide by 0.35 inches high and can be downloaded on the Commission’s website.

(8) Medical grade symbol. The medical grade symbol must be at least 0.35 inches in diameter and can be downloaded at marijuana.oregon.gov.

(9) Hemp symbol. The hemp symbol must be at least 0.48 inches wide by 0.35 high and can be downloaded on the Commission's website.

(10) A marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item may have one or more label panels printed on or affixed to the container or packaging.

(11) Small Container Label. A marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item that is in a container that because of its size does not have sufficient space for a label that contains all the information required for compliance with these rules:

(a) May, in lieu of a label that has all the information required in OAR 845-025-7030 to 845-025-7145, have a label printed on or affixed to the container holding the marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item that includes at least the following:

(A) A principal display panel containing the net weight or volume, product identity, and universal symbol;

(B) Licensee business or trade name and license number or registrant business or trade name and registrant number;

(C) UID number;

(D) Concentration or amount of THC and CBD in the container; and

(E) Required warnings.

(i) For a retail marijuana item ~~or industrial hemp commodity or product~~, the following warning is required on the label: "For use only by adults 21 and older. Keep out of reach of children."

~~(ii~~(ii) For a hemp item, the following warning is required to be on the label: "This product is derived from hemp and could contain THC. Keep out of reach of children."

(iii) For a medical marijuana item, the following warning is required on the label: "For use by OMMP patients only. Keep out of reach of children."

(b) Must include all required label information on an outer container or other required label information not listed in subsection (~~11)(~~a) of this ~~rule~~section on a hangtag attached to the marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item.

(c) May use a peel-back or accordion label with the information required in subsection (~~11)(~~b) of this ~~rule~~section on the inside of the peel-back or accordion label, if the peel-back or accordion label can be easily identified by a patient or consumer as containing important information.

(12) Tiny Container Label. A marijuana item or industrial hemp commodity or product that is in a container that has a complete surface area available for applying a label that is less than ~~2~~two inches squared:

(a) May have a label printed on or affixed to the container that holds the marijuana item or industrial hemp commodity or product that includes at least the following:

(A) A principal display panel with the universal symbol and product identity;

(B) UID number;

(C) Concentration or amount of THC and CBD in the container;

(D) Licensee or registrant business or trade name and license or registrant number; and

(E) A warning that reads: “Keep out of reach of children.”

(b) Must include all required label information on an outer container or other required label information not listed in subsection (~~12)(~~a) of this ~~rule~~section on a hangtag attached to the marijuana item or industrial hemp commodity or product.

(c) May use a peel-back or accordion label with the information required in subsection (~~12)(~~c) of this ~~rule~~section on the inside of the peel-back or accordion label, if the peel-back or accordion label can be easily identified by a patient or consumer as containing important information.

(13) The outer container used to display the marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item for sale or transfer to a consumer, patient, or designated primary caregiver must comply with the labeling requirements in these rules, even if an inner container qualifies for the exception under section (11) or (12) of this rule.

(14) A marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item that simultaneously falls within more than one category, for example a cannabinoid concentrate that is intended for human consumption, must comply with the labeling requirements that apply to both cannabinoid concentrates and cannabinoid edibles, with the exception of the “DO NOT EAT” warning if the product is intended for human consumption or the “BE CAUTIOUS” warning if the effects of the product are customarily felt immediately.

(15) If a marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item is placed in a package that is being re-used, the old label must be removed and it must have a new label.

(16) A licensee or registrant must have documentation that demonstrates the validity of the calculation of the amount of sodium, cholesterol, protein, sugar, carbohydrates and total fat in a cannabinoid edible and must make that documentation available to the Commission or the Authority upon request.

(17)(a) A marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item that contains an ingredient consisting of two or more sub ingredients must either:

(A) Use the common name of the ingredient followed by a parenthetical listing of all ingredients in a descending order of predominance; or

(B) List all sub ingredients as individual ingredients in descending order of predominance.

(b) The list of ingredients must include any substance used in processing, preparing, manufacturing, packaging, or holding the cannabinoid product or hemp cannabinoid product that is present in the final product, including any cooking or release spray.

(c) The list of ingredients must correctly identify the type of marijuana ~~item~~ or ~~industrial~~ hemp ~~ingredient~~item used to make the product.

(18) A cannabinoid edible that contains only a single serving may omit the servings per container declaration as long as the label clearly states that the package contains a single serving.

(19) A cannabinoid edible shall use one of the nutrition information formats provided by the Commission to display on the label the amount of calories, sodium, protein, added sugars, cholesterol, total carbohydrates, and total fat per serving, the serving size and number of servings per container, and the list of ingredients and potential allergens.

(20) If the container holding the marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item does not meet the child resistant standards set out in these rules, the outermost label must contain the following statement: “This package is not child resistant.”

(21) Exit packaging must contain a label that reads: “Keep out of the reach of children.”

(22) A cartridge or vaporizing device containing a cannabinoid or hemp concentrate, extract or product intended for use with an inhalant delivery system as that is defined in ORS 431A.175 is not required to be labeled in accordance with these rules except that the cartridge or device must have a label with the universal symbol or hemp symbol, as appropriate. All the remaining label requirements must be included on the packaging as required by these rules.

(23) The Commission may require that marijuana ~~items~~ and ~~industrial~~ hemp ~~commodities and products~~items sold at retail by Commission licensees be labeled with a Universal Product Code.

(24) Once a label is approved by the Commission, the label identification number provided by the Commission must be prominently displayed on the label of the outermost container.

(25) If a cannabinoid concentrate or extract contains any added substances, the item shall be considered a cannabinoid product and labeled under OAR 845-025-7120.

Statutory/Other Authority: ORS 475C.604 & 475C.612
Statutes/Other Implemented: ORS 475C.604
History:
OLCC 146-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 6-2018, amend filed 05/23/2018, effective 06/01/2018
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 17-2016(Temp), f. & cert. ef. 9-30-16 thru 12-26-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16

845-025-7110
Cannabinoid Tincture and Capsule Labeling Requirements

Prior to a cannabinoid tincture or capsule being sold or transferred to a consumer, patient or designated primary caregiver the container holding the tincture or capsule must have a label that has the following information:

(1) Processor’s business or trade name, place of address and license number;

(2) Business or trade name and place of address of licensee that packaged the product, if different from the processor;

(3) Product identity;

(4) UID number;

(5) Date the product was made;

(6) Net weight or volume in U.S. customary and metric units;

(7) Serving size and number of servings per container;

(8) Amount, in milligrams, of THC and CBD in each serving and in the container;

(9) List of all ingredients in descending order of predominance by weight or volume used to process the product;

(10) Name of the lab that performed any test and any test analysis date;

(11) Universal symbol;

(12) Activation time expressed in words or through a pictogram;

(13) A statement that reads: “This product is not approved by the FDA to treat, cure, or prevent any disease”;

(14) For cannabinoid tinctures and capsules for sale to a consumer, warnings that state:

(a) “For use only by adults 21 and older. Keep out of reach of children.”

(b) “Do not drive a motor vehicle while under the influence of marijuana.”

(c) “BE CAUTIOUS” in bold, capital letters, followed by “Cannabinoid products can take up to 2 hours or more to take effect.”

(15) For medical grade cannabinoid tinctures and capsules for use by a patient, the medical grade symbol and medical warnings that state:

(a) “For use by OMMP patients only. Keep out of reach of children.”

(b) “~~It is illegal to~~Do not drive a motor vehicle while under the influence of marijuana.”

(c) “BE CAUTIOUS” in bold, capital letters, followed by “Cannabinoid products can take up to 2 hours or more to take effect.”

Statutory/Other Authority: ORS 475C.604
Statutes/Other Implemented: ORS 475C.604
History:
OLCC 153-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 6-2018, adopt filed 05/23/2018, effective 06/01/2018

845-025-7140
Labeling Requirements for ~~Industrial~~ Hemp ~~Commodities or Products~~Items Intended for Human Consumption or Use

A licensee or Commission-certified hemp handler processing or selling an industrial hemp ~~commodity or product~~items may only possess and offer for sale ~~industrial hemp commodities and products~~hemp items that are labeled and packaged for ultimate sale to a consumer as outlined in 845-025-7000 to 845-025-7120 with the following exceptions:

(1) The principal display panel must contain the hemp symbol instead of the universal symbol;

(2) The label shall contain the following warning in place of the warnings required on items for sale to a consumer described in OAR 845-025-7070 to 845-025-7120, “This product is derived from hemp and could contain THC. Keep out of reach of children.”

(3) If the item is a hemp extract, concentrate, topical, or a hemp product other than an edible, tincture, or capsule, the label shall contain the warning, “DO NOT EAT” in bold, capital letters.

Statutory/Other Authority: ORS 475C.604
Statutes/Other Implemented: ORS 475C.604
History:
OLCC 156-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 6-2018, adopt filed 05/23/2018, effective 06/01/2018

845-025-7150
Wholesaler and Retailer Packaging and Labeling Compliance Requirements

(1) If a wholesaler or a retailer receives a marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item that is not packaged or labeled in accordance with OAR 845-025-7000 to 845-025-7190, the wholesaler or retailer must immediately notify the Commission and either:

(a) Return the marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item to the licensee who transferred the item or product to the wholesaler or retailer; or

(b) Correct the label by adding only the label components required to make the label compliant. If the problem cannot be corrected by adding a sticker with the required information, the item or product must be returned to the licensee who transferred it to the wholesaler or retailer.

(2) If a wholesaler or retailer returns a marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item to the licensee who transferred the item or product, the wholesaler or retailer must document the return and the reason for the return in CTS.

Statutory/Other Authority: ORS 475C.612
Statutes/Other Implemented: ORS 475C.612 & ORS 475C.093
History:
OLCC 158-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 6-2018, adopt filed 05/23/2018, effective 06/01/2018

845-025-7160
Packaging and Labeling Pre-approval Process

(1) Prior to selling, offering for sale, or transferring a marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~item that is for ultimate sale to a consumer, patient, or designated primary caregiver, a licensee,

a license applicant ~~or a~~, registrant, or Commission-certified hemp handler must submit both a package and a label application to and receive approval from the Commission.

(a) The initial submission shall be made electronically if required by the Commission. The licensee, license applicant ~~or~~, registrant, or Commission-certified hemp handler must submit a physical prototype upon request by the Commission.

(b) If a license applicant submits packages and labels for pre-approval, final determination for packages and labels will not be made until the applicant has been issued a license.

(2) Except as provided in sections (5) to (7) of this rule, the packaging and label applications must be accompanied by the following:

(a) A fee as specified in OAR 845-025-1060; and

(b) Information including but not limited to:

(A) Documentation that the package has been certified as child resistant as defined by 16 CFR 1700 by a qualified third-party child-resistant package testing firm.

(B) A picture of and description of the item to be placed in the package.

(C) For label applications for inhalable cannabinoid products that contain non-cannabis additives:

(i) The non-cannabis additive's list of ingredients as required by 845-025-3265(1); and

(ii) In a form and manner prescribed by the Commission, information regarding the manufacturer of the non-cannabis additive, the additive or additives being used by the licensee or Commission-certified hemp handler, and attestation by the licensee or Commission-certified hemp handler of the accuracy of the information submitted for label pre-approval.

(D) For label applications for marijuana or hemp items that contain an artificially derived cannabinoid allowed by OAR 845-025-1310:

(i) The applicable documentation required by OAR 845-025-1310(1);

(ii) A copy of the food establishment license issued by the Oregon Department of Agriculture (ODA) to the manufacturer of the artificially derived cannabinoid; and

(iii) In a form and manner prescribed by the Commission, citations to the peer reviewed studies as required by OAR 845-025-1310(1), and attestation by the licensee of the accuracy of the information submitted for label pre-approval.

(3) If a licensee or Commission-certified hemp handler submits a list of ingredients to the Commission in order to comply with paragraph (2)(b)(C) of these rules, and that the licensee or Commission-certified hemp handler believes the list of ingredients is a trade secret, the licensee must mark the information "confidential - trade secret."

(a) If the Commission receives a public records request for information submitted by a licensee or Commission-certified hemp handler, it will review all documents submitted to determine whether the documents contain trade secrets that would be exempt from disclosure under Oregon's Public Records Act, ORS 192.345.

(b) For purposes of this rule "trade secret" has the meaning given that term in ORS 192.345.

(4) The Commission will evaluate the packaging and label in order to determine whether:

(a) The packaging:

(A) Has been certified as child resistant by a qualified third-party child-resistant package testing firm;

(B) Is attractive to minors or is marketed in a manner attractive to minors;

(C) Contains untruthful or misleading content; and

(D) Will contain a marijuana ~~item~~ or ~~industrial~~ hemp ~~commodity or product~~ item that is not compliant with ORS 475C, OAR chapter 333, ~~D~~divisions 7 and 8, or OAR chapter 845, ~~D~~division 25.

(b) The label:

(A) Complies with the labeling rules, OAR 845-025-7000 to 845-025-7190, or any additional labeling requirements in ORS 475C, OAR chapter 333, ~~D~~divisions 7 and 8, or OAR chapter 845, ~~D~~division 25.

(B) Contains any material that is attractive to minors; and

(C) Contains untruthful or misleading content.

(5) The Commission must review the packaging and labeling and notify the licensee, licensee applicant ~~or~~, registrant or Commission-certified hemp handler whether the packaging and labeling is approved, and if not approved, a description of the packaging or labeling deficiencies.

(6) If a licensee, registrant or ~~registrant's~~Commission-certified hemp handler's label or package is deficient, it must correct the deficiencies and resubmit the label or package for pre-approval, but the licensee ~~or~~, registrant or Commission-certified hemp handler is not required to submit an additional fee unless the label or package is found deficient for a second time in which case the application will be denied and the licensee ~~or~~, registrant or Commission-certified hemp handler must resubmit the packaging or labeling in accordance with section (1) of this rule.

(7) A licensee, applicant ~~or~~, registrant or Commission-certified hemp handler may submit packaging and labeling for approval on the same application for a product that may have different flavors, colors or sizes, if the product and packaging is otherwise identical. Applications for approval of packaging and labeling under this section are subject to a single application fee.

(8) Packages and labels that have been previously approved do not need to be resubmitted if the only changes to the packaging or label are:

(a) Changes in the:

(A) Harvest or processing date;

(B) Strain;

(C) Test results;

(D) Net weight or volume; or

(E) UID numbers.

(b) The deletion of any non-mandatory label information.

(c) The addition, deletion or change in the:

(A) UPC barcodes or 2D mobile barcodes (QR codes);

(B) Website address, phone number, fax number, or place of address of the licensee or registrant; or

(C) Instructions for opening or using child-resistant packages.

(d) The repositioning of any label information on the package, as long as the repositioning of label information is consistent with these rules.

(e) A marijuana wholesaler or a marijuana retailer with an approved usable marijuana or hemp label may change the producer's business name, trade name, or license number without resubmission and pre-approval.

(9) Prior to a licensee, registrant, or Commission-certified hemp handler transferring a package or label approval from one licensee, registrant, or Commission-certified hemp handler to another, the licensee, registrant, or Commission-certified hemp handler requesting to transfer the label must submit a form prescribed by the Commission and pay the applicable fee as described in OAR 845-025-1060.

(10) The Commission may publish a list of previously-approved, child-resistant, commercially available packaging. Packaging identified on this list as approved for certain product types does not need to be submitted for package approval if the packaging is identical to the previously-approved package.

(11) The Commission may publish a list of licensees ~~and~~, registrants, and Commission-certified hemp handlers who have approved label applications.

(12) Labels for marijuana ~~items or industrial~~and hemp ~~commodity or products~~items do not require pre-approval if they are generic labels as defined in OAR 845-025-7000 and contain only the information required by these rules.

(13) Packages that are not intended to be child resistant do not require pre-approval. Any package that has not been certified as child-resistant must contain the statement described in OAR 845-025-7030(20).

(14) Notwithstanding any provisions of this rule, the Commission may permit or require electronic submission of labels and packaging for approval.

Statutory/Other Authority: ORS 475C.608, ORS 475C.616, 475C.237 & 475C.604
Statutes/Other Implemented: ORS 475C.608 & ORS 475C.616
History:
OLCC 159-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 24-2020, amend filed 12/21/2020, effective 12/22/2020
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 6-2018, adopt filed 05/23/2018, effective 06/01/2018

845-025-7180
Approval Withdrawal

(1) The licensee ~~or~~, registrant, or Commission-certified hemp handler is responsible for ensuring that all packages and labels are compliant with OAR 845-025-7000 to 845-025-7190. The Commission may find a package or label violates these rules even if the package or label has received previous approval.

(2) After a package or label application has been approved, if the package or label is found to fall below the minimum standards described in these rules, the Commission may withdraw its label or package approval. The Commission will notify the licensee ~~or~~, registrant, or Commission-certified hemp handler of the withdrawal of approval and provide the licensee ~~or~~, registrant, or Commission-certified hemp handler with the deficiencies that provide the basis for the withdrawal. The licensee ~~or~~, registrant, or Commission-certified hemp handler will have 30 days after notification is sent by the Commission to correct the deficiencies. If the deficiencies identified by the Commission are not corrected within 30 days, the application may be denied. If the Commission denies a label or package application, the licensee ~~or~~, registrant, or Commission-certified hemp handler has the right to a hearing under the procedures in ORS Chapter 183; OAR chapter 137, division 3; and OAR chapter 845, division 3.

(3) With Commission approval, the licensee ~~or~~, registrant, or Commission-certified hemp handler may sell down any package or label inventory purchased during the time the application was approved.

Statutory/Other Authority: ORS 475C.604 & ORS 475C.612
Statutes/Other Implemented: ORS 475C.604, ORS 475C.612, ORS 475C.608 & ORS 475C.616
History:
OLCC 161-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 6-2018, adopt filed 05/23/2018, effective 06/01/2018

845-025-7190
Effective Date

(1) These rules become effective on August 15, 2018. On and after August 15, 2018, all package and label applications received by the Commission will be reviewed and evaluated under these rules.

(2) All marijuana ~~items~~ and ~~industrial~~ hemp ~~commodities and products~~items packaged or transferred for sale to a consumer on or after April 1, 2019 must be labeled and packaged according to these rules.

(3) On and after January 1, 2020, marijuana ~~items~~ and ~~industrial~~ hemp ~~commodities and products~~items with labels approved prior to August 15, 2018, can no longer be sold, offered for sale, or transferred to a consumer, patient, or designated primary caregiver.

(4) For inhalable cannabinoid products that contain a non-cannabis additive and are processed or manufactured on or after April 1, 2021, all labels must be pre-approved by the Commission in accordance with these rules.

(a) An inhalable cannabinoid product with a label approved by the Commission prior to April 1, 2021, that contains a non-cannabis additive and that does not meet the requirements of OAR 845-025-3265 or 845-025-7120 may not be possessed, sold, delivered, transferred, transported, purchased, or received on or after July 1, 2021.

(b) An inhalable cannabinoid product that contains a non-cannabis additive that is manufactured prior to April 1, 2021 may be possessed, sold, delivered, transferred, transported, purchased, or received prior to July 1, 2021.

(5) A marijuana or hemp item that contains an artificially derived cannabinoid allowed by OAR 845-025-1310 and is sold or transferred on or after July 1, 2022, must have a label that has been pre-approved by the Commission in accordance with these rules.

Statutory/Other Authority: ORS 475C.604, ORS 475C.612, 475C.237, 475C.608 & 475C.616
Statutes/Other Implemented: ORS 475C.604

History:
OLCC 162-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 24-2020, amend filed 12/21/2020, effective 12/22/2020
OLCC 6-2018, adopt filed 05/23/2018, effective 06/01/2018

845-025-7575
Seed-To-Sale Tracking — Processing

(1) For purposes of this section, “SOP” means the standard policy or procedure required by OAR 845-025-3230.

(2) On and after February 1, 2023, for each process lot, all licensees and medical marijuana processing sites must utilize “Processing Jobs” in CTS to record:

(a) The SOP being used for the lot;

(b) The unique process lot number or name;

(c) The UID and quantity of all cannabis material being used for the lot;

(d) The UID and quantity of all outputs of the lot;

(e) The quantity of waste generated from the source cannabis material during processing; and

(f) The date that processing of the lot is completed.

(3) Pursuant to section (2) of this rule, for each SOP being utilized to create a process lot, licensees and medical marijuana processing sites must record in CTS:

(a) The unique name of the SOP;

(b) Whether the SOP is:

(A) An extraction of cannabinoids, resulting in outputs less than the total weight of the source material; or

(B) An incorporation cannabinoids, resulting in outputs that exceed the total weight of the source material; and

(c) Whether the SOP includes any of the following processes or results in any of the following outputs:

(A) Processes that result in effective sterilization;

(B) Outputs that are intended for oral consumption;

(C) Processes that use hydrocarbon solvents; or

(D) Processes that are purely mechanical or do not include the use of solvents listed in OAR 333-007-0410, Table 4.

Statutory/Other Authority:
Statutes/Other Implemented:
History:

845-025-7725
Transfer of Marijuana Items between State and Tribal Licensees

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

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

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

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

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

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

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

Statutory/Other Authority:
Statutes/Other Implemented:

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 licensee or 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 475C.217 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 475C 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 475C 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 475C affecting the licensed privileges; or these rules.

(b) Violation of subsection (a) 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.

(A) Failure to retain such control or right of access is a Category II violation. If the licensee has marijuana items in physical inventory at the licensed premises or in CTS, 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.

(B) Notwithstanding paragraph (A) of this subsection, a licensee is not in violation of this section if:

(i) Licensee has met the requirements in OAR 845-025-~~1160(6);~~1180;

(ii) Licensee lost access to the premises through no fault of their own, is unable to find a new location within 30 days of losing access to the premises, and removes all marijuana items from the licensed premises in compliance with ORS Chapter 475C and these rules prior to losing access, or

(iii) Licensee promptly notifies the Commission of the failure to retain access to the premises and surrenders its 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 violation of this section other than as described in subsections (a) and (b) of this section is a Category III violation.

(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 475C.037.

(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. Violation of this section is a Category V violation.

(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) Prohibited inhalable cannabinoid products.

(a) For purposes of this rule, a “prohibited inhalable cannabinoid product” is an inhalable cannabinoid product that does not meet the requirements of OAR 845-025-3265.

(b) No licensee or permittee may:

(A) Process or manufacture a prohibited inhalable cannabinoid product on or after April 1, 2021;

(B) Possess, sell, deliver, transfer, transport, purchase, or receive the prohibited inhalable cannabinoid product on or after July 1, 2021, if the prohibited inhalable cannabinoid product was processed or manufactured prior to April 1, 2021; or

(C) Possess, sell, deliver, transfer, transport, purchase, or receive a prohibited inhalable cannabinoid product that was processed or manufactured on or after April 1, 2021.

(c) Violation of this section is a Category III violation. An intentional violation of this section is a Category II violation.

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

(~~c~~b) 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 and 845-025-2885.

(~~d~~c) Violation of subsection (a), (b), or (c) of this section is a Category III violation.

(~~e~~d) Permit 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 III violation. An intentional violation is a Category II violation.

Statutory/Other Authority: ORS 475C.017, ORS 475C.065, 475C.085, 475C.093, 475C.233 & 475C.237
Statutes/Other Implemented: ORS 475C.065, 475C.085, 475C.093, ORS 475C.097, 475C.229, 475C.329, 475C.333 & 475C.109
History:
OLCC 178-2022, minor correction filed 03/25/2022, effective 03/25/2022
OLCC 21-2021, amend filed 12/30/2021, effective 01/01/2022
OLCC 3-2021, amend filed 04/13/2021, effective 04/16/2021
OLCC 24-2020, amend filed 12/21/2020, effective 12/22/2020
OLCC 3-2020, amend filed 01/28/2020, effective 02/01/2020
OLCC 4-2019, amend filed 02/25/2019, effective 03/01/2019
OLCC 14-2018, amend filed 12/27/2018, effective 12/28/2018
OLCC 7-2018, amend filed 07/26/2018, effective 08/01/2018
OLCC 1-2018, temporary amend filed 01/25/2018, effective 01/26/2018 through 07/23/2018
OLCC 15-2017, amend filed 12/22/2017, effective 12/28/2017
OLCC 22-2016, f. 12-22-16, cert. ef. 12-27-16
OLCC 6-2016, f. 6-28-16, cert. ef. 6-29-16
OLCC 3-2015(Temp), f. 12-3-15, cert. ef. 1-1-16 thru 6-28-16

Division 26
ADULT USE CANNABIS AND HEMP CONCENTRATION LIMITS

845-026-0100
Definitions

For the purposes of OAR 845-026-0100 to 845-026-7070, unless otherwise specified, the following definitions apply:

(1) “Adult use cannabinoid” includes, but is not limited to, tetrahydrocannabinols, tetrahydrocannabinolic acids that are artificially or naturally derived, delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, the optical isomers of delta-8-tetrahydrocannabinol or delta-9-tetrahydrocannabinol and any artificially derived cannabinoid that is reasonably determined to have an intoxicating effect.

(2) “Adult use cannabis item”

(a) Means:

(A) A marijuana item;

(B) An industrial hemp commodity or product that meets the criteria in OAR 845-026-0300; or

(C) An industrial hemp commodity or product that exceeds the greater of:

(i) A concentration of more than 0.3 percent total delta-9-tetrahydrocannabinol; or

(ii) The concentration of total delta-9-tetrahydrocannabinol allowed under federal law.

(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) Other products derived only from hemp fiber or hemp seeds incapable of germination that may include other non-cannabis ingredients.

(3)(a) “Artificially derived cannabinoid” means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the plant Cannabis family Cannabaceae.

(b) “Artificially derived cannabinoid” does not include:

(A) A naturally-occurring chemical substance that is separated from the plant Cannabis family Cannabaceae by a chemical or mechanical extraction process;

(B) Cannabinoids that are produced by decarboxylation from a naturally-occurring cannabinoid acid without the use of a chemical catalyst;

(C) Any other chemical substance identified by the ~~c~~Commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, by rule.

(4) “Authority” means the Oregon Health Authority.

~~(5~~(5) “Batch” means a specific quantity of an industrial hemp-derived vapor item that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

(6) “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana or industrial hemp.

(~~6~~7) “Cannabinoid capsule” means a small, soluble pill, tablet or container that contains liquid or powdered cannabinoid product, concentrate or extract and is intended for human ingestion.

(~~7~~8) “Cannabinoid concentrate” has the meaning given that term in OAR 845-025-1015.

(~~8~~9) “Cannabinoid edible” means a food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated.

(~~9~~10) “Cannabinoid extract” has the meaning given that term in OAR 845-025-1015.

~~(10) “Cannabinoid hemp product”~~

~~(a) Means a hemp edible or any other industrial hemp commodity or product intended for human consumption or use, including a hemp topical or hemp transdermal patch, that contains cannabinoids from industrial hemp or the dried leaves or flowers of hemp; or~~

~~(b) Usable hemp, industrial hemp extracts and industrial hemp concentrates that have been combined with non-cannabis additives.~~

~~(c) Cannabinoid hemp product does not include usable hemp by itself, hemp stalk by itself, an industrial hemp concentrate or extract by itself, hemp seed incapable of germination by itself, or other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients.~~

(11) “Cannabinoid product” has the meaning given that term in OAR 845-025-1015.

(12) “Cannabinoid suppository” means a small soluble container designed to melt at body temperature within a body cavity other than the mouth, especially the rectum or vagina containing a cannabinoid product, concentrate or extract.

(13) “Cannabinoid tincture” has the meaning given that term in OAR 845-025-1015.

(14) “Cannabinoid topical” means a cannabinoid product intended to be applied to skin or hair.

(15) “Cannabinoid transdermal patch” means an adhesive substance applied to human skin that contains a cannabinoid product, concentrate or extract for absorption into the bloodstream.

(16) “Cannabis plant” means a plant of the genus Cannabis within the plant family Cannabaceae.

(17) “Commission” means the Oregon Liquor and Cannabis Commission.

(18) “Consumption or use” means to eat, drink, ingest, inhale, apply topically to the skin or hair, or otherwise consume an item.

(19) “Delta-8-tetrahydrocannabinol” or “delta-8-THC” means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 5957-75-5.

(20) “Delta-9-tetrahydrocannabinol” or “delta-9-THC” means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 1972-08-3.

(21) “Delta-9-tetrahydrocannabinolic acid” or “delta-9-THCA” means (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid, Chemical Abstracts Service Number 23978-85-0.

(22) “Flowering” means a cannabis plant that has formed a mass of pistils measuring greater than two centimeters wide at its widest point.

(23) “Hemp” has the same meaning as “industrial hemp.”

~~(24~~(24) “Hemp cannabinoid product” has the meaning given that term in OAR 845-025-1015.

(25) “Hemp edible”

(a) Means a food or potable liquid into which industrial hemp, an industrial hemp concentrate, an industrial hemp extract, or the dried leaves or flowers of hemp have been incorporated.

(b) Does not mean hemp seed incapable of germination by itself or other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients.

(~~25~~26) “Hemp tincture” means a liquid hemp cannabinoid ~~hemp~~ product packaged in a container of four fluid ounces or less that consists of either:

(a) A non-potable solution of at least 25 percent non-denatured alcohol, in addition to an industrial hemp concentrate, industrial hemp extract, or usable hemp and perhaps other ingredients intended for human consumption or ingestion that is exempt from the Liquor Control Act under ORS 471.035; or

(b) A non-potable solution comprised of glycerin or plant-based oil; industrial hemp concentrate, industrial hemp extract, or usable hemp, and perhaps other ingredients, that does not contain any added sweeteners and is intended for human consumption or ingestion.

(~~26~~27) “Hemp topical” means a hemp cannabinoid ~~hemp~~ product intended to be applied to skin or hair.

(~~27~~28) “Hemp transdermal patch” means an adhesive substance applied to human skin that contains a hemp cannabinoid ~~hemp~~ product, industrial hemp concentrate, or industrial hemp extract for absorption into the bloodstream.

(~~28~~29) “Hemp vapor item manufacturer” means a person responsible for the labeling or manufacturing of an industrial hemp-derived vapor item sold in Oregon and includes:

(a) A hemp handler licensed with the Oregon Department of Agriculture under ORS 571.281 to process industrial hemp into commodities, products or agricultural hemp seed.

(b) Any other person responsible for the labeling of an industrial hemp-derived vapor item sold in Oregon.

(~~29~~30) “Immature cannabis plant” means a cannabis plant that is not flowering.

(~~30~~31) “Industrial hemp” has the meaning given that term in ORS 571.269.

(~~31~~32) “Industrial hemp commodity or product” has the meaning given that term in OAR 603-048-0010.

(~~32~~33) “Industrial hemp concentrate” has the meaning given that term in ORS 571.269.

(~~33~~34) “Industrial hemp extract” has the meaning given that term in ORS 571.269.

(~~34~~35) “Industrial hemp-derived vapor item” means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269, whether alone or combined with non-cannabis additives, that is intended for use in an inhalant delivery system.

(~~35~~36) “Inhalant delivery system” has the meaning given that term in ORS 431A.175.

(~~36~~37) “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.

(~~37~~38) “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.

(~~38~~39) “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.

(~~39~~40) “Limit of quantification” or “LOQ” means the minimum levels, concentrations, or quantities of a target variable, for example, an analyte that can be reported by a laboratory with a specified degree of confidence.

(~~40~~41) “Marijuana item” has the meaning given that term in OAR 845-025-1015.

(~~41~~42) “Mature cannabis plant” means a cannabis plant that is not an immature cannabis plant.

(~~42~~43) “Non-cannabis additive” means a substance or group of substances that are derived from a source other than industrial hemp.

(a) “Non-cannabis additive” includes but is not limited to purified compounds, essential oils, oleoresins, essences or extractives, protein hydrolysates, distillates, or isolates.

(b) “Non-cannabis additive” does not include plant material that is in the whole, broken, or ground form.

(~~43~~44) “Person” has the meaning given that term in ORS 174.100.

(~~44~~45) “Presumptive test” means testing under 845-026-4100.

(~~45~~46) “Scored” means to permanently physically demark a cannabinoid edible in a way that enables a reasonable person to:

(a) Intuitively determine how much of the product constitutes a single serving; and

(b) Easily physically separate the edible into single servings either by hand or with a common utensil, such as a knife.

(~~46~~47) “Total delta-9-tetrahydrocannabinol” or “total delta-9-THC” means the sum of the concentration or mass of delta-9-THCA multiplied by 0.877 plus the concentration or mass of delta-9-THC.

(~~47~~48) “Usable hemp”

(a) Means the flowers and leaves of industrial hemp intended for human consumption or use that does not fall within the meaning of industrial hemp concentrate, industrial hemp extract, hemp edible, or hemp cannabinoid ~~hemp~~ product.

(b) Includes, for purposes of these rules, pre-rolled hemp as long as the pre-roll consists of only dried hemp leaves and flowers, an unflavored rolling paper, and a filter or tip.

Statutory/Other Authority: ORS 475C.017 & ORS 475C.009
Statutes/Other Implemented: ORS 475C.017 & ORS 475C.009
History:
OLCC 6-2022, minor correction filed 02/25/2022, effective 02/25/2022
OLCC 21-2021, adopt filed 12/30/2021, effective 01/01/2022
OLCC 8-2021, temporary adopt filed 07/19/2021, effective 07/19/2021 through 12/31/2021

845-026-0210
Retail Marijuana Item Concentration and Serving Size Limits

(1) The maximum concentration or amount of total delta-9-THC permitted in a container and the maximum concentration or amount of total delta-9-THC permitted in a serving of a retail adult use marijuana item is listed in Table 1, incorporated by reference.

(2) A retail adult use marijuana item may not contain any artificially derived cannabinoids except as allowed by OAR 845-025-1310.

(3) Cannabinoid edible serving size identification:

(a) A retail adult use marijuana item that is a cannabinoid edible must be scored, except as provided in subsections (b) and (c) of this section.

(b) If a retail adult use marijuana item is a cannabinoid edible that is not solid, or is incapable of being scored due to its texture or consistency, the cannabinoid edible must be:

(A) Sold and packaged with a measuring device that measures single servings; or

(B) Placed in packaging that clearly enables a consumer to determine when a single serving has been consumed.

(c) If a retail adult use marijuana item is a cannabinoid edible that does not exceed 55 milligrams of total delta-9 THC in the package, the cannabinoid edible must be:

(A) Scored;

(B) Sold and packaged with a measuring device that measures single servings; or

(C) Placed in packaging that clearly enables a consumer to determine when a single serving has been consumed.

(4) Serving size is determined by the processor and must comply with applicable serving size limits.

(5) A retail adult use marijuana item that does not fall within a category in Table 1 must meet the concentration and serving size limits applicable to a cannabinoid edible in Table 1.

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 475C.017 & ORS 475C.620
Statutes/Other Implemented: ORS 475C.620
History:
OLCC 22-2022, minor correction filed 03/07/2022, effective 03/07/2022
OLCC 8-2022, minor correction filed 02/25/2022, effective 02/25/2022
OLCC 21-2021, adopt filed 12/30/2021, effective 01/01/2022

OAR 845-026-0210
Table 1

RETAIL ADULT USE CANNABIS CONCENTRATION AND SERVING SIZE LIMITS		
Type of Marijuana Item	Maximum Amount of Total Delta-9-THC Per Serving	Maximum Concentration or Amount of Total Delta-9-THC in a Container
Cannabinoid Product – Edibles	~~Before April 1, 2022: 5 mg~~ ~~On or after April 1, 2022:~~ 10 mg	~~Before April 1, 2022: 50 mg~~ ~~On or after April 1, 2022:~~ 100 mg
Cannabinoid Product – Topicals	N/A	6%
Cannabinoid Product – Transdermal Patches	10 mg	100 mg
Cannabinoid Product – Tinctures	N/A	1,000 mg
Cannabinoid Product – Capsules	10 mg	100 mg
Cannabinoid Concentrates or Extracts	N/A	2,000 mg
Cannabinoid Products Other than Cannabinoid Edibles, Topicals, Tinctures, Capsules, or Transdermal Patches and Not Intended for Human Consumption	N/A	1,000 mg
Cannabinoid Products Other than Cannabinoid Edibles, Topicals, Tinctures, Capsules, or Transdermal Patches and Intended for Human Consumption; or Cannabinoid Suppositories	~~Before April 1, 2022: 5 mg~~ ~~On or after April 1, 2022:~~ 10 mg	~~Before April 1, 2022: 5 mg~~ ~~On or after April 1, 2022: 10 mg~~100 mg

845-026-7000
Industrial Hemp-derived Vapor Item Labeling – Definitions

For the purposes of OAR 845-026-7000 through 845-026-7070, unless otherwise specified:

(1) “Activation time” means the amount of time it is likely to take for an individual to begin to feel the effects of ingesting or inhaling an industrial hemp-derived vapor item.

(2) “Attractive to minors” means packaging, receptacles, inhalant delivery devices, labeling and marketing 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; and

(e) Words that refer to products that are commonly associated with minors or marketed by minors.

(3) “Cartoon” means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of 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.

(4) “CBD” means total cannabidiol as calculated pursuant to OAR 333-064-0100.

(5) “Consumer” means a person who purchases, acquires, owns, holds or uses industrial hemp-derived vapor items other than for the purpose of resale.

(6) “Container”

(a) Means a sealed, hard or soft-bodied receptacle in which an industrial hemp-derived vapor item is placed and any outer receptacle intended to display an industrial hemp-derived vapor 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 industrial hemp-derived vapor items in bulk from one hemp vapor item manufacturer to another.

(7) “Generic label”

(a) Means a label that does not have any graphics, pictures, or logos, other than symbols required by these rules and has:

(A) Only the information required by rule;

(B) Additional test information not required by rule; or

(C) Additional information described in OAR 845-026-7060(8)(c).

(b) Does not mean a label for an industrial hemp-derived vapor item that contains a non-cannabis additive.

(8) “Health claim” means any claim made on the label that expressly states or implies a relationship between a substance and a disease or health-related condition.

(9) “Hemp symbol” means the image, established by the Commission and made available to a hemp vapor item manufacturer, indicating the item is an industrial hemp-derived vapor item.

(10) “Label” means any display of written, printed, or graphic matter printed on or affixed to any container, wrapper, liner, or insert accompanying the industrial hemp-derived vapor item.

~~(11~~(11) “Lot” means a batch, or a specific identified portion of a batch, having uniform character and quality within specified limits; or, in the case of an industrial hemp-derived vapor item produced by continuous process, it is a specific identified amount produced in a unit of time or quantity in a manner that assures its having uniform character and quality within specified limits.

(12) “Lot number” or “batch number” means any distinctive combination of letters, numbers, or symbols, or any combination of them, from which the complete history of the manufacture, processing, packing, holding, and distribution of a batch or lot of industrial hemp-derived vapor item can be determined.

(13) “Net quantity of contents” means a statement on the principal display panel of the net weight or net volume of the product expressed in the terms of weight, measure, or numerical count.

(~~12~~14) “Net volume” means the fluid measure of a liquid product expressed as milliliters and fluid ounces.

(~~13~~15) “Net weight” means the gross weight minus the tare weight of the packaging expressed as ounces and grams or milligrams.

(~~14~~16) “Place of address” means the name, mailing address, city, state and zip code of the hemp vapor item manufacturer who made the industrial hemp-derived vapor item.

(~~15~~17) “Principal display panel” means the part of a label on a package or container that is most likely to be displayed, presented, shown or seen under customary conditions of display for sale or transfer.

(~~16~~18) “Product identity” means a truthful or common name of the product that is contained in the package.

(~~17~~19) “Retailer” means a person or business that sells industrial hemp-derived vapor items to consumers.

(~~18~~20) “Serving” or “serving size” means an amount of product that is suggested for use by a consumer trying the item for the first time.

(~~19~~21) “THC” means total delta-9-tetrahydrocannabinol as calculated pursuant to OAR 333-064-0100.

(~~20~~22) “These rules” means OAR 845-026-7000 through 845-026-7070.

(~~21~~23) “Ultimate sale” means the final sale from a retail location to a consumer.

Statutory/Other Authority: ORS 475C.604 & 475C.608
Statutes/Other Implemented: ORS 475C.604 & 475C.608
History:
OLCC 16-2022, minor correction filed 02/25/2022, effective 02/25/2022
OLCC 21-2021, adopt filed 12/30/2021, effective 01/01/2022

845-026-7030
Industrial Hemp-derived Vapor Item Labeling for Sale to Consumer

(1) A label required by these rules must:

(a) Be printed on or affixed to the container holding the industrial hemp-derived vapor item and printed on or affixed to any outer package or container that is used to display the industrial hemp-derived vapor item for sale or transfer to a consumer;

(b) Comply with the National Institute of Standards and Technology (NIST) Handbook 130 (2016), Uniform Packaging and Labeling Regulation, incorporated by reference;

(c) Contain all required information in any typed, legible font that is easy to read and contrasts sufficiently with the background and is at least ~~1/16th~~one-sixteenth of an inch in height based on the uppercase "K";

(d) Be in English, though it can also be in other languages; and

(e) Be unobstructed and conspicuous.

(2) A label may not:

(a) Contain any untruthful or misleading statements including, but not limited to, a health claim that is not supported by the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner that is consistent with generally recognized scientific procedures and principles), and for which there is significant scientific agreement, among experts qualified by scientific training and experience to evaluate such claims; or

(b) Be attractive to minors, as that is defined in OAR 845-026-7000.

(3) Principal Display Panel.

(a) Every container that holds an industrial hemp-derived vapor item for sale or transfer to a consumer must have a principal display panel, as that term is defined in OAR 845-026-7000.

(b) If a container holding the industrial hemp-derived vapor item is placed within another container for sale or transfer to a consumer, both containers must have a principal display panel as that term is defined in OAR 845-026-7000 in addition to the other labeling requirements provided in these rules.

(c) The principal display panel must contain the product identity, net quantity of contents, and hemp symbol.

(d) If the package or container is a jar and is 1.75 inches or less in height and has a lid with a width of ~~2~~two inches or less, then the principal display panel must be on the top of the lid.

(4) Product Identity

(a) The product identity be in bold type, in a size reasonably related to the most prominent printed matter on the principal display panel, and shall be parallel to the base on which the package rests as it is designed and displayed.

(b) The product identity must clearly identify that the item is derived from hemp.

(c) The product identity for industrial hemp extracts and concentrates must correctly identify whether the product is an industrial hemp extract or a concentrate.

(5) Net Quantity Declaration

(a) The net quantity of contents provided on the principal display panel must be the average net quantity of contents of all of the packages in the batch.

(b) The net quantity declaration shall be in terms of fluid measure if the item is liquid, or in terms of weight if the item is solid, semi-solid, or viscous.

(c) The net quantity declaration shall be a distinct item separated from other printed label information on all sides by at least a space equal to the height of the lettering used in the declaration. The declaration shall be presented in bold type in the bottom 30 percent of the principal display panel and in lines generally parallel with the base of the container.

(6) Potency Labeling. The THC and CBD amounts required to be on a label must be the value calculated by the laboratory that did the testing in accordance with OAR 333-064-0100.

(a) The potency value shall be expressed as an average of the samples taken and tested under OAR 333-007-0360.

(b) If the potency value for THC or CBD is reported by the laboratory as less than the limit of quantification, the value on the label must be listed as "<LOQ~~".~~."

(7) Hemp symbol. The hemp symbol must be at least 0.48 inches wide by 0.35 high and can be downloaded on the Commission's website.

(8) An industrial hemp-derived vapor item may have one or more label panels printed on or affixed to the container or packaging.

(9) Small Container Label. An industrial hemp-derived vapor item that is in a container that because of its size does not have sufficient space for a label that contains all the information required for compliance with these rules:

(a) May, in lieu of a label that has all the information required in OAR 845-026-7030 to 845-026-7040, have a label printed on or affixed to the container holding the industrial hemp-derived vapor item that includes at least the following:

(A) A principal display panel containing the net weight or volume, product identity, and hemp symbol;

(B) The hemp vapor item manufacturer business, trade name, or personal name, and, if applicable, Oregon Department of Agriculture license number;

(C) Concentration or amount of THC and CBD in the container; and

(D) Required warnings. The following warning is required on the label: "This product is derived from hemp and could contain THC. Keep out of reach of children."

(b) Must include all required label information on an outer container or other required label information not listed in subsection (~~9)(~~a) of this ~~rule~~section on a hangtag attached to the industrial hemp-derived vapor item.

(c) May use a peel-back or accordion label with the information required in subsection (~~9)(~~b) of this ~~rule~~section on the inside of the peel-back or accordion label, if the peel-back or accordion label can be easily identified by consumer as containing important information.

(10) Tiny Container Label. An industrial hemp-derived vapor item that is in a container that has a complete surface area available for applying a label that is less than ~~2~~two inches squared:

(a) May have a label printed on or affixed to the container that holds the industrial hemp-derived vapor item that includes at least the following:

(A) A principal display panel with the hemp symbol and product identity;

(B) Concentration or amount of THC and CBD in the container;

(C) The hemp vapor item manufacturer's business, trade name, or personal name, and, if applicable, Oregon Department of Agriculture license number; and

(D) A warning that reads: "Keep out of reach of children."

(b) Must include all required label information on an outer container or other required label information not listed in subsection (~~10)(~~a) of this ~~rule~~section on a hangtag attached to the industrial hemp-derived vapor item.

(c) May use a peel-back or accordion label with the information required in subsection (~~10)(~~b) of this ~~rule~~section on the inside of the peel-back or accordion label, if the peel-back or accordion label can be easily identified by a consumer as containing important information.

(11) The outer container used to display the industrial hemp-derived vapor item for sale or transfer to a consumer must comply with the labeling requirements in these rules, even if an inner container qualifies for the exception under section (9) or (10) of this rule.

(12) If an industrial hemp-derived vapor item is placed in a package that is being re-used, the old label must be removed and it must have a new label.

(13) Ingredient listing.

(a) An industrial hemp-derived vapor item that contains an ingredient consisting of two or more sub ingredients must either:

(A) Use the common name of the ingredient followed by a parenthetical listing of all ingredients in a descending order of predominance; or

(B) List all sub ingredients as individual ingredients in descending order of predominance.

(b) The list of ingredients must correctly identify whether industrial hemp concentrate or industrial hemp extract was used to make the product.

(14) A cartridge or vaporizing device containing industrial hemp concentrate or industrial hemp extract, whether alone or combined with non-cannabis additives, intended for use with an inhalant delivery system is not required to be labeled in accordance with these rules except that the cartridge or device must have a label with the hemp symbol. All the remaining label requirements must be included on the packaging as required by these rules.

(15) The Commission may require that industrial hemp-derived vapor items sold at retail to be labeled with a Universal Product Code.

(16) Once a label is approved by the Commission, the label identification number provided by the Commission must be prominently displayed on the label of the outermost container.

Statutory/Other Authority: ORS 475C.604
Statutes/Other Implemented: ORS 475C.604

History:
OLCC 18-2022, minor correction filed 02/25/2022, effective 02/25/2022
OLCC 21-2021, adopt filed 12/30/2021, effective 01/01/2022

845-026-7040
Industrial Hemp-derived Vapor Item Labeling Requirements

Prior to an industrial hemp-derived vapor item being sold or transferred to a consumer, the container holding industrial hemp-derived vapor item must have a label that has the following information:

(1) The hemp vapor item manufacturer's business, trade name, or personal name, and, if applicable, Oregon Department of Agriculture license number;

(2) Product identity that correctly identifies the item as either an industrial hemp concentrate or extract;

(3(3) On or after July 1, 2022, a lot number or batch number;

(4) Date the industrial hemp-derived vapor item was made;

(45) Net weight or volume in U.S. customary and metric units;

(56) Serving size and number of servings per container;

(67) Amount, in milligrams, of THC and CBD in each serving and in the container;

(78) Activation time, expressed in words or through a pictogram;

(89) Name of the laboratory that performed any test and any test analysis date;

(910) Hemp symbol;

(1011) A statement that reads: "This product is not approved by the FDA to treat, cure, or prevent any disease";

(1112) Warnings that state:

(a) "This product is derived from hemp and could contain THC. Keep out of reach of children."

(b) "DO NOT EAT" in bold, capital letters.

(1213) For industrial hemp-derived vapor items that combine industrial hemp extract and concentrate:

(a) The product identity must indicate the item has industrial hemp extract and concentrate.

(b) List all ingredients in descending order of predominance by weight or volume.

(1314) For industrial hemp-derived vapor items that contain non-cannabis additives:

(a) The product identity must clearly identify that the product contains non-cannabis additives and, in addition to the other requirements of OAR 845-026-7000 through 845-026-7070, must include the words "non-cannabis additive."

(b) In addition to the other ingredients in the industrial hemp-derived vapor item, for each non-cannabis additive used, the ingredient listing must contain the words "non-cannabis additive" in a manner that clearly distinguishes each additive from any other additives.

(c) All of the ingredients in the non-cannabis additive:

(A) Must be listed either alphabetically or in descending order of predominance by weight or volume; and

(B) Must be listed on:

(i) The label's ingredient list as sub-ingredients of the ingredient term "non-cannabis additive"; or

(ii) An insert within the product's container that clearly indicates that the ingredients listed are contained within the industrial hemp-derived vapor item that contain non-cannabis additives.

Statutory/Other Authority: ORS 475C.604, 475C.233 & 475C.237
Statutes/Other Implemented: ORS 475C.604
History:
OLCC 19-2022, minor correction filed 02/25/2022, effective 02/25/2022
OLCC 21-2021, adopt filed 12/30/2021, effective 01/01/2022

845-026-7070
Industrial Hemp-derived Vapor Item Labeling Prohibited Conduct

The Commission may impose a civil penalty of up to $500 per day per violation unless the person is a hemp handler licensed under ORS 571.281 for any of the following:

(1) Failure to comply with these rules.

(2) Transferring, selling or offering to sell an industrial hemp-derived vapor item for ultimate sale to a consumer to another hemp vapor item manufacturer that is not labeled in accordance with these rules.

(3) Fail~~ing~~ure to receive label approval prior to transferring, selling, or offering for sale an industrial hemp-derived vapor item that is for ultimate sale to a consumer.

(4) Transferring, selling, or offering for sale an industrial hemp-derived vapor item that has not received label approval.

(5) Selling or offering to sell an industrial hemp-derived vapor item under a different label than what was approved.

~~offering for sale an industrial hemp-derived vapor item that has not received label approval.~~

~~(5) Selling or offering to sell an industrial hemp-derived vapor item under a different label than what was approved.~~

Statutory/Other Authority: ORS 475C.604
Statutes/Other Implemented: ORS 475C.604
History:
OLCC 21-2022, minor correction filed 02/25/2022, effective 02/25/2022
OLCC 21-2021, adopt filed 12/30/2021, effective 01/01/2022