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OREGON LIQUOR AND CANNABIS COMMISSION

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RULES:

845-025-1015, 845-025-1045, 845-025-1060, 845-025-1100, 845-025-1115, 845-025-1135, 845-025-1160, 845-025-1165, 845-025-1170, 845-025-1175, 845-025-1180, 845-025-1190, 845-025-1200, 845-025-1215, 845-025-1230, 845-025-1245, 845-025-1290, 845-025-1295, 845-025-1300, 845-025-1330, 845-025-1360, 845-025-1400, 845-025-1410, 845-025-1420, 845-025-1430, 845-025-1460, 845-025-1470, 845-025-1600, 845-025-1620, 845-025-2020, 845-025-2025, 845-025-2030, 845-025-2040, 845-025-2050, 845-025-2500, 845-025-2550, 845-025-2750, 845-025-2755, 845-025-2775, 845-025-2785, 845-025-2800, 845-025-2820, 845-025-2840, 845-025-2860, 845-025-2885, 845-025-2900, 845-025-2910, 845-025-3210, 845-025-3215, 845-025-3220, 845-025-3230, 845-025-3240, 845-025-3250, 845-025-3260, 845-025-3270, 845-025-3280, 845-025-3290, 845-025-3300, 845-025-3310, 845-025-3500, 845-025-3510, 845-025-3600, 845-025-5000, 845-025-5045, 845-025-5060, 845-025-5350, 845-025-5500, 845-025-5720, 845-025-5730, 845-025-5740, 845-025-5760, 845-025-5790, 845-025-5800, 845-025-5810, 845-025-5815, 845-025-5820, 845-025-5830, 845-025-5840, 845-025-5850, 845-025-7000, 845-025-7010, 845-025-7020, 845-025-7030, 845-025-7110, 845-025-7140, 845-025-7150, 845-025-7160, 845-025-7170, 845-025-7180, 845-025-7190, 845-025-7500, 845-025-7520, 845-025-7560, 845-025-7570, 845-025-7575, 845-025-7580, 845-025-7590, 845-025-7700, 845-025-7725, 845-025-7750, 845-025-8040, 845-025-8060, 845-025-8080, 845-025-8500, 845-025-8520, 845-025-8540, 845-025-8560, 845-025-8570, 845-025-8590, 845-025-8760, 845-026-0100, 845-026-0210, 845-026-7000, 845-026-7030, 845-026-7040, 845-026-7070

AMEND: 845-025-1015

RULE TITLE: Definitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule sets the definitions for terms used in Division 25 and Division 26 rules. The proposed amendments update and clarify definitions; conform language to conventions.

RULE TEXT:

For the purposes of OAR 845-025-1000 to 845-025-8590 and OAR 845-026-0100 to 845-026-7070, unless otherwise specified, the following definitions apply:

(1) "Added substance" means any component or ingredient added to usable marijuana, cannabinoid concentrate, or

cannabinoid extract during or after processing that is present in the final cannabinoid product, including but not limited to flavors, non-marijuana derived terpenes, and any substances used to change the viscosity or consistency of the cannabinoid product.

(2) "Adulterated" means to make a marijuana item or hemp item impure by adding foreign or inferior ingredients or substances. A marijuana item 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 item 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 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, or cannabinoid concentrates that have been combined with an added substance; or

(B) Any combination of usable marijuana, cannabinoid extracts, or 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 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) "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.

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

(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 hemp items in bulk from one licensee or registrant to another.

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

(27) "CTS administrator" means a CTS user who may add, edit or disable access for other CTS users.

(28) "CTS user" means an individual with online access to CTS.

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

(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.

(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.

(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.

(33) "Designated primary caregiver" has the meaning given that term in ORS 475C.777.

(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.

(35)(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.

(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.

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

(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.

(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.

(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.

(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, or industrial hemp concentrates that have been combined with an added substance; or

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

(c) Does not include:

(A) Usable hemp by itself;

(B) Hemp stalk by itself;

(C) A hemp concentrate or extract by itself;

- (D) Hemp seed incapable of germination by itself;
 - (E) Other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients; or
 - (F) A cannabinoid product.
- (43) "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:
 - (A) Hemp seed incapable of germination by itself;
 - (B) Other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients; or
 - (C) A cannabinoid edible.
- (44) "Hemp grower" means a person or entity that is a "grower" as that term is defined in OAR 603-048-0010 and is licensed with the Oregon Department of Agriculture under ORS 571.281 to grow industrial hemp.
- (45) "Hemp handler" means a person or entity that is a "handler" as that term is defined in OAR 603-048-0010 and is licensed with the Oregon Department of Agriculture under ORS 571.281 to handle industrial hemp.
- (46) "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; 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.
- (47) "Immature marijuana plant" means a marijuana plant that is not flowering.
- (48) "Industrial hemp" has the meaning given that term in ORS 571.269.
- (49) "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.
- (50) "Inhalable cannabinoid product" means a cannabinoid product or hemp cannabinoid product that is intended for human inhalation.
- (51) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.
- (52) "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.
- (53) "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.
- (54) "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.
- (55) "Invited guests" means family member and business associates of the licensee, not members of the general public.
- (56) "Laboratory licensee" or "Laboratory" means a laboratory in 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 845-025-1165.
- (57) "License year" means the period of time for which a license is issued.

- (a) For a producer, processor, wholesaler, retailer, or laboratory license, the license year is a one year period beginning on the effective date of the license, or that same period of time for each subsequent year.
- (b) For a research certificate the license year is a three year period beginning on the effective date of the license, or that same period of time for each subsequent three year period.
- (58) "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 845-025-1165.
- (59) "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.
- (60) "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.
- (61) "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.
- (62) "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.
- (63) "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.
- (64) "Marijuana flowers" means the flowers of the plant genus Cannabis within the plant family Cannabaceae.
- (65) "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.
- (66) "Marijuana leaves" means the leaves of the plant genus Cannabis within the plant family Cannabaceae.
- (67) "Marijuana processor" means a person who processes marijuana items in this state.
- (68) "Marijuana producer" means a person who produces marijuana in this state.
- (69) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.
- (70) "Marijuana wholesaler" means a person who purchases marijuana items in this state for resale to a person other than a consumer.
- (71) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana plant.
- (72) "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.
- (73) "Micro-wholesaler" means a marijuana wholesaler licensed by the Commission that only purchases or receives seeds, immature marijuana plants, or usable marijuana from a micro tier I or micro tier II producer.
- (74) "Minor" means any person under 21 years of age.
- (75) "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.
- (76) "Non-profit dispensary" means a medical marijuana dispensary registered under ORS 475C.833, owned by a nonprofit corporation organized under ORS chapter 65, and that is in compliance with the Authority's rules governing

non-profit dispensaries in OAR chapter 333, division 8.

(77) "Non-toxic" means not causing illness, disability or death to persons who are exposed.

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

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

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

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

(82) "Person Responsible for a Marijuana Grow Site" or "PRMG" has the meaning given that term in OAR 333-008-0010.

(83) "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.

(84) "Premises" or "licensed premises"

(a) Means all areas of a location licensed under sections ORS 475C.005 to 475C.525 or 475C.548 and includes:

(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

(b) Does not include a primary residence.

(85) "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.

(86) "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.

(87) "Process lot" means:

(a) Any amount of cannabinoid concentrate, cannabinoid extract, industrial hemp concentrate, or industrial hemp extract of the same type and processed using the same extraction methods, standard operating procedures, and batches from the same or different harvest lots; or

(b) Any amount of cannabinoid product or hemp cannabinoid product of the same type and processed using the same ingredients, standard operating procedures, and batches from the same or different harvest lots or process lots of cannabinoid concentrate, cannabinoid extract, industrial hemp concentrate, or industrial hemp extract.

(88) "Processes"

(a) 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 hemp items.

(b) Does not include packaging or labeling.

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

(90) "Produces"

(a) Means the manufacture, planting, propagation, cultivation, growing, or harvesting of marijuana.

(b) 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.

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

(92) "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.

(93) "Registry identification cardholder" or has the meaning given that term in ORS 475C.777.

(94) "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 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.

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

(96) "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.

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

(98) "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.

(99) "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.

(100) "These rules" means OAR chapter 845, division 25.

(101) "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.

(102) "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.

(103) "UID number" means the 24-digit number on the UID tag.

(104) "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.

(105) "Usable hemp"

(a) Means the flowers and leaves of industrial hemp intended for human consumption that does not fall within meaning of industrial hemp concentrate or industrial hemp extract as those terms are defined in ORS 571.269, 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.

(106) "Usable Marijuana"

(a) Means the dried leaves and flowers of marijuana and 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.

(b) 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.

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

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, ORS 475C.009

AMEND: 845-025-1045

RULE TITLE: True Name on Application; Interest in Business

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details how entities and individuals must be listed on a license, and which entities and individuals qualify as applicants. The proposed amendments renumber reference to amended rule.

RULE TEXT:

- (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 section (5) of this rule; 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 845-025-1165. 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

AMEND: 845-025-1060

RULE TITLE: Fees

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details application and licensing fees. The proposed amendments remove medical canopy fee; conform language to conventions.

RULE TEXT:

- (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.
 - (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 OAR 845-025-1070 and sections (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 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

AMEND: 845-025-1100

RULE TITLE: Approval of Application and Issuance of License

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the process for approving an application and issuing a license. The proposed amendments clarify term of license; renumber reference to amended rule.

RULE TEXT:

(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 license is issued for one license year.

(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 845-025-1170.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.045, 475C.548

AMEND: 845-025-1115

RULE TITLE: Denial of Application

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details criteria for the Commission to deny an initial or renewal application. The proposed amendments amend, add, and clarify license denial criteria; renumber reference to amended rule; conform language to conventions.

RULE TEXT:

(1) The Commission must deny an initial or renewal application if:

(a) An applicant is under the age of 21.

(b) The applicant's land use compatibility statement shows that the proposed land use is prohibited in the applicable zone, if a land use compatibility statement is required.

(c) The proposed licensed premises is located:

(A) Outside of the State of Oregon.

(B) On federal property.

(C) On reservation or tribal trust land of a federally recognized Indian tribe unless that tribe has entered into an agreement with the State of Oregon which allows licensing of recreational marijuana businesses.

(d) The proposed licensed premises of a processor who has applied for an endorsement to process extracts is located in an area that is zoned exclusively for residential use.

(e) The proposed licensed premises of a retail applicant is located:

(A) Except as provided in ORS 475C.101, within 1,000 feet of:

(i) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(ii) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.

(B) In an area that is zoned exclusively for residential use.

(f) The proposed licensed premises of a wholesaler applicant is in an area zoned exclusively for residential use.

(g) A city or county has prohibited the license type for which the applicant is applying, in accordance with ORS 475C.950.

(2) The Commission may deny an initial or renewal application, unless the applicant shows good cause to overcome the denial criteria, if the Commission has reasonable cause to believe that:

(a) The applicant:

(A) Is in the habit of using alcoholic beverages, habit-forming drugs, marijuana, or controlled substances to excess.

(B) Has made false statements to the Commission.

(C) Is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

(D) Is not of good repute and moral character.

(E) Does not have a good record of compliance with ORS 475C.005 to 475C.525 or these rules, prior to or after licensure, including but not limited to:

(i) The giving away of marijuana items as a prize, premium or consideration for a lottery, contest, game of chance or skill, or competition of any kind, in violation of ORS 475C.333;

(ii) Providing marijuana items to an individual without checking that the individual is 21 years of age or older;

(iii) Unlicensed transfer of marijuana items for financial consideration; or

(iv) Violations of local ordinances adopted under ORS 475C.449, pending or adjudicated by the local government that adopted the ordinance.

(F) Does not have a good record of compliance with ORS chapter 471 or any rules adopted thereunder.

(G) Is not possessed of or has not demonstrated financial responsibility sufficient to adequately meet the requirements of the business proposed to be licensed.

(H) Is unable to understand the laws of this state related to marijuana or these rules. This may be demonstrated by violations documented by the Oregon Health Authority.

- (I) For license renewal, has not submitted all fees, forms, documents, and information required to act on the renewal application within the time period prescribed by the Commission.
- (J) Has, or previously had, an unapproved ownership interest in a license issued by the Commission other than as provided in OAR 845-025-1165.
- (K) Has diverted marijuana to the interstate market or an illicit market or has diverted resources to a criminal enterprise.
- (L) Has introduced into the marijuana industry regulated under ORS 475C.005 to 475C.525 cannabinoids or marijuana not produced or processed by a licensee and not tracked in the system developed and maintained under ORS 475C.177.
- (M) Has operated as a hemp grower registered or licensed under ORS 571.281 and grown cannabis that was found to be presumptively marijuana under OAR 845-026-4100.
- (b) Any individual listed on the application has been convicted of violating a general or local law of this state or another state, or of violating a federal law, if the conviction is substantially related to the fitness and ability of the applicant to lawfully carry out activities under the license, except as specified in ORS 475C.037(3). The Commission may consider factors set forth in section (8) of this rule to determine if this refusal basis is supported or overcome.
- (c) Any applicant is not the legitimate owner of the business proposed to be licensed, or other persons have an ownership interest in the business have not been disclosed to the Commission.
- (d) The business proposed to be licensed is located:
 - (A) At the same physical location or address as a premises licensed under ORS chapter 471 or as a retail liquor agent appointed by the Commission;
 - (B) At the same location as a producer, retailer, processor, wholesaler, or laboratory license, unless the licenses are of different types and all of the licenses at the location are held or sought by identical applicants. For the purpose of this paragraph, "at the same location" means that any area of the proposed licensed premises is within the licensed premises of another license;
 - (C) At the same address as a producer, retailer, processor, wholesaler, or laboratory license, unless the licenses are of different types and all of the licenses at the location or address are held or sought by identical applicants; or
 - (D) At the same physical location as a premises licensed under ORS 475A.290 or 475A.305.
- (e) The location proposed to be licensed is prohibited under OAR 845-025-1230.
- (f) The proposed licensed premises of a producer applicant is on the same tax lot as another producer licensee under common ownership.
- (g) The proposed licensed premises of a producer is located on the same tax lot as a site registered with Oregon Department of Agriculture for the production of industrial hemp, unless the applicant submits and the Commission approves a control plan describing how the registered site shall be separated from the premises proposed to be licensed and how the applicant shall prevent transfer of industrial hemp to the licensed premises.
- (h) The applicant proposed to be licensed does not have access to the proposed license premises.
- (i) The proposed licensed premises of the producer applicant is on the same tax lot as another producer licensee and the presence of multiple producers on the same tax lot creates a risk of non-compliance with any of these rules.
- (j) The applicant is a business entity that is required to be registered with the Oregon Secretary of State but has failed to register.
- (3) The Commission may refuse to issue a license to any license applicant or refuse to renew the license of any licensee or laboratory licensee when conditions exist in relation to any person having a financial interest in the business or in the place of business which would constitute grounds for refusing to issue a license or for revocation or suspension of a license if such person were the license applicant, licensee, or laboratory licensee.
- (4)(a) The Commission may deny any initial or renewal application and may revoke any license if medical marijuana items are produced, processed, stored, sold, or transported, to or from the same address or location of licensed business or business proposed to be licensed.
 - (b) The Commission will not deny an initial application under this subsection if:
 - (A) The applicant surrenders any registration issued by the Authority for the address or location of the business

proposed to be licensed;

(B) If applicable, the applicant notifies all other growers registered by the Authority at the location or address proposed to be licensed, in a form and manner prescribed by the Commission, that the grower is no longer permitted to produce medical marijuana at the address or location proposed to be licensed, and must surrender their registration at that address or location; and

(C) All medical marijuana activity at the location or address proposed to be licensed ceases prior to being issued an OLCC license.

(5) If the Commission denies an application because an applicant submitted false or misleading information to the Commission, the Commission may prohibit the applicant from re-applying for five years.

(6) The Commission may revoke a license for any of the reasons that it may deny a license.

(7) A notice of denial must be issued in accordance with ORS 183.

(8) Factors that may support or overcome license denial pursuant to subsection (2)(b) of this rule. These factors may have occurred before or after the incident or incidents that are relevant to the specific criterion. The factors may be weighed in favor of the applicant, weighed against the applicant, or weighed neither for nor against the applicant.

(a) Definitions. For purposes of this subsection:

(A) "Administrative violation" means an administrative agency has taken a final action finding that an individual, or a legal entity that the individual is part of, violated a regulation of that administrative agency.

(B) "Compliance risk factors" means factors that show the individual's tendency to disobey laws, rules, and regulations; including but not limited to probation and parole violations, non-relevant convictions, and administrative violations.

(C) "Relevant conviction" means a conviction, other than those listed in ORS 475C.037(3), that involved violence or the threat of violence; dishonesty or deception; drugs, alcohol, or other regulated substances; or a conviction as a felon in possession of a weapon.

(D) "Successful treatment" means:

(i) The Commission receives written confirmation from the individual's licensed treatment provider that the individual completed treatment that is related to a relevant conviction and the Commission has determined that the individual has not had another conviction for a similar incident since the completion of the treatment; or

(ii) The individual is still in a treatment program that is related to a relevant conviction; however, the Commission receives written confirmation from the individual's licensed treatment provider that the individual has demonstrated sufficient success towards stopping the behavior that led to the conviction and the Commission has determined that the individual has not had another conviction for a similar incident since the date the provider determined that the individual demonstrated sufficient success towards stopping the behavior that led to the conviction.

(b) Upon the Commission's determination that a basis to refuse the application has been established under this criterion, the Commission may consider the following factors and may consider other factors, depending on the facts of the case:

(A) Passage of time, whichever date is later:

(i) Since the date of the most recent incident that led to a relevant conviction, but not counting time spent incarcerated or other factors the Commission determines affect the passage of time; or

(ii) Since the date of the most recent compliance risk factor, but not counting time spent incarcerated or other factors the Commission determines affect the passage of time.

(B) Compliance risk factors.

(C) Successful treatment.

(D) The severity of the individual's relevant conviction record as shown by the number of convictions, whether a conviction was a felony or non-felony, and whether a conviction involved violence or the manufacture or delivery of controlled substances.

(E) The individual's record of compliance with the Commission.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.033, 475C.037, 475C.053, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548, 475C.950, 475C.189

AMEND: 845-025-1135

RULE TITLE: Application Processing Deadlines

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details application processing deadlines. The proposed amendments remove provisions that no longer apply; conform language to conventions.

RULE TEXT:

(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 has an application assigned to a Commission staff member must complete the application process within 60 calendar days of the Commission notifying the applicant that the application has been assigned.

(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)(a) of this rule.

(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 subsection (a) of this section. The Commission will communicate any new deadlines to the applicant in writing.

(3) Applications on Hold

(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)(a) of this rule, the application will be unassigned and placed on hold.

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

(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 section (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 section (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 section (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 section (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

AMEND: 845-025-1160

RULE TITLE: Notification of Changes

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details requirements for providing notification to the Commission. The proposed amendments remove sections that are being incorporated into new rules; specify violation category.

RULE TEXT:

(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) 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, 475C.548

ADOPT: 845-025-1165

RULE TITLE: Change of Business Structure

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details requirements for changes of business structure. This is a new rule to amend and clarify change of business structure process that was previously articulated in OAR 845-025-1160; specify violation category.

RULE TEXT:

(1) For the purposes of this rule, "change of business structure":

(a) Means a change in a licensee's or laboratory licensee's ownership structure by adding an individual or legal entity who meets 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) Until March 31, 2023:

(a) A licensee or laboratory licensee that undergoes 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.

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

(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 (a) of this section, 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; or

(B) A publicly traded corporation adding or removing principal officers.

(3) On or after April 1, 2023:

(a) A licensee or laboratory licensee proposing a change of business structure must, prior to making the change, submit in a manner prescribed by the Commission:

(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 (a) of this section.

(A) 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.

(B) If the Commission does not notify the licensee or laboratory licensee that the submission is incomplete within five business days of receiving the submission, the change is conditionally approved.

(c) Notwithstanding subsection (a) of this section:

(A) A licensee or laboratory licensee must notify the Commission within 60 calendar days, but does not need to notify the Commission prior to making the following changes:

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

(ii) A publicly traded corporation adding or removing principal officers.

(B) The changes described in paragraph (A) of this subsection are considered conditionally approved if, within 60

calendar days of the changes occurring, the licensee or laboratory licensee submits:

(i) A form prescribed by the Commission; and

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

(C) The Commission must review the form and other information submitted under paragraph (B) of this subsection. If the Commission determines that the submission does not include all information required by paragraph (B) of this subsection, the Commission will notify the licensee or laboratory licensee.

(d) The Commission may withdraw the conditional approval and deny a change requested under subsections (a) or (c) of this section if:

(A) The requested change constitutes a "change of ownership" as described in OAR 845-025-1170; or

(B) The Commission has reason to believe 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; or

(C) The Commission determines that the form or information submitted under subsection (3)(a) or paragraph (3)(c)(B) of this rule are incomplete; or

(D) The form or information submitted under subsection (3)(a) or paragraph (3)(c)(B) of this rule contains false or misleading information; or

(E) The licensee fails to pay the fee specified in OAR 845-025-1060(8)(a) within 30 days if the Commission requires a criminal background check for any persons that the licensee or laboratory licensee requests to add to the license.

(e) 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.

(f) If the Commission determines that there is no basis to deny a change requested under this rule, the Commission shall notify the applicant in writing that the change has been approved.

(4) 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, 475C.548

ADOPT: 845-025-1170

RULE TITLE: Change of Ownership

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details requirements for change of ownership. This is a new rule to amend and clarify change of ownership process that was previously articulated in OAR 845-025-1160; allow change of ownership to occur at a different location than the current licensed premises; specify violation category.

RULE TEXT:

(1) For the purposes 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) Within 14 calendar days of the date the application described in subsection (a) of this section is submitted, 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 Commission shall review a change of ownership application in accordance with OAR 845-025-1090 and 845-025-1115.

(4) A change of ownership application must comply with the timeframes described in OAR 845-025-1135 to complete the application process.

(5) 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; or

(b) A business that is not currently licensed.

(6) Submission of a change of ownership request under this rule does not confer the privileges of a licensee to the applicant until the license is issued.

(7) 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, 475C.033, 475C.185

STATUTES/OTHER IMPLEMENTED: ORS 475C.037, 475C.045, 475C.548

AMEND: 845-025-1175

RULE TITLE: Changing, Altering, or Modifying Licensed Premises

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details requirements for making changes to a licensed premises. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) The Commission issues licenses with the expectation that the licensee will operate the business as proposed at the time of licensing. A licensee may not make any physical changes to the licensed premises that materially or substantially alter the licensed premises or the usage of the licensed premises from the plans originally approved by the Commission without the Commission's prior written approval.

(2) A licensee who intends to make any material or substantial changes to the licensed premises must submit a form prescribed by the Commission, and submit any information identified in the form to be submitted, to the Commission, prior to making any such changes.

(3) The Commission must review the form and other information submitted under section (2) of this rule, and will approve the changes if the changes would not result in an initial or renewal application denial under OAR 845-025-1115.

(4) If the Commission denies the change the licensee must not make the proposed changes. If the licensee makes the proposed changes, the licensee must surrender the license or the Commission will propose to suspend or revoke the license.

(5) If the Commission approves the change, the Commission may require a site inspection of the changed area and a modification of the licensee's security plan prior to the licensee exercising any license privileges.

(6) For purposes of this rule a material or substantial change requiring approval includes, but is not limited to:

(a) Any increase or decrease in the total physical size or capacity of the licensed premises;

(b) The sealing off, creation of, or relocation of a common entryway, doorway, passage, or other such means of public ingress or egress, when such common entryway, doorway, or passage alters or changes limited access areas, such as the areas in which cultivation, harvesting, processing, or sale of marijuana items occurs within the licensed premises;

(c) Any physical change that would require the installation of additional video surveillance cameras or a change in the security system; or

(d) Any addition or change of location of a primary residence located on the same tax lot as a licensed premises.

(7) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.065, 475C.085, 475C.093, 475C.097, 475C.548

ADOPT: 845-025-1180

RULE TITLE: Change of Location

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details requirements for changing the location of a licensed premises. This is a new rule to amend and clarify change of location process that was previously articulated in OAR 845-025-1160; implement legislation related to retailers; specify violation category.

RULE TEXT:

- (1) For the purposes 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) A Land Use Compatibility Statement for the new proposed location from the city or county that authorizes land use for that location.
 - (c) Any additional forms, documents, and information identified in the form to be submitted to the Commission;
 - (d) 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
 - (e) 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 for that location 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, laboratory 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. The retailer must submit a change of location request as described in this rule.

(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, 475C.548, 2022 OL Ch. 117 Sec. 3

AMEND: 845-025-1190

RULE TITLE: License Renewal

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details license renewals. The proposed amendments clarify term of license; specify annual renewal process when a previous renewal is pending a decision; conform language to conventions.

RULE TEXT:

(1) Renewal Applications. A licensee must annually submit a renewal application and the applicable fees regardless of whether the Commission has acted on a previous renewal application. A research certificate holder must submit a renewal application and the applicable renewal fees every three years, regardless of whether the Commission has acted on a previous renewal.

(a) Any licensee who annually submits the required renewal application with the Commission on or before the license expiration date may continue to operate, pending a decision by the Commission.

(b) Any licensee who does not submit the required renewal application on or before the license expiration date must stop engaging in any licensed activity when the license expires.

(c) If the licensee annually submits the required renewal application within 30 days after the license expiration date, the licensee may resume operation pending a decision by the Commission on the renewal application.

(d) The Commission will not accept a renewal application that is received more than 30 days after the license expiration date. In this circumstance, a person:

(A) May 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 granted a new license by the Commission.

(e) A person who engages in any activity that would require a license but who is not licensed or who is not otherwise authorized to operate under this rule may be subject to administrative and criminal sanctions.

(2) For purposes of this rule:

(a) An application is considered submitted when it is:

(A) Signed by an applicant and includes the appropriate renewal application and license and renewal fees described in OAR 845-025-1060 and 845-025-1070; and

(B) Received by the Commission.

(b) "License expiration date" means:

(A) The date of expiration on a license; or

(B) If the Commission has not acted on a pending license renewal application, the date the pending license would expire if the application had been approved.

(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 approves 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. The renewed license is effective for a license year beginning the date following the license expiration date for the previous license year.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548

STATUTES/OTHER IMPLEMENTED: ORS 475C.033

AMEND: 845-025-1200

RULE TITLE: Financial and Business Records

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details financial and business recordkeeping requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) In addition to any other recordkeeping requirements in these rules, a licensee or laboratory licensee must have and maintain records that clearly reflect all financial transactions and the financial condition of the business. The following records may be kept in either paper or electronic form and must be maintained for a three-year period and must be made available for inspection if requested by an employee of the Commission:

(a) Purchase invoices and supporting documents for items and services purchased for use in the production, processing, research, testing, and sale of marijuana items that include from whom the items were purchased and the date of purchase;

(b) Bank statements for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business;

(d) Documentation of all financial transactions related to the licensed business, including contracts and agreements for services performed or received that relate to the licensed business;

(e) All employee records, including training; and

(f) Information relating to the structure and ownership of the business, including:

(A) A list of all individuals and legal entities who are applicants as described in OAR 845-025-1045;

(B) For each legal entity that is an applicant as described in OAR 845-025-1045, complete information about the ownership structure of that legal entity; and

(C) A list of all individuals and legal entities who are entitled to receive a portion of revenue, proceeds, or profits from the business.

(2) Violations.

(a) A violation of subsection (1)(e) of this rule is a Category V violation.

(b) All other violations of this rule are Category II violations.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548

STATUTES/OTHER IMPLEMENTED: ORS 475C.033

AMEND: 845-025-1215

RULE TITLE: Standardized Scales

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details weighing device requirements. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) A licensee shall use an Oregon Department of Agriculture licensed weighing device as defined in ORS chapter 618 and OAR chapter 603, division 27:

(a) Whenever marijuana items are bought and sold by weight;

(b) Whenever marijuana items are packaged for sale by weight;

(c) Whenever marijuana items are weighed for entry into CTS; and,

(d) Whenever the weighing device is used commercially as defined in ORS 618.010.

(2) Notwithstanding the requirements in section (1) of this rule, a laboratory licensee may utilize any scale permitted by ORELAP under OAR chapter 333, division 64.

(3) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.065, 475C.085, 475C.093, 475C.097, 475C.548

STATUTES/OTHER IMPLEMENTED: ORS 475C.065, 475C.085, 475C.093, 475C.097, 475C.548

AMEND: 845-025-1230

RULE TITLE: Licensed Premises Restrictions and Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details licensed premises restrictions and requirements. The proposed amendments specify violation category; amend enclosed premises requirement; amend producer tour requirements.

RULE TEXT:

(1) A licensed premises may not be located:

(a) On federal property; or

(b) At the same physical location or address as a:

(A) Medical marijuana grow site registered under ORS 475C.792;

(B) Medical marijuana processing site registered under ORS 475C.815;

(C) Medical marijuana dispensary registered under ORS 475C.833; or

(D) Liquor license licensed under ORS chapter 471 or as a retail liquor agent appointed by the Commission.

(2) The licensed premises of a producer applicant may not be on:

(a) Public land; or

(b) The same tax lot as another producer licensee under common ownership.

(3) The licensed premises of a retailer may not be located:

(a) Except as provided in ORS 475C.101, within 1,000 feet of:

(A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030.

(b) In an area that is zoned exclusively for residential use.

(4) The licensed premises of a processor who has an endorsement to process extracts may not be located in an area that is zoned exclusively for residential use.

(5) The licensed premises of a processor, wholesaler, laboratory, and retailer must be enclosed on all sides by permanent walls and doors. A processor, wholesaler, or laboratory licensee may be exempt from this requirement if the processor, wholesaler, or laboratory licensee can show in its security plan how the licensee will maintain security within an unenclosed area, and the Commission determines it does not present a risk to public health and safety.

(6) A licensee may not permit:

(a) Any minor to work or be on a licensed premises except as described in this rule; or

(b) On-site consumption of a marijuana item, alcohol, or other intoxicant by any individual, except that a licensee representative who has a current registry identification card issued under ORS 475C.783 may consume marijuana during their work shift on the licensed premises as necessary for their medical condition, if the employee is alone, in a closed room and not visible to others outside the room. A licensee representative who consumes a marijuana item as permitted under this section may not be intoxicated while on duty. For purposes of this section allowable on-site consumption in an enclosed area, as that as defined in OAR 333-015-0030 does not include smoking, combusting, inhaling, vaporizing, or aerosolizing a marijuana item.

(7) A licensee may permit a minor to be on the licensed premises, if the minor:

(a) Has a legitimate business purpose for being on the licensed premises. For example, a minor plumber may be on the premises in order to make a repair;

(b) Passes through the licensed area of an outdoor producer in order to reach an unlicensed area, so long as the minor is not present in areas that contain marijuana items;

(c) Resides on the tax lot where a marijuana producer is licensed, so long as the minor is not present in areas of a producer's licensed premises that contain usable marijuana or cut and drying marijuana plants; or

(d) Is a current Oregon Medical Marijuana Program cardholder or designated primary caregiver and is over 18 years of age.

(8) A licensee must clearly identify all limited access areas in accordance with OAR 845-025-1245.

(9) Log. A licensee must keep a daily log of all employees and permitted visitors who perform work on the licensed premises, except for Commission employees and other state or local government officials acting in an official capacity who have jurisdiction over some aspect of the licensed premises or operation.

(a) In CTS, a licensee must record the following information for each current employee and licensee representative:

(A) For an employee or licensee representative required to have a marijuana worker permit, the permit number and name of the individual as they appear on the marijuana worker permit.

(B) For an employee or licensee representative not required to have a marijuana worker permit, the name and date of birth of the individual as this information is displayed on valid government-issued ID.

(b) All employees and permitted visitors, present on the licensed premises must wear clothing or a badge issued by the licensee that easily identifies the individual as an employee or permitted visitors. A visitor badge is not required for government officials.

(c) All permitted visitors must be accompanied by a licensee representative at all times.

(d) On the daily log, a licensee must record the name and date of birth as this information is displayed on valid government-issued ID for every contractor who performs work on the licensed premises. If the contractor is licensed by the State of Oregon, the licensee must also record the contractor's license number.

(e) A licensee must maintain a copy of the daily log required by this rule for a period of at least 90 days.

(10) Permitted Visitors. The general public is not permitted in limited access areas on a licensed premises, except for the consumer sales area of a retailer. In addition to licensee representatives, the following visitors are permitted to be present in limited access areas on a licensed premises, subject to the requirements of this rule and other pertinent rules:

(a) Laboratory personnel, if the laboratory is licensed by the Commission;

(b) A contractor, vendor, or service provider authorized by a licensee representative to be on the licensed premises;

(c) Another licensee or that licensee's representative;

(d) Invited guests as defined in OAR 845-025-1015 subject to requirements of this rule; or

(e) Tour groups as permitted by this rule.

(11) Producer Tours. A marijuana producer or research certificate holder may offer tours of the licensed premises, including limited access areas, to the general public. All members of a tour group must sign in on the daily log.

(12) Nothing in this rule is intended to prevent or prohibit Commission employees or contractors, or other state or local government officials that have jurisdiction over some aspect of the licensed premises or licensee, from being on the licensed premises. When Commission employees identify themselves, these employees shall present Commission-issued identification while performing their job duties, but are not required to provide a date of birth or any form of identification listed ORS 475C.217.

(13) A licensee may not sublet any portion of a licensed premises.

(14) A licensed premises may receive marijuana items only from a marijuana producer, marijuana processor, or marijuana wholesaler for whom a premises has been licensed by the Commission or as otherwise provided by these rules.

(15) A licensed wholesaler or retailer who sells or handles food, as that term is defined in ORS 616.695, or cannabinoid edibles must also be licensed by the Oregon Department of Agriculture under ORS 616.706.

(16) Violations.

(a) A violation of section (6) of this rule is a Category III violation.

(b) A violation of subsection (9)(a) of this rule is a Category IV violation. All other violations of section (9) of this rule are Category V violations.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548

STATUTES/OTHER IMPLEMENTED: 475C.085, 475C.093, 475C.097, ORS 475C.001, 475C.225, 475C.317, 475C.377, 475C.548

AMEND: 845-025-1245

RULE TITLE: Signage

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details signage requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) A licensee must post:

(a) At every licensed premises signs that read:

(A) "No Minors Permitted Anywhere on This Premises"; and

(B) "No On-Site Consumption of Marijuana"; and

(b) At all areas of ingress or egress to a limited access area a sign that reads: "Do Not Enter – Limited Access Area – Access Limited to Licensed Personnel and Escorted Visitors."

(2) All signs required by this rule must be:

(a) Legible, not less than 12 inches wide and 12 inches long, composed of letters not less than one-half inch in height;

(b) In English and Spanish; and

(c) Posted in a conspicuous location where the signs can be easily read by individuals on the licensee's premises.

(3) Violations. A violation of this rule is a Category IV violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.317

AMEND: 845-025-1290

RULE TITLE: Licensee Responsibility

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details licensee responsibility for violations and for the acts and omissions of licensee representatives. The proposed amendments update to include laboratory licensees; conform language to conventions.

RULE TEXT:

A licensee or laboratory licensee is responsible for:

- (1) The violation of any administrative rule of the Commission; any provision of ORS chapter 475C affecting the license privileges of a licensee or laboratory licensee.
- (2) Any act or omission of a licensee representative in violation of any administrative rule of the Commission or any provision of ORS chapter 475C affecting the license privileges of a licensee or laboratory licensee.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.548

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.548

AMEND: 845-025-1295

RULE TITLE: Local Ordinances

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details compliance with local ordinances. The proposed amendments specify violation category; amend to conform with legislative changes.

RULE TEXT:

(1) The Commission may impose a civil penalty or suspend any license for failure to comply with an ordinance adopted by a city or county pursuant ORS 475C.449 if the city or county:

(a) Has provided the licensee with due process substantially similar to the due process provided to a licensee under the Administrative Procedures Act, ORS 183.413 to 183.470; and

(b) Provides the Commission with a final order that is substantially similar to the requirements for a final order under ORS 183.470 that establishes that the licensee has violated the local ordinance.

(2) Violations. A violation of a local ordinance subject to this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.449

AMEND: 845-025-1300

RULE TITLE: Licensee Prohibitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details licensee prohibitions. The proposed amendments specify violation category; amend to allow walk-up sales and clarify on-site delivery.

RULE TEXT:

(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 or hemp 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 window;

(h) 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, 845-025-2880, or 845-025-2885;

(i) 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) 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 themselves 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 section.

(3) Violations.

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

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

(c) A violation of subsection (1)(b) of this rule is a Category III 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

AMEND: 845-025-1330

RULE TITLE: Trade Samples

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details trade samples. The proposed amendments specify violation category; amend to use newly defined term; conform language to conventions.

RULE TEXT:

(1) For purposes of this rule, "cannabinoid product line" means cannabinoid products or hemp cannabinoid products that may differ in flavor, color, or total delta-9-THC concentration or total CBD concentration but may not differ in net quantity or any other characteristic.

(2) The following licensees and hemp certificate holders may provide samples within the limits listed below to licensees for the purpose of determining whether to purchase the product.

(a) A producer may provide a sample of:

(A) Usable marijuana or kief to a marijuana producer, wholesaler, retailer, or processor licensee; or

(B) A cannabinoid product, cannabinoid extract, or cannabinoid concentrate that was made using only marijuana produced by the producer to a marijuana processor, wholesaler, or retailer.

(b) A processor may provide a sample of:

(A) A cannabinoid product, concentrate, or extract to a marijuana producer, processor, wholesaler, or retailer; or

(B) A hemp concentrate, extract, or cannabinoid product to a marijuana processor, wholesaler, or retailer.

(c) A wholesaler may provide a sample of usable marijuana, a cannabinoid product, concentrate, or extract, or a hemp item, to a marijuana wholesaler, retailer, or processor licensee.

(d) A hemp handler certificate holder may provide a sample of a hemp item to a marijuana wholesaler, retailer, or processor licensee.

(3) The trade samples provided under this section:

(a) May not be consumed or used on a licensed premises;

(b) May not be sold to another licensee or consumer;

(c) Must be transported in compliance with OAR 845-025-7700; and

(d) Must be tested in accordance with OAR chapter 333, division 7.

(4) Trade Sample limits.

(a) A licensee is limited to providing the following aggregate amounts of trade samples to an individual recipient licensee in a calendar month period:

(A) Five grams per strain and no more than six strains of usable marijuana or usable hemp;

(B) Five grams of cannabinoid or hemp concentrates or extracts; and

(C) Five units of sale per cannabinoid product line and no more than six individual cannabinoid product lines.

(b) A wholesale licensee is limited to providing the following aggregate amounts of trade samples per originating licensee to an individual recipient licensee in a calendar month:

(A) Five grams per strain and no more than six strains of usable marijuana or usable hemp;

(B) Five grams of cannabinoid or hemp concentrates or extracts; and

(C) Five units of sale per cannabinoid product line and no more than six individual cannabinoid product lines.

(5) Any sample given to a licensee shall have a label containing the following in any legible font that is at least one-sixteenth of an inch in height based on the lower case "o":

(a) A statement that reads: "TRADE SAMPLE NOT FOR RESALE" in bold, capital letters attached to the trade sample;

(b) The product identity;

(c) The UID; and

(d) The net weight or contents of the trade sample.

(6) Reconciliation in CTS.

(a) When assigning and affixing the UID tag, a licensee or hemp certificate holder must designate samples as trade

samples in CTS.

(b) Notwithstanding OAR 845-025-7520(3), each cannabinoid product line intended as a trade sample must be assigned a single unique product line name in CTS and may be assigned a single UID tag.

(c) Licensees accepting trade samples may provide their employees with samples of marijuana items or hemp items.

(d) When providing an employee a sample of a marijuana item or hemp item, a licensee must record the following in CTS:

(A) The reduction in quantity of the total weight or item count as applicable under the associated UID for the item;

(B) The date and time the sample was provided to the employee;

(C) The worker permit number of the employee receiving the sample; and

(D) The name of the employee as it appears on their worker permit.

(7) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

AMEND: 845-025-1360

RULE TITLE: Quality Control Samples

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details quality control samples. The proposed amendments specify violation category; amend to use newly defined term; conform language to conventions.

RULE TEXT:

- (1) Producer licensees, processor licensees, and hemp handler certificate holders may provide sample marijuana items or hemp items directly to their own license representatives for the purpose of quality control and product development.
- (2) The sample marijuana items or hemp items may not be consumed or used on a licensed premises.
- (3) The sample marijuana items or hemp items may not be provided to or resold to another licensee or consumer.
- (4) Any sample provided under this rule must be recorded in CTS. When providing an employee or licensee representative a sample of a hemp or marijuana item, a licensee must record the following in CTS:
 - (a) The reduction in quantity of the total weight or item count as applicable under the associated UID for the item;
 - (b) The date and time the sample was provided to the employee or licensee representative;
 - (c) The worker permit number of the employee or licensee representative receiving the sample; and
 - (d) The name of the employee or licensee representative as it appears on their worker permit.
- (5) A producer licensee may provide the following amounts of sample marijuana items:
 - (a) Twenty-eight grams of usable marijuana per strain harvested in a 72 hour period;
 - (b) Five grams of kief per process lot; and
 - (c) Five grams of cannabinoid concentrates per process lot if the producer holds a concentrate endorsement under OAR 845-025-2025.
- (6) A processor licensee is limited to providing a total of the following amounts of sample marijuana items or hemp items:
 - (a) Five grams of cannabinoid concentrates or extracts or hemp concentrates or extracts per process lot; and
 - (b) Twelve individual units of sale per process lot for other cannabinoid products or hemp cannabinoid products.
- (7) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065, 475C.085

AMEND: 845-025-1400

RULE TITLE: Security Plans

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details security plan requirements. The proposed amendments correct a rule reference; conform language to conventions.

RULE TEXT:

- (1) An applicant must have a security plan. The Commission will not conduct any pre-licensing inspection under OAR 845-025-1090(5) until it has approved an applicant's security plan.
- (2) The Commission must notify an applicant in writing whether the security plan has been approved. If the security plan is approved with a waiver granted under OAR 845-025-1405, the notice must specifically describe the alternate safeguards that are required and, if time limited, must state the time period the security plan is in effect.
- (3) A licensee must notify the Commission of any proposed changes to a security plan and must have approval prior to implementing any change. The Commission will notify a licensee whether the change is approved in the same manner described in section (2) of this rule.
- (4) The Commission may withdraw approval of the security plan at any time if there have been one or more documented instances of theft or loss of marijuana items on the licensed premises within the past year. If the Commission withdraws its approval of the security plan, the licensee will be given a reasonable period of time to modify the plan and if the security plan was approved with a waiver of any security requirements, will be given a reasonable period of time to come into compliance with the security requirements that were waived.
- (5) Failure to comply with the terms of an approved security plan is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

AMEND: 845-025-1410

RULE TITLE: Security Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details security requirements. The proposed amendments specify violation category.

RULE TEXT:

- (1) A licensee is responsible for the security of all marijuana items on the licensed premises or in transit, including providing adequate safeguards against theft or diversion of marijuana items and records that are required to be kept.
- (2) The licensee must ensure that commercial grade, non-residential door locks are installed on every external door, and gate if applicable, of a licensed premises where marijuana items are present.
- (3) During all hours when the licensee is not operating a licensee must ensure that:
 - (a) All points of ingress and egress from a licensed premises are securely locked and any keys or key codes to the enclosed area remain in the possession of the licensee, licensee representative, or authorized personnel;
 - (b) All usable marijuana, cut and drying mature marijuana plants, cannabinoid concentrates, extracts, or products on the licensed premises of a licensee other than a retailer are kept in a locked, enclosed area within the licensed premises that is secured with at a minimum, a properly installed steel door with a steel frame, and a commercial grade, non-residential door lock; and
 - (c) Except for immature marijuana plants, all marijuana items on a licensed retailer's premises are kept in a locked, secured location or enclosure within any area such that marijuana items are not visible from any area outside the licensed premises.
- (4) A licensee must:
 - (a) Have an electronic back-up system for all electronic records; and
 - (b) Keep all video recordings and archived required records not stored electronically in a locked storage area. Current records may be kept in a locked cupboard or desk outside the locked storage area during hours when the licensed business is open.
- (5) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

AMEND: 845-025-1420

RULE TITLE: Alarm System

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details alarm system requirements. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

- (1) A licensed premises must have a fully operational security alarm system, activated at all times when the licensed premises is closed for business.
- (2) The security alarm system for the licensed premises must:
 - (a) Be able to detect unauthorized entry onto the licensed premises and unauthorized activity within any limited access area where mature marijuana plants, usable marijuana, cannabinoid concentrates, extracts, or products are present;
 - (b) Be programmed to notify a the licensee, licensee representative, or authorized personnel in the event of an unauthorized entry; and
 - (c) Have a mechanism to ensure that the licensee, licensee's employees and authorized representatives can immediately notify law enforcement or a security company of any unauthorized entry. This subsection may be satisfied in one of the following ways:
 - (A) Having at least two operational "panic buttons" located inside the licensed premises that are linked with the alarm system that immediately notifies a security company or law enforcement; or
 - (B) Having operational "panic buttons" physically carried by all licensee representatives present on the licensed premises that are linked with the alarm system that immediately notifies a security company or law enforcement; or
 - (C) Having a landline telephone present in all limited access areas that is capable of immediately calling a security company or law enforcement.
- (3) A licensee that has at least one authorized representative physically present on the licensed premises at all times when it is closed for business is not required to comply with section (1) and subsections (2)(a) and (2)(b) of this rule.
- (4) Upon request, licensees shall make all information related to security alarm systems, monitoring and alarm activity available to the Commission.
- (5) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

AMEND: 845-025-1430

RULE TITLE: Video Surveillance Equipment

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details video surveillance equipment requirements. The proposed amendments specify violation category.

RULE TEXT:

- (1) A licensed premises must have a fully operational video surveillance recording system.
- (2) Video surveillance equipment must, at a minimum:
 - (a) Consist of:
 - (A) Digital or network video recorders;
 - (B) Cameras capable of meeting the requirements of OAR 845-025-1450 and this rule;
 - (C) Video monitors;
 - (D) Digital archiving devices;
 - (E) A minimum of one monitor on premises capable of viewing video; and
 - (F) Interface devices, if required to adequately operate system or machinery such as a mouse and keyboard.
 - (b) Have the capability of producing and printing a still photograph from any camera image;
 - (c) Be equipped with a failure notification system that provides, within one hour, notification to an authorized representative of any prolonged surveillance interruption or failure; and
 - (d) Have sufficient battery backup to support a minimum of one hour of recording time in the event of a power outage.
- (3) Except for mounted cameras and monitors, all video surveillance equipment and recordings must be stored in a locked secure area that is accessible only to authorized personnel, Commission employees and contractors, and other state or local government officials that have jurisdiction over some aspect of the licensed premises or licensee.
- (4) Violations. A violation of this rule is a Category III violation. If a violation of this rule that is repeated within a two year period is a Category II violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

AMEND: 845-025-1460

RULE TITLE: Location and Maintenance of Surveillance Equipment

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details requirements for the location and maintenance of surveillance equipment. The proposed amendments specify violation category.

RULE TEXT:

(1) A licensee must:

(a) Have the surveillance room or surveillance area in a limited access area; and

(b) Have the surveillance recording equipment housed in a designated, locked, and secured room or other enclosure with access limited to:

(A) The licensee, licensee representatives, and authorized personnel;

(B) Employees of the Commission;

(C) State or local law enforcement agencies for a purpose authorized under ORS chapter 475C, these rules, or for any other state or local law enforcement purpose; and

(D) Service personnel or contractors.

(2) Off-site storage must be secure and the recordings must be kept in a format approved by the Commission that can be easily accessed for viewing and easily reproduced.

(3) A licensee must keep a current list of all authorized employees and service personnel who have access to the surveillance system and room on the licensed premises.

(4) Licensees must keep a surveillance equipment maintenance activity log on the licensed premises to record all service activity including the identity of any individual performing the service, the service date and time and the reason for service to the surveillance system.

(5) Off-site monitoring of the licensed premises by a licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.

(6) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

AMEND: 845-025-1470

RULE TITLE: Producer Security Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details producer security requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) A producer must effectively prevent public access to all areas of the licensed premises used in the production of marijuana. In addition to the security requirements in OAR 845-025-1400 to 845-025-1460, a producer's approved security plan as described in OAR 845-025-1400 must include a method to prevent public access to all areas of the licensed premises used in the production of marijuana.

(2) If a producer chooses to dispose of marijuana items by any method of composting, as described in OAR 845-025-7750, the producer must prevent public access to the composting area.

(3) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065

AMEND: 845-025-1600

RULE TITLE: State and Local Safety Inspections

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details state and local safety inspections. The proposed amendments specify violation category.

RULE TEXT:

(1) All marijuana licensees may be subject to inspection of licensed premises by state or local government officials to determine compliance with state or local health and safety laws.

(2) A licensee must contact any utility provider to ensure that the licensee complies with any local ordinance or utility requirements such as water use, discharge into the sewer system, or electrical use.

(3) Violations. Failure to comply with state and local safety inspection requirements described in this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

AMEND: 845-025-1620

RULE TITLE: General Sanitary Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details general sanitary requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) A marijuana licensee must:

(a) Prohibit an individual from working on a licensed premises, until the condition is corrected, who has or appears to have:

(A) An open or draining skin lesion unless the individual wears an absorbent dressing and protective gloves; or

(B) Any illness accompanied by diarrhea or vomiting if the individual has a reasonable possibility of contact with marijuana items on the licensed premises.

(b) Require all persons who work in direct contact with marijuana items conform to hygienic practices while on duty, including but not limited to:

(A) Maintaining adequate personal cleanliness; and

(B) Washing hands thoroughly in an adequate hand-washing area before starting work, prior to having contact with a marijuana item, and at any other time when the hands may have become soiled or contaminated.

(c) Provide hand-washing facilities adequate and convenient, furnished with running water at a suitable temperature and provided with effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying device.

(d) Properly remove all litter and waste from the licensed premises and maintain the operating systems for waste disposal in an adequate manner so that they do not constitute a source of contamination in areas where marijuana items are exposed.

(e) Provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.

(f) Hold marijuana items that can support pathogenic microorganism growth or toxic formation in a manner that prevents the growth of these pathogenic microorganism or formation toxins.

(2) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.245

AMEND: 845-025-2020

RULE TITLE: Producer Privileges; Prohibitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details producer privileges and prohibitions. The proposed amendments specify violation category; clarify transfer privileges and privileges relating to processing; conform language to conventions.

RULE TEXT:

(1) A producer may:

(a) Possess, plant, cultivate, grow, harvest, and dry marijuana in the manner approved by the Commission and consistent with ORS chapter 475C and these rules;

(b) Engage in indoor or outdoor production of marijuana, or a combination of the two;

(c) Produce kief as that term is defined in ORS 475C.089 and possess kief produced by the producer.

(A) A producer who produces kief is not a marijuana processor for the purposes of OAR 845-025-3215.

(B) Kief produced under this rule may not be used in a cannabinoid edible unless the producer complies with all provisions set forth in OAR 845-025-3250.

(d) Sell, transfer, transport, and deliver:

(A) Usable marijuana to the licensed premises of a producer under common ownership, a processor, wholesaler, retailer, laboratory, non-profit dispensary, or research certificate holder;

(B) Whole, non-living marijuana plants that have been entirely removed from any growing medium to the licensed premises of a producer under common ownership, a processor, wholesaler, non-profit dispensary, or research certificate holder;

(C) Immature marijuana plants and seeds to the licensed premises of a marijuana producer, wholesaler, retailer, or research certificate holder;

(D) Mature marijuana plants or kief to the licensed premises of a producer under common ownership;

(E) Kief, as that term is defined in ORS 475C.089, manufactured by the producer, to the licensed premises of a marijuana processor, producer under common ownership, wholesaler, retailer, laboratory, or research certificate holder;

(F) Cannabinoid concentrates manufactured by the producer to the licensed premises of a marijuana processor, wholesaler, retailer, laboratory, or research certificate holder if the producer holds a concentrate endorsement under OAR 845-025-2025;

(G) Cannabinoid products, cannabinoid extracts, and cannabinoid concentrates that were made using only marijuana produced by the producer to the licensed premises of a processor, wholesaler, or retailer;

(H) Marijuana waste to a producer, processor, wholesaler, or research certificate holder;

(I) Trade samples to a producer, processor, wholesaler, or retailer licensee, only as allowed under OAR 845-025-1330; and

(J) Quality control samples to a license representative of the producer licensee, only as allowed under OAR 845-025-1360.

(e) Purchase and receive:

(A) Immature marijuana plants and seeds from a producer, wholesaler, retailer, or research certificate holder;

(B) Marijuana waste from a producer, processor, wholesaler, retailer, laboratory, or research certificate holder;

(C) Usable marijuana produced by the licensee that has been stored by a wholesaler on the producer's behalf;

(D) Marijuana, mature marijuana plants, and kief from a producer under common ownership;

(E) Marijuana produced by the licensee that was not processed by a processor;

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

(G) Up to 200 marijuana seeds in total per month from any sources within the State of Oregon other than a licensee, laboratory licensee, or research certificate holder; and

(H) Trade samples from a producer or processor licensee, as allowed under these rules.

(f) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR chapter 333, division 7.

(g) Accept or make returns, as long as the producer:

(A) Accepts or returns usable marijuana, kief, immature marijuana plants, seeds and whole non-living marijuana plants;

(B) Accepts or returns cannabinoid concentrates, if the producer holds a concentrate endorsement under OAR 845-025-2025;

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

(D) Accurately records the transaction in the CTS.

(2) A producer may not:

(a) Possess, plant, cultivate, grow, harvest, dry, sell, deliver, transfer, transport, purchase, or receive any marijuana item other than as provided in:

(A) Section (1) of this rule;

(B) OAR 845-025-2025, if the producer has an approved concentrate endorsement; or

(C) OAR 845-025-2550, if the producer has been properly registered by the Commission.

(b) Process marijuana items other than as provided in:

(A) Section (1) of this rule; or

(B) OAR 845-025-2025, if the producer has an approved concentrate endorsement.

(c) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana item or hemp item containing artificially derived cannabinoids except as allowed under OAR 845-025-1310 and in accordance with section (1) of this rule.

(3) Violations.

(a) A violation of paragraph (1)(c)(B), (1)(d)(I), (1)(d)(J), (1)(e)(G), or (1)(e)(H), subsection (1)(f), or (1)(g), or section (2) of this rule is a Category III violation.

(b) All other violations of this rule are Category I violations.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.077, 475C.089

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065, 475C.077, 475C.089, ORS 475C.117, 475C.489

AMEND: 845-025-2025

RULE TITLE: Micro Tier Processing. Privileges; Prohibitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details micro tier producer processing privileges and prohibitions. The proposed amendments specify violation category; clarify privileges and requirements relating to processing.

RULE TEXT:

(1) In addition to the privileges in OAR 845-025-2020, Micro Tier I and Micro Tier II producer licensee may process marijuana concentrates, as long as:

(a) The process involves separating cannabinoids from marijuana by:

(A) A mechanical process; or

(B) An extraction process using water as the solvent.

(b) The producer applies for a concentrate endorsement.

(c) The producer only sells or transports marijuana concentrates to the licensed premises of a processor, wholesaler, retailer, or research certificate holder.

(d) Follows all the provisions relating to the processing of concentrates set forth within OAR 845-025-3210, 845-025-3220, 845-025-3230, 845-025-3240, 845-025-3250, 845-025-3290, and 845-025-7575.

(e) If using water or ice in processing, the producer uses only potable water and ice made from potable water.

(f) If using dry ice, the producer uses or stores the dry ice in a well-ventilated room to prevent against the accumulation of dangerous levels of carbon dioxide.

(g) If making a concentrate intended to be used in a cannabinoid edible, the producer follows all provisions set forth within OAR 845-025-3250.

(2) In addition to the prohibitions in OAR 845-025-2020, a micro producer may not:

(a) Make cannabinoid extracts; or

(b) Make a concentrate using steam.

(3) Concentrate Endorsement.

(a) In order to apply for an endorsement, a micro producer applicant or micro producer licensee must submit a form prescribed by the Commission that includes:

(A) A description of the process the micro producer intends to implement to process usable marijuana into a concentrate; and

(B) A description of equipment to be used.

(b) In order to be eligible for a concentrate endorsement, a micro producer applicant or micro producer licensee must submit a land use compatibility statement showing that processing concentrates is not a prohibited use.

(c) The Commission may deny a producer's request for an endorsement under this rule if the producer does not meet the applicable requirements for the concentrate endorsement. If the Commission denies approval the producer has a right to a hearing under the procedures of ORS chapter 183.

(4) A producer who processes cannabinoid concentrates under this rule is not a marijuana processor for the purposes of OAR 845-025-3215.

(5) Violations. A violation of this rule is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.065, ORS 475C.089

STATUTES/OTHER IMPLEMENTED: ORS 475C.089, 475C.017

AMEND: 845-025-2030

RULE TITLE: Licensed Premises of Producer

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details producer premises requirements. The proposed amendments specify violation category; clarify requirements.

RULE TEXT:

- (1) The licensed premises of a producer includes all public and private areas used in the business operated at the location.
- (2) A producer may not engage in any privileges of the license within a residence. This includes adding a residence within the licensed area after licensure.
- (3) Violations. A producer engaging in license privileges within a residence is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065

STATUTES/OTHER IMPLEMENTED: 475C.065, ORS 475C.009

AMEND: 845-025-2040

RULE TITLE: Production Size Limitations

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details production size limitations. The proposed amendments correct a rule reference; conform language to conventions.

RULE TEXT:

(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 5,000 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 845-025-1060 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 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 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

AMEND: 845-025-2050

RULE TITLE: Recreational Marijuana Producers — Operating Procedures

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details producer operating procedure requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) A producer must:

(a) Establish written standard operating procedures for the production of marijuana. The standard operating procedures must, at a minimum, include when, and the manner in which, all pesticides or other chemicals are to be applied during the production process; and

(b) Maintain a copy of all standard operating procedures on the licensed premises.

(2) If a producer makes a material change to its standard operating procedures it must document the change and revise its standard operating procedures accordingly. Records detailing the material change must be maintained on the licensed premises by the producer.

(3) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.065

STATUTES/OTHER IMPLEMENTED: ORS 475C.065

AMEND: 845-025-2500

RULE TITLE: Registration to Produce Usable Marijuana for Patients

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the registration to produce marijuana for patients. The proposed amendments remove medical canopy fee; specify violation category; amend and clarify transfer privileges and prohibitions.

RULE TEXT:

(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 Commission;

(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 5,000 square feet for outdoor producers and 1,250 square feet for indoor producers.

(4) 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:

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

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

(c) 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) 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.

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

(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) or (7) of this rule is a Category III violation.

(b) A violation of section (6) 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

AMEND: 845-025-2550

RULE TITLE: Requirements for Producing and Providing Marijuana for Patients

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the requirements for producing and providing marijuana for patients. The proposed amendments specify violation category; amend and clarify transfer privileges and prohibitions.

RULE TEXT:

(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 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's 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 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. In addition to the information required on a transport manifest under OAR 845-025-7700, a manifest 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) 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;

(C) No more than 12 immature marijuana plants over 24 inches in height in any 24 hour period; and

(D) No more than 36 immature marijuana plants under 24 inches in height in any 24 hour period.

(c) Provide to a patient's 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 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 sections (1) and (2) of this rule.
- (4) Violations. A violation of section (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

AMEND: 845-025-2750

RULE TITLE: Industrial Hemp Grower Certificate Privileges; Prohibitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details industrial hemp grower certificate privileges and prohibitions. The proposed amendments update and clarify transfer privileges; correct rule references; remove sections that are being incorporated into new rules related to hemp testing.

RULE TEXT:

- (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 OAR 845-025-5800 to 845-025-5850; and
 - (B) Otherwise complies with the requirements for marijuana items under ORS 475C.005 to 475C.525, 475C.540 to 475C.586, 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 and 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(2), (3)(b), and (8); 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 that has failed a test described in OAR 845-025-5800 to 845-025-5850;
 - (C) Any living industrial hemp plants; or
 - (D) Industrial hemp seed.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, ORS 571.336, 571.337

AMEND: 845-025-2755

RULE TITLE: Industrial Hemp Handler Certificate Privileges; Prohibitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details industrial hemp handler certificate privileges and prohibitions. The proposed amendments update and clarify transfer privileges; correct rule references; remove sections that are being incorporated into new rules related to hemp testing.

RULE TEXT:

- (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 OAR 845-025-5800 to 845-025-5850; and
 - (B) Otherwise complies with the requirements for marijuana items under ORS 475C.005 to 475C.525, 475C.540 to 475C.586, 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 and 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), (3)(b), and (8).
 - (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 or hemp item that has failed a test described in OAR 845-025-5800 to 845-025-5850;
 - (C) Any hemp item containing artificially derived cannabinoids except items the licensee may receive as allowed under OAR 845-025-1310.
 - (D) Any living industrial hemp plants;
 - (E) Industrial hemp seed; or
 - (F) Any inhalable cannabinoid product that a licensee is prohibited from receiving under OAR 845-025-8520.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

AMEND: 845-025-2775

RULE TITLE: CTS Requirements for Industrial Hemp and Hemp Items

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details CTS requirements for industrial hemp and hemp items. The proposed amendments update, clarify, and simplify hemp certificate CTS requirements; amend to incorporate references to new rules related to hemp testing.

RULE TEXT:

- (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), (1)(b), (1)(d), (1)(e), and (2); 845-025-7540; 845-025-7560; and 845-025-7580(1)(a) to (c) and (1)(e).
 - (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 845-025-5850(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.
 - (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 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 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 industrial hemp or hemp items;
 - (C) Product name and quantities, by weight or unit as applicable, 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.
- (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, ORS 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

AMEND: 845-025-2785

RULE TITLE: Licensee Industrial Hemp Privileges; Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details licensee industrial hemp privileges and requirements. The proposed amendments clarify transfer privileges; amend to incorporate references to new rules related to hemp testing.

RULE TEXT:

- (1) A processor with an industrial hemp endorsement may transfer, sell, transport, purchase, possess, accept, return, or receive industrial hemp and hemp items in accordance with OAR 845-025-3215.
- (2) A wholesaler may transfer, sell, transport, purchase, possess, accept, return, or receive industrial hemp and hemp items in accordance with OAR 845-025-3500.
- (3) A retailer may:
 - (a) Transfer, sell, transport, purchase, possess, accept, return, or receive hemp items in accordance with OAR 845-025-2800.
 - (b) Sell, transfer, or deliver hemp items to a consumer, patient, or designated primary caregiver in accordance with all requirements for selling or transferring marijuana items.
- (4) A licensee may only receive industrial hemp and hemp items from a Commission-certified hemp grower or Commission-certified hemp handler if:
 - (a) The industrial hemp or hemp item does not exceed the THC limits specified in OAR 845-025-2760;
 - (b) The 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, division 7; and
 - (d) The licensee complies with any applicable requirements of ORS 571.281 to 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:
 - (a) Are 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, 475C.600 to 475C.644, and rules adopted thereunder;
 - (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, 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;
- (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, ORS 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.085, ORS 475C.301, ORS 571.336, ORS 571.337

AMEND: 845-025-2800

RULE TITLE: Retailer Privileges; Prohibitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details retailer privileges and prohibitions. The proposed amendments specify violation category; clarify transfer privileges; clarify license privileges and prohibitions; amend prohibitions related to discounts; conform language to conventions.

RULE TEXT:

- (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 a.m. and 10 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 registered to sell marijuana items for medical purposes as described in OAR 845-025-2900.
 - (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.
 - (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, cannabinoid extracts, and cannabinoid 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.
 - (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 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) 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 item 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 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.
- (i) Discount a marijuana item contingent on the purchase of a non-marijuana item.
- (j) Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10 p.m. and 7 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 items 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) 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 than is charged to a person without a registry identification card.
- (t) Process marijuana items.
- (u) 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 subsection (2)(d), (4)(a) to (4)(d), (4)(t), or (4)(u) or section (3) of this rule is a Category II violation.
 - (b) A violation of subsection (2)(a) or paragraph (2)(b)(A) or (2)(b)(B) of this rule is a Category II(b) violation.
 - (c) A violation of paragraph (2)(b)(C) to (2)(b)(F) or subsection (2)(c), (2)(e) to (2)(h), (4)(e) to (4)(o), or (4)(q) to (4)(s) of this rule is a Category III violation.
 - (d) A violation of subsection (4)(p) of this rule is assessed as described in OAR 845-025-8590(3)(b)(B).

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.097, 571.336

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, ORS 475C.097, 571.336, 475C.674

AMEND: 845-025-2820

RULE TITLE: Retailer Operational Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details retailer operation requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) Prior to completing the sale of a marijuana item to a consumer, a retailer must verify that the consumer has a valid, unexpired government-issued photo identification and must verify that the consumer is 21 years of age or older by viewing the consumer's:

(a) Passport;

(b) Driver license, whether issued by the State of Oregon or by another state of the United States.

(c) Identification card issued under ORS 807.400;

(d) United States military identification card;

(e) Any other identification card issued by a state or territory that bears a picture of the person, the name of the person, the person's date of birth, and a physical description of the person; or

(f) An identification card issued by a federally recognized Indian tribe with photo, name, and date of birth.

(2) Marijuana items offered for sale by a retailer must be stored in such a manner that the items are only accessible to authorized representatives until such time as the final sale to the consumer is completed.

(3) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.029

AMEND: 845-025-2840

RULE TITLE: Retailer Premises

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details retailer premises requirements. The proposed amendments specify violation category; amend and clarify consumer sales area requirements; conform language to conventions.

RULE TEXT:

(1) The licensed premises of a retailer:

(a) May not be located in an area that is zoned exclusively for residential use.

(b) Notwithstanding ORS 475C.097(2)(d), may be located within 1,000 feet of a school if:

(A) The marijuana retailer is not located within 500 feet of:

(i) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or

(ii) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a); and

(B) The Commission determines that there is a physical or geographic barrier capable of preventing children from traversing to the premises of the marijuana retailer; or

(C) The marijuana retailer was established before August 1, 2017, in accordance with a city or county ordinance adopted under 2016 Oregon Laws chapter 83, section 29b.

(c) Must be enclosed on all sides by permanent walls and doors.

(2) A retailer must post in a prominent place signs that read:

(a) "No Minors Permitted Anywhere on the Premises";

(b) "No On-Site Consumption"; and

(c) "Security Cameras in Use."

(d) Exit from the licensed premises that reads: "Marijuana or Marijuana Infused Products May Not Be Consumed in Public."

(3) Consumer sales area.

(a) A retailer must designate any portion of the licensed premises where consumers are permitted as a consumer sales area.

(b) The consumer sales area shall include the portion of the premises where marijuana items are displayed for sale or sold and may include other contiguous areas such as a lobby. The consumer sales area is the sole area of the licensed premises where consumers are permitted except as otherwise allowed by these rules.

(c) A retailer that does not allow the general public to enter the licensed premises is not required to designate a consumer sales area.

(4) All inventory must be stored on the licensed premises.

(5) For purposes of determining the distance between a retailer and a school referenced in subsection (1)(b) of this rule, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the licensed premises of a retailer. If any portion of the licensed premises is within 1,000 feet of a school as described subsection (1)(b) of this rule an applicant will not be licensed.

(6) Violations.

(a) A violation of paragraph (1)(c)(C) or section (2) or (3) of this rule is a Category III violation.

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

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.097

STATUTES/OTHER IMPLEMENTED: 475C.097, ORS 475C.101, 475C.205

AMEND: 845-025-2860

RULE TITLE: Marijuana Retailers — Consumer Health and Safety Information

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details retailer requirements to provide consumer health and safety information. The proposed amendments specify violation category.

RULE TEXT:

A retailer must:

(1) Post at a conspicuous location the following posters prescribed by the Commission, measuring 22 inches high by 17 inches wide that can be downloaded at www.oregon.gov/olcc/marijuana:

(a) A Pregnancy Warning Poster; and

(b) A Poisoning Prevention Poster.

(2) Post at a conspicuous location a color copy of the "Educate Before You Recreate" flyer measuring 22 inches high by 17 inches wide that can be downloaded at WHATSLEGALOREGON.COM.

(3) Distribute to each individual at the time of sale, a Marijuana Information Card, prescribed by the Commission, measuring 3.5 inches high by 5 inches long that can be downloaded at www.oregon.gov/olcc/marijuana.

(4) Violations. A violation of this rule is a Category V violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.097

AMEND: 845-025-2885

RULE TITLE: On-Site Delivery of Marijuana by Retailer

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the on-site delivery of marijuana by a retailer. The proposed amendments correct a rule reference; conform language to conventions.

RULE TEXT:

- (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 a.m. and 10 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 18 to 20 years of age, is a current registry identification cardholder.
 - (d) A retailer may not allow a marijuana item or hemp item to be purchased by, given to, or made available to an individual who is visibly intoxicated at the time of pick-up.
 - (e) A retailer may not deliver marijuana items to a vehicle if a minor is present in the vehicle unless the minor is:
 - (A) A registry identification cardholder 18 years of age or older; or
 - (B) Accompanied by a parent or guardian who is 21 years of age or older or a registry identification cardholder 18 years of age or older.
 - (f) Marijuana items being delivered to an individual must comply with the packaging and labeling rules in OAR 845-025-7000 to 845-025-7190.
 - (g) 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(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

AMEND: 845-025-2900

RULE TITLE: Retail Sale of Marijuana for Medical Purposes

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the retail sale of marijuana for medical purposes. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) In order to sell marijuana items for medical purposes, a marijuana retailer licensed under ORS 475C.097 must:

- (a) Register in a form and manner specified by the Commission; and
- (b) Follow all requirements established by OAR 845-025-2800.

(2) A marijuana retailer licensed under ORS 475C.097 who has registered with the Commission to sell marijuana items for medical purposes, may:

- (a) Sell medical grade cannabinoid product, cannabinoid concentrate, or extract to registry identification cardholders and designated primary caregivers.
- (b) Sell or provide usable marijuana and medical grade cannabinoid products, concentrates, and extracts to registry identification cardholders and designated primary caregivers free of charge or at a discounted price.
- (c) Notwithstanding the requirements of OAR 845-025-1230, 845-025-2800, 845-025-2820, and 845-025-8520, permit registry identification cardholders 18 years of age and older to be present on the licensed premises and purchase marijuana items.

(3) A marijuana retailer who is registered with the Commission to sell marijuana items for medical purposes must:

- (a) Store and display medical grade cannabinoid products, concentrates, and extracts in a manner that separates medical grade items from other marijuana items.
- (b) Comply with the requirements of OAR 845-025-7000 to 845-025-7190 for labeling medical grade products.
- (c) Prior to the sale or transfer of a marijuana item as described in section (2) of this rule, verify that the individual who is purchasing a marijuana item for medical purposes is currently registered with the Authority by viewing the individual's government issued photo identification and Authority issued registry identification card or designated primary care giver card, or a receipt issued by the Authority under OAR 333-008-0023 or 333-008-0040 and making sure the identities match and that the card is current or the receipt has not expired.
- (d) Use CTS to record the receipt or card number of every registry identification cardholder and designated primary care giver who receives marijuana items as described in section (2) of this rule together with the date of the sale or transfer and amount sold or transferred.

(4) A marijuana retailer who is registered with the Commission to sell marijuana items for medical purposes may not sell or transfer a medical grade product to a registry identification cardholder or designated primary caregiver that exceeds the concentration limits in OAR 845-026-0220.

(5) Violations.

(a) A violation of section (4) of this rule is assessed as described in OAR 845-025-8590(3)(b)(B).

(b) Violations of any other provision of this rule are Category III violations.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.097

AMEND: 845-025-2910

RULE TITLE: Transfer of Medical Marijuana Dispensary Inventory

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the transfer of medical marijuana dispensary inventory. The amendment corrects a rule reference.

RULE TEXT:

(1) For purposes of this rule:

(a) "Medical marijuana dispensary" means a medical marijuana dispensary registered under ORS 475C.833.

(b) "Person responsible for the medical marijuana dispensary" or "PRD" has the meaning given that term in OAR 333-008-1010.

(c) "Primary PRD" has the meaning given that term in OAR 333-008-1010.

(2) An applicant for a retail license under ORS 475C.097 that is also an owner of a medical marijuana dispensary may submit a transfer request to the Commission, on a form prescribed by the Commission, to transition from being registered with the Authority to being licensed by the Commission. The request must include, at a minimum, the following information:

(a) The name of the marijuana dispensary, dispensary address, and Authority issued registration number for the medical marijuana dispensary;

(b) The name and contact information of the owner of the medical marijuana dispensary;

(c) The names and contact information for each PRD;

(d) Identification of the primary PRD;

(e) An authorization that permits the Authority to disclose to the Commission any information necessary to verify the information submitted in the request; and

(f) The amount and type of marijuana items proposed to be transferred.

(3) Upon receiving a request under section (2) of this rule the Commission must verify with the Authority:

(a) The registration status of the medical marijuana dispensary; and

(b) The ownership of the dispensary and the identification of each PRD and the primary PRD.

(4) A transfer request will be denied if an applicant has not complied with this rule or if a license is denied under OAR 845-025-1115.

(5) The Commission may inspect the marijuana items proposed for transfer to determine if they:

(a) Have been packaged, labeled, and tested in accordance with OAR 845-025-7000 to 845-025-7060 and 845-025-5700; and

(b) Meet the applicable concentration limits in OAR 845-026-0210 or 845-026-0220.

(6) If the information in the transfer request is verified by the Authority and the Commission approves a license application under ORS 475C.085, the Commission must notify the applicant of the amount and type of marijuana items permitted to be transferred.

(7) The Commission will deny the request to transfer any marijuana item that:

(a) Was not identified in the request to transfer; or

(b) Was not in the dispensary's inventory at the time of the request to transfer.

(8) The Commission will deny the request to transfer any marijuana that does not comply with the applicable packaging and testing rules in OAR 845-025-7000 to 845-025-7060 and 845-025-5700, except as provided in section (9) of this rule.

(9) The Commission will allow the transfer of marijuana items received by the dispensary prior to October 1, 2016 if:

(a) The marijuana item was tested in accordance with OAR 333-008-1190 in effect at the time, if the item contains a label placed on the package where it can easily be seen by a consumer, patient, or designated primary caregiver that reads "DOES NOT MEET NEW TESTING REQUIREMENTS" in 12 point font and in bold, capital letters; and

(b) The marijuana item is packaged in a child resistant container as required by 845-025-7020(2).

(10) The Commission may deny a transfer request if it cannot verify the information in the request or the applicant submitted incomplete information to the Commission.

(11) Marijuana items transferred under section (9) of this rule may be retained in the retail licensee's inventory until March 1, 2017. Violation of this section is a Category III violation.

(12) Transferred inventory must be recorded in CTS as required by these rules.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.169

AMEND: 845-025-3210

RULE TITLE: Marijuana Processors — Endorsements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details endorsements for processors. The proposed amendments specify violation category.

RULE TEXT:

(1) A processor may only process and sell cannabinoid edibles, topicals, concentrates, or extracts if the processor has received an endorsement from the Commission for that type of processing activity. Endorsements types are:

- (a) Cannabinoid edible processor;
- (b) Cannabinoid topical processor;
- (c) Cannabinoid concentrate processor; and
- (d) Cannabinoid extract processor.

(2) Industrial Hemp processor. A processor may only process industrial hemp items if the processor licensee has received an industrial hemp processor endorsement.

(3) A processor may only process a hemp item or marijuana item containing an artificially derived cannabinoid that is allowed under OAR 845-025-1310.

(4) An applicant must request an endorsement upon submission of an initial application but may also request to add or remove an endorsement at any time following licensure.

(5) To apply for an endorsement, an applicant or processor licensee must submit:

- (a) A form prescribed by the Commission that identifies the proposed endorsements;
- (b) A land use compatibility statement showing that any proposed processing endorsements are not prohibited uses; and
- (c) If applicable, proof of compliance with OAR 845-025-3260(2)(b).

(6) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.

(7) An individual processor licensee may hold multiple endorsements.

(8) For the purposes of endorsements, any cannabinoid product that is intended to be consumed or ingested orally or applied in the mouth is considered a cannabinoid edible.

(9) If a processor is no longer going to process the product for which the processor is endorsed, the processor must notify the Commission in writing and provide the date on which the processing of that product will cease.

(10) The Commission may deny a processor's request for an endorsement or revoke an existing endorsement if the processor cannot or does not meet the requirements in OAR 845-025-3200 to 845-025-3290 for the endorsement that is requested. If the Commission denies or revokes approval the processor has a right to a hearing under the procedures of ORS chapter 183.

(11) Violations. Processing without the proper endorsement is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.085, 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.161, 571.336, 571.337

AMEND: 845-025-3215

RULE TITLE: Processor Privileges; Prohibitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details processor privileges and prohibitions. The proposed amendments specify violation category; clarify license privileges and prohibitions; conform language to conventions.

RULE TEXT:

(1) A processor may:

(a) Transfer, sell, or transport:

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

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

(C) Marijuana or industrial hemp waste to a producer, processor, wholesaler, or research certificate holder;

(D) Trade samples to a producer, processor, wholesaler, or retailer licensee, only as allowed under OAR 845-025-1330; and

(E) Quality control samples to a license representative, only as allowed under OAR 845-025-1360.

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

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

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

(C) Kief from a producer;

(D) Cannabinoid concentrates from a producer that holds a concentrate endorsement under OAR 845-025-2025;

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

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

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

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

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

(c) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR chapter 333, division 7.

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

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

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

(C) Accurately records the transaction in the CTS.

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

(a) Transfer, sell, or transport:

(A) Hemp items to a wholesaler, a retailer, or a processor with an industrial hemp endorsement; and

(B) Hemp items to a person that is not a processor, retailer, or wholesaler only as allowed under OAR 845-025-3320.

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

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

handler; and

- (B) Harvested industrial hemp from a wholesaler, a Commission-certified hemp handler, or a Commission-certified hemp grower.
- (c) Process industrial hemp and hemp items into any hemp item in compliance with all rules for processing marijuana.
- (d) Use industrial hemp and hemp items as an ingredient in the processing of marijuana items.
- (3) A processor may not:
 - (a) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana item, industrial hemp, or hemp item other than as provided in this rule;
 - (b) Use any unapproved process set forth in OAR 845-025-3200 to 845-025-3305;
 - (c) Allow minors on any portion of the licensed premises except as allowed by OAR 845-025-1230. A violation of this is a Category I violation;
 - (d) Make any product that is prohibited from sale in a retail store, as set forth in OAR 845-025-2800;
 - (e) Transfer, sell, transport, purchase, accept, return, or receive any industrial hemp or hemp item that exceeds the THC limits specified in OAR 845-025-2760;
 - (f) Process any kief received from a producer into a cannabinoid edible, unless the producer has complied with all provisions set forth in OAR 845-025-3250; or
 - (g) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana item or hemp item containing artificially derived cannabinoids except as allowed under OAR 845-025-1310 and in accordance with sections (1) and (2) of this rule.
 - (h) Produce marijuana.
- (4) Notwithstanding paragraph (1)(d)(B) of this rule, a processor 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.
- (5) A processor must be licensed by the Commission and obtain the proper endorsement for the type of processing they perform per OAR 845-025-3210.
- (6) Violations.
 - (a) A violation of subsection (3)(e) of this rule is a Category II violation.
 - (b) A violation of section (5) of this rule is a Category I violation.
 - (c) All other violations of this rule are Category III violations.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.085, 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, ORS 475C.085, 571.336, 571.337

AMEND: 845-025-3220

RULE TITLE: General Processor Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details general processor requirements. The proposed amendments specify violation category; incorporate reference to new rule related to CTS tracking; amend to add prohibition on processing a finished edible product that does not comply with scoring requirements.

RULE TEXT:

(1) A processor must:

- (a) Use equipment, counters, and surfaces for processing that are food-grade and do not react adversely with any solvent being used.
- (b) Have counters and surface areas that are constructed in a manner that reduce the potential for development of microbials, molds, and fungi and that can be easily cleaned.
- (c) Maintain the licensed premises in a manner that is free from conditions which may result in contamination and that is suitable to facilitate safe and sanitary operations for product preparation purposes.
- (d) Store all marijuana items or hemp items not in use in a locked area, including products that require refrigeration, in accordance with OAR 845-025-1410.
- (e) Assign every process lot a unique identification number or name and enter this information into CTS pursuant to 845-025-7575.

(2) A processor may not process, transfer or sell a marijuana item or hemp item:

- (a) That by its shape, design, or flavor is likely to appeal to minors, including but not limited to:
 - (A) Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or
 - (B) Products in the shape of an animal, vehicle, person, or character.
- (b) That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items.
- (c) That contains Dimethyl Sulfoxide (DMSO).
- (d) If such an item is an inhalable cannabinoid product that does not meet the requirements in OAR 845-025-3265, except that a processor may transfer or sell an inhalable cannabinoid product that does not meet the requirements in OAR 845-025-3265 until July 1, 2021, if the non-compliant inhalable cannabinoid product was processed prior to April 1, 2021.
- (e) If such an item is a cannabinoid edible that:
 - (A) Is in its final form ready for packaging for sale or transfer to a consumer;
 - (B) Does not meet the serving size identification requirements in OAR 845-026-0210(3); and
 - (C) Is not a "medical marijuana item" as defined in OAR 845-026-0200.

(3) A processor may not treat or otherwise adulterate a cannabinoid product, concentrate, or extract with any additive or substance that would increase potency, toxicity, or addictive potential, or that would create an unsafe combination with other psychoactive substances. Prohibited additives or substances include but are not limited to nicotine, caffeine, polyethylene glycol, or any chemicals that increase carcinogenicity or cardiac effects.

(4) A processor must maintain records of industrial hemp test results for two years.

(5) Violations.

(a) A violation of subsection (2)(e) of this rule is assessed as described in OAR 845-025-8590(3)(b)(B).

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

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.085, 475C.237, 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.085, 475C.233, 571.336, 571.337

AMEND: 845-025-3230

RULE TITLE: Processor Policies and Procedures

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details processor policy and procedure requirements. The proposed amendments specify violation category.

RULE TEXT:

A processor must create and maintain written, detailed standard policies and procedures that include but are not limited to:

- (1) Instructions for making each cannabinoid concentrate, extract, or product.
- (2) The ingredients and the amount of each ingredient for each process lot;
- (3) The process for making each product;
- (4) The number of servings in a process lot;
- (5) The intended amount of THC per serving and in a unit of sale of the product;
- (6) The process for making each process lot homogenous;
- (7) If processing a cannabinoid concentrate or extract:
 - (a) Conducting necessary safety checks prior to commencing processing;
 - (b) Purging any solvent or other unwanted components from a cannabinoid concentrate or extract;
- (8) Procedures for cleaning all equipment, counters, and surfaces thoroughly;
- (9) Procedures for preventing growth of pathogenic organisms and toxin formation;
- (10) Proper handling and storage of any solvent, gas, or other chemical used in processing or on the licensed premises in accordance with material safety data sheets and any other applicable laws;
- (11) Proper disposal of any waste produced during processing in accordance with all applicable local, state and federal laws, rules, and regulations;
- (12) Quality control procedures designed to maximize safety and minimize potential product contamination;
- (13) Appropriate use of any necessary safety or sanitary equipment; and
- (14) Emergency procedures to be followed in case of a fire, chemical spill, or other emergency.
- (15) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.085

STATUTES/OTHER IMPLEMENTED: ORS 475C.085

AMEND: 845-025-3240

RULE TITLE: Processor Training Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details processor training requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) A processor must have a comprehensive training program that includes, at a minimum, the following topics:

(a) The standard operating policies and procedures;

(b) The hazards presented by all solvents or other chemicals used in processing and on the licensed premises as described in the material safety data sheet for each solvent or chemical; and

(c) Applicable Commission statutes and rules.

(2) At the time of hire and prior to engaging in any processing, and once yearly thereafter, each employee involved in the processing of a cannabinoid concentrate, extract, or product must be trained in accordance with the processor's training program.

(3) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.085

STATUTES/OTHER IMPLEMENTED: ORS 475C.085

AMEND: 845-025-3250

RULE TITLE: Cannabinoid Edible Processor Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details cannabinoid edible processor requirements. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) A cannabinoid edible processor may only process in a food establishment licensed by the Oregon Department of Agriculture (ODA) and must comply with the applicable provisions of OAR chapter 603, divisions 21, 24, 25, and 28.

(2) A cannabinoid edible processor may not:

(a) Engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant, single-event temporary restaurant, commissary, mobile unit, bed or breakfast, or warehouse licensed under ORS 624;

(b) Share a food establishment with a person not licensed and endorsed by the Commission as a cannabinoid edible processor;

(c) Process food intended for commercial sale that does not contain cannabinoids, at the licensed premises; or

(d) Use a cannabinoid concentrate or extract to process food unless that concentrate or extract was processed by a licensee in a food establishment licensed by the ODA in compliance with the applicable provisions of OAR chapter 603, divisions 21, 24, 25, and 28.

(3) A food establishment used by a cannabinoid edible processor is considered a licensed premises and must meet the security and other licensed premises requirements in these rules.

(4) Violations. A violation of section (1) of this rule is a Category I violation. All other violations of rule are Category III violations.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.085

STATUTES/OTHER IMPLEMENTED: ORS 475C.085, ORS 475C.161

AMEND: 845-025-3260

RULE TITLE: Cannabinoid Concentrate and Extract Processor Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details cannabinoid concentrate and extract processor requirements. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) Cannabinoid Concentrates or Extracts. A processor with a cannabinoid concentrate or extract endorsement:

(a) May not use Class I solvents as those are classified in the Federal Drug Administration Guidance, Table I, published in the Federal Register on December 24, 1997 (62 FR 67377).

(b) Must:

(A) Only use a hydrocarbon-based solvent that is at least 99 percent purity.

(B) Only use a non-hydrocarbon-based solvent that is food-grade.

(C) Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(D) Use only potable water and ice made from potable water in processing.

(E) If making a concentrate or extract that will be used in a cannabinoid edible, be endorsed as a cannabinoid edible processor and comply with OAR 845-025-3250.

(2) Cannabinoid Extracts. A processor with an endorsement to make cannabinoid extracts:

(a) May not use pressurized canned flammable fuel, including but not limited to butane and other fuels intended for use in camp stoves, handheld torch devices, refillable cigarette lighters, and similar consumer products.

(b) Prior to licensure or renewal the applicant must:

(A) Provide proof in a form and manner specified by the Commission that the premises proposed to be licensed has received a Certificate of Occupancy for the intended use issued by the appropriate local building official;

(B) Must list all equipment used in extraction and, if applicable, provide proof that equipment and process has been inspected by a:

(i) Certified mechanical or electrical engineer;

(ii) Industry recognized third party; or

(iii) Manufacturer.

(c) Must:

(A) Process in a fully enclosed room clearly designated on the current diagram of the licensed premises.

(B) Process, if using hydrocarbon solvents, in a room with equipment, including all electrical installations that meet the requirements of the Oregon Structural Specialty Code, related Oregon Specialty Codes and the Oregon Fire Code.

(C) Use a professional grade closed loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted good engineering standards, such as those of:

(i) American National Standards Institute (ANSI);

(ii) Underwriters Laboratories (UL); or

(iii) The American Society for Testing and Materials (ASTM).

(D) If using carbon dioxide in processing, use a professional grade closed loop carbon dioxide gas extraction system where every vessel is rated to a minimum of six hundred pounds per square inch.

(E) For extraction system engineering services, including but not limited to consultation on and design of extraction systems or components of extraction systems, use the services of a professional engineer registered with the Oregon State Board of Examiners for Engineering and Land Surveying, unless an exemption under ORS 672.060 applies.

(F) Have an emergency eye-wash station in any room in which cannabinoid extract is being processed.

(G) Have all applicable material safety data sheets readily available to personnel working for the processor.

(H) If subject to inspection by local and state fire officials, maintain the premises' Certificate of Occupancy at intervals specified by the fire official.

- (3) Cannabinoid Concentrates. A processor with an endorsement to make cannabinoid concentrates:
- (a) May not:
 - (A) Use denatured alcohol.
 - (B) If using carbon dioxide, apply high heat or pressure.
 - (b) Must only use or store dry ice in a well-ventilated room to prevent against the accumulation of dangerous levels of carbon dioxide.
 - (c) May use:
 - (A) A mechanical extraction process; or
 - (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.
 - (C) An extraction process using the solvent carbon dioxide, provided that the process does not involve the use of pressure or the use of heat over 180 degrees Fahrenheit.
- (4) Violations. A violation of this rule is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.085, 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.085, 571.336, 571.337

AMEND: 845-025-3270

RULE TITLE: CTS Requirements for Inhalable Cannabinoid Products with Non-Cannabis Additives

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details CTS requirements for inhalable cannabinoid products with non-cannabis additives. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) A licensee, research certificate holder, or hemp certificate holder in possession of an inhalable cannabinoid product with non-cannabis additives must record the item in CTS with the item category of:

(a) "Inhalable Cannabinoid Product with Non-Cannabis Additives" for an inhalable cannabinoid product that is a marijuana item; or

(b) "Inhalable Hemp Cannabinoid Product with Non-Cannabis Additives" for an inhalable cannabinoid product that is a hemp item.

(2) In addition to the requirements of section (1) of this rule, a processor in possession of an inhalable cannabinoid product with non-cannabis additives must, in the item's ingredients section of CTS, record:

(a) The name of all non-cannabis additives used in the item; and

(b) For each non-cannabis additive used, the business name of the manufacturer of the non-cannabis additive.

(3) The ingredients recorded in CTS under section (2) of this rule must match the information that is contained in the header section of the non-cannabis additive's list of ingredients as required by OAR 845-025-3265(1)(a).

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

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548, 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.117, 571.336, 571.337

AMEND: 845-025-3280

RULE TITLE: Cannabinoid Topical Processor

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details cannabinoid topical processor requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) A processor with a cannabinoid topical endorsement may not engage in processing in a location that is operating as a restaurant, seasonal temporary restaurant, intermittent temporary restaurant, limited service restaurant or single-event temporary restaurant licensed under ORS 624.

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

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.085

STATUTES/OTHER IMPLEMENTED: ORS 475C.085

AMEND: 845-025-3290

RULE TITLE: Processors Recordkeeping

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details processor recordkeeping requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) A processor must keep records documenting the following:

(a) How much marijuana or industrial hemp is in each process lot;

(b) If a product is returned by a licensee, how much product is returned and why;

(c) If a defective product was reprocessed, how the defective product was reprocessed; and

(d) Each training provided in accordance with OAR 845-025-3240, the names of employees who participated in the training, and a summary of the information provided in the training.

(2) A processor must obtain a material safety data sheet for each solvent used or stored on the licensed premises and maintain a current copy of the material safety data sheet and a receipt of purchase for all solvents used or to be used in an extraction process on the licensed premises.

(3) If the Commission requires a processor to submit or produce documents to the Commission that the processor believes falls within the definition of a trade secret as defined in ORS 192.501, the processor must mark each document "confidential" or "trade secret."

(4) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.085, 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.085, 571.336, 571.337

AMEND: 845-025-3300

RULE TITLE: Processing Marijuana for Medical Purposes

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details processing marijuana for medical purposes. The proposed amendments specify violation category; correct rule references; conform language to conventions.

RULE TEXT:

- (1) In order to process marijuana items for medical purposes a marijuana processor licensed under ORS 475C.085 must register with the Commission in a form and manner specified by the Commission.
- (2) A marijuana processor licensed under ORS 475C.085 who has registered with the Commission to process marijuana items for medical purposes:
 - (a) May:
 - (A) Process medical grade cannabinoid products, concentrates, or extracts; and
 - (B) Sell or transfer medical grade cannabinoid products, concentrates, or extracts to wholesalers, processors and retailers who have registered to sell or process marijuana for medical purposes.
 - (C) Sell or transfer medical grade cannabinoid products, concentrates, or extracts to research certificate holders and non-profit dispensaries.
 - (b) Must comply with the requirements of OAR 845-025-7010 to 845-025-7190 for labeling medical grade products.
- (3) Violations. Processing marijuana items for medical purposes is a Category III violation if the licensee is not registered with the Commission as described in this rule.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.141

AMEND: 845-025-3310

RULE TITLE: Transfer of Medical Marijuana Processing Site Inventory

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the transfer of processed medical marijuana product inventory. The proposed amendments specify violation category.

RULE TEXT:

(1) For purposes of this rule:

(a) "Marijuana processing site" means a marijuana processing site registered under ORS 475C.815.

(b) "Person responsible for the marijuana processing site" or "PRP" has the meaning given that term in OAR 333-008-0160.

(c) "Primary PRP" has the meaning given that term in OAR 333-008-0160.

(2) An applicant for a processor license under ORS 475C.085 that is also an owner of a registered marijuana processing site or a business that applied to register as a marijuana processing site prior to December 31, 2016 under ORS 475C.815, may submit a transfer request to the Commission, on a form prescribed by the Commission, to transfer inventory produced or obtained under Authority approval or registration.

(3) Requests made under this rule must include, at a minimum, the following information:

(a) The name of the marijuana processing site, address, and Authority issued registration number for the marijuana processing site.

(b) The name and contact information of the owner of the marijuana processing site.

(c) The names and contact information for each PRP.

(d) Identification of the primary PRP.

(e) The endorsements of the marijuana processing site.

(f) An authorization that permits the Authority to disclose to the Commission any information necessary to verify the information submitted in the request; and

(g) The amount and types of marijuana items proposed to be transferred.

(4) Upon receiving a request under section (2) of this rule the Commission must verify with the Authority:

(a) The registration status of the marijuana processing site; and

(b) The ownership of the processing site and the identification of each PRP and the primary PRP.

(5) A transfer request will be denied if an applicant has not complied with this rule or if a license is denied under OAR 845-025-1115.

(6) If the information in the transfer request is verified by the Authority and the Commission approves a license application under ORS 475C.085, the Commission must notify the applicant of the amount and type of marijuana items permitted to be transferred.

(a) The Commission may not permit the transfer of a marijuana cannabinoid product, concentrate, or extract packaged for ultimate sale to the consumer that exceeds the concentration limits established for retail adult use under OAR 845-026-0210 unless the licensee has been registered to process medical grade cannabinoid concentrates, extracts, or products.

(b) For transfer requests that are received after January 31, 2017, the Commission may not permit the transfer of a marijuana item that was produced or acquired before December 31, 2016, unless the applicant is registered with the Authority as a processing site under ORS 475C.815 and the item was processed or acquired on or after the date the processing site was registered.

(c) Prior to licensure the marijuana processing site must return any marijuana item that is the lawful property of a patient.

(d) Any marijuana items that have not been approved by the Commission for transfer or returned to a patient as described in subsection (5)(b) of this rule must be removed from the premises by the applicant prior to the initial date of licensure and lawfully transferred or disposed of.

- (7) Information regarding the usable marijuana, cannabinoid concentrates, extracts, or products transferred must be recorded in CTS within 10 calendar days of licensure.
- (8) The licensee must notify the Commission once the usable marijuana, cannabinoid concentrates, extracts, or products are entered into CTS and the Commission may inspect the premises to verify the information the licensee entered into CTS.
- (9) Once the transfer of inventory under this section is complete the Commission must notify the Authority that the marijuana processing site is now a licensed premises and that the licensed premises may not be registered as a marijuana processing site address under ORS 475C.815.
- (10) The Commission may deny a transfer request if:
- (a) It cannot verify the information in the request or the applicant submitted incomplete information to the Commission;
 - or
 - (b) The processor has not been granted an endorsement for the type of marijuana item requested for transfer.
- (11) Any usable marijuana, cannabinoid concentrates, extracts, or products transferred from a medical marijuana processing site to the licensed premises under this rule must be:
- (a) Tested in accordance with OAR 845-025-5700 before being used or transferred; and
 - (b) Labeled and packaged in accordance with OAR 845-025-7000 to 845-025-7060 before being transferred to another licensee.
- (12) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.169

AMEND: 845-025-3500

RULE TITLE: Wholesale License Privileges; Prohibitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details wholesale license privileges and prohibitions. The proposed amendments specify violation category; clarify license privileges and prohibitions; conform language to conventions.

RULE TEXT:

(1) A wholesale licensee may:

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

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

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

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

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

(E) Trade samples as allowed under OAR 845-025-1330;

(F) Marijuana or hemp waste to a producer, processor, wholesaler, or research certificate holder;

(G) Harvested industrial hemp to a wholesaler or to a processor with an industrial hemp endorsement; and

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

(I) Inventory from a retailer as allowed by OAR 845-025-2800(5).

(J) Inventory from a processor as allowed by OAR 845-025-3215(4).

(b) Purchase, possess, or receive:

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

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

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

(D) Cannabinoid concentrates from a producer that holds a concentrate endorsement under OAR 845-025-2025;

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

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

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

(H) Marijuana waste from a producer, processor, wholesaler, retailer, laboratory, or research certificate holder;

(I) Hemp Items from a processor with an industrial hemp endorsement or a Commission-certified hemp handler;

(J) Harvested industrial hemp from a wholesaler, a processor with an Industrial Hemp endorsement, a Commission-certified hemp handler, or a Commission-certified hemp grower; and

(K) Inventory from a retailer as allowed under OAR 845-025-2800(5).

(L) Inventory from a processor as allowed by OAR 845-025-3215(4).

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

(d) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR chapter 333, division 7.

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

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

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

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

(f) Trim whole non-living plants and usable marijuana on behalf of a producer licensee, as long as both the wholesale

licensee and producer licensee comply with all applicable rules including tracking all transactions and any packaging of marijuana items in CTS; and if:

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

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

(2) A wholesale licensee may not:

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

(b) Transfer, sell, transport, purchase, possess, 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, return, or receive any marijuana item or hemp item containing artificially derived cannabinoids except as allowed under OAR 845-025-1310 and in accordance with section (1) of this rule.

(d) Process a marijuana item.

(e) Produce marijuana.

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

(4) Violations.

(a) A violation of paragraph (1)(a)(E), (1)(a)(I), (1)(b)(G), or (1)(b)(K) or subsection (1)(c) to (1)(f) is a Category III violation.

(b) All other violations of this rule are Category I violations.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.085, 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.093, 571.336, 571.337

AMEND: 845-025-3510

RULE TITLE: Micro-Wholesaler License Privileges

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details micro-wholesale license privileges and prohibitions. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) A micro-wholesale licensee may:

(a) Purchase, possess, or receive usable marijuana, immature marijuana plants, seeds, whole non-living marijuana plants, and marijuana waste only from a producer with a micro tier I or micro tier II canopy; and

(b) Accept or make returns marijuana items, as long as the micro-wholesale licensee:

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

(B) Only accepts or returns eligible items listed in paragraph (A) of this subsection from a producer with a micro tier I or micro tier II canopy; and

(C) Accurately records the transaction in the CTS.

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

(a) Usable marijuana to a retailer, wholesaler, processor, non-profit dispensary, or research certificate holder;

(b) Seeds and immature plants to a retailer, wholesaler, producer, non-profit dispensary, or research certificate holder;

(c) Whole non-living marijuana plants to a wholesaler, processor, or non-profit dispensary; and

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

(3) Transport and store marijuana items received from producers with a micro tier I or micro tier II canopy, pursuant to the requirements of OAR 845-025-7500 to 845-025-7590 and 845-025-7700.

(4) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR chapter 333, division 7.

(5) A micro-wholesaler may not purchase, possess, receive, sell, transfer, deliver, transport, trim, or store any marijuana item other than as provided in this rule.

(6) Violations. A violation of this rule is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.093

STATUTES/OTHER IMPLEMENTED: 475C.093

AMEND: 845-025-3600

RULE TITLE: Wholesaling Marijuana for Medical Purposes

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details wholesaling marijuana for medical purposes. The proposed amendments specify violation category.

RULE TEXT:

(1) In order to sell marijuana at wholesale for medical purposes a marijuana wholesaler licensed under ORS 475C.093 must register with the Commission in a form and manner specified by the Commission.

(2) A marijuana wholesaler licensed under ORS 475C.093 who has registered with the Commission to wholesale marijuana items for medical purposes:

(a) May:

(A) Receive or purchase medical grade cannabinoid products, concentrates, or extracts from processors that have registered to process marijuana items for medical purposes;

(B) Sell or transfer medical grade cannabinoid products, concentrates, or extracts to wholesalers, processors and retailers who have registered to sell or process marijuana for medical purposes; and

(C) Sell or transfer medical grade cannabinoid products, concentrates, or extracts to research certificate holders and non-profit dispensaries.

(b) Must comply with the requirements of OAR 845-025-7000 to 845-025-7190 for labeling medical grade products.

(3) Violations. Wholesaling marijuana for medical purposes as described in this rule is a Category III violation if the licensee is not registered with the Commission as described in this rule.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.077, 475C.145

AMEND: 845-025-5000

RULE TITLE: Laboratory License Privileges; Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details laboratory license privileges and prohibitions. The proposed amendments specify violation category; amend requirements around sample retention and providing information and material to relevant agencies; conform language to conventions.

RULE TEXT:

(1) A licensed marijuana testing laboratory may:

(a) Obtain samples of marijuana items from licensees or registrants for the purpose of testing as provided in these rules and OAR chapter 333, division 7 if the laboratory has an accredited scope item for sampling;

(b) Transport and dispose of samples as provided in these rules;

(c) Perform testing on marijuana items in a manner consistent with the laboratory's accreditation by the Authority, these rules, OAR chapter 333, divisions 7 and 64; and

(d) Transfer the laboratory's marijuana waste to a producer, processor, wholesaler, or research certificate holder.

(2) After entering the results into CTS of all testing that was performed, a laboratory licensee must retain the remaining sample material taken under OAR 333-007-0360 for a minimum of 30 additional calendar days.

(3) A licensed marijuana testing laboratory must, upon request of the Oregon Department of Agriculture, Oregon Health Authority, ORELAP, or the Commission, provide a test result and any other information or sample material to the Department, the Authority, ORELAP, or the Commission.

(4) Notwithstanding the requirements of OAR 845-025-1230, a laboratory licensee may permit a registry identification cardholder 18 years of age or older to be present on the licensed premises for the purpose of delivering a marijuana item for sampling and testing.

(5) Nothing in these rules prohibits a laboratory licensee from testing industrial hemp or industrial hemp commodities and products in accordance with the rules established by the Oregon Department of Agriculture.

(6) A licensed laboratory may return a marijuana item obtained for purposes of testing to the licensee, registrant or research certificate holder, in accordance with any applicable accreditation standards for retaining samples. The return of such marijuana items must be entered into CTS or, if the return is to a registrant, documented in the laboratory's records.

(7) A licensed laboratory may not obtain samples, transport, dispose of, perform testing, transfer, or return any marijuana item other than as provided in this rule.

(8) Violations. A violation of this rule is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.548

STATUTES/OTHER IMPLEMENTED: ORS 475C.548

AMEND: 845-025-5045

RULE TITLE: Laboratory Tracking and Reporting

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details laboratory tracking and reporting. The proposed amendments specify violation category; amend and clarify laboratory tracking and reporting requirements; conform language to conventions.

RULE TEXT:

(1) A laboratory licensee is required to utilize CTS for sampling or testing conducted for medical marijuana grow sites subject to CTS tracking, medical marijuana processing sites, medical marijuana dispensaries, licensees, research certificate holders, Commission-certified hemp growers, Commission-certified hemp handlers, and persons manufacturing industrial hemp-derived vapor items and follow all requirements established by OAR 845-025-7500 to 845-025-7590.

(2) A laboratory licensee conducting sampling or testing for licensees, research certificate holders, Commission-certified hemp growers, Commission-certified hemp handlers, medical marijuana grow sites subject to CTS tracking, medical marijuana processing sites, or medical marijuana dispensaries is responsible for tracking and entering the following information into CTS.

(a) Receipt of samples for testing, including:

(A) Size of the sample;

(B) Name of the licensee, research certificate holder, Commission-certified hemp grower, Commission-certified hemp handler, grow site administrator, person responsible for the marijuana processing site, or person responsible for a medical marijuana dispensary from whom the sample was obtained;

(C) Date the sample was collected; and

(D) UID tag information associated with the harvest or process lot from which the sample was obtained.

(b) Tests performed on samples, including:

(A) Date testing was performed;

(B) What samples were tested for;

(C) Name of laboratory responsible for testing;

(D) Results of all testing performed; and

(E) An electronic copy of the report provided under OAR 333-064-0110 to the licensee, research certificate holder, Commission-certified hemp grower, Commission-certified hemp handler, grow site administrator, processing site, or dispensary.

(c) Disposition of any testing sample material.

(3) A laboratory licensee conducting sampling or testing of industrial hemp-derived vapor items is responsible for tracking and entering the following information into CTS.

(a) Receipt of samples for testing, including:

(A) Size of the sample;

(B) Name of the person manufacturing industrial hemp-derived vapor items from whom the sample was obtained;

(C) Date the sample was collected; and

(D) Identifying information about the process lot from which the sample was obtained.

(b) Tests performed on samples, including:

(A) Date testing was performed;

(B) What samples were tested for;

(C) Name of laboratory responsible for testing;

(D) Results of all testing performed; and

(E) An electronic copy of the report provided under OAR 333-064-0110 to the person who manufactured the industrial hemp-derived vapor item.

(c) Disposition of any testing sample material.

(4) A laboratory licensee receiving a sample from another laboratory licensee for the purposes of performing a subcontracted compliance test, as described in is responsible for tracking and entering information into CTS as described in paragraphs (2)(b)(A) and (2)(b)(B) of this rule.

(5) A laboratory licensee must also comply with any recordkeeping requirements in OAR chapter 333, divisions 7 and 64.

(6) The Oregon Health Authority or the Commission may request records at any time of a laboratory licensee.

(7) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.548

STATUTES/OTHER IMPLEMENTED: ORS 475C.548

AMEND: 845-025-5060

RULE TITLE: Laboratory Transportation and Waste Disposal

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details laboratory transportation and waste disposal. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) A laboratory licensee must follow OAR 845-025-7700 and any applicable rules in OAR chapter 333, divisions 7 and 64 regarding transportation of marijuana items.

(2) A laboratory licensee must follow all rules regarding disposal of samples from marijuana items established in OAR 845-025-7750.

(3) Violations. A violation of this rule is a Category IV violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.548

STATUTES/OTHER IMPLEMENTED: ORS 475C.548

AMEND: 845-025-5350

RULE TITLE: Marijuana Research Certificate Privileges; Prohibitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule retails marijuana research certificate privileges and prohibitions. The proposed amendments specify violation category; correct a reference; conform language to conventions.

RULE TEXT:

- (1) A certificate holder may receive marijuana items from a licensee or a registrant under ORS 475C.770 to 475C.919.
- (2) A certificate holder:
 - (a) May not:
 - (A) Sell or otherwise transfer marijuana items to any other person except when disposing of waste pursuant to OAR 845-025-7750, transferring to another certificate holder or transferring to another licensee pursuant these rules.
 - (B) Transfer more to another licensee than is permitted in the Commission's order granting the research certificate.
 - (b) Must comply with the testing rules in OAR chapter 333, division 7 applicable to a producer or processor prior to transferring marijuana items to a licensee.
- (3) A certificate holder may not conduct any human subject research related to marijuana unless the certificate holder has received approval from an institutional review board that has adopted the Common Rule, 45 CFR part 46.
- (4) All administrative rules adopted by Commission for the purpose of administering and enforcing ORS chapter 475C; and any rules adopted thereunder with respect to licensees and licensee representatives apply to certificate holders except for those which are inconsistent with this rule.
- (5) Violations. A violation of this rule is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.289

STATUTES/OTHER IMPLEMENTED: ORS 475C.289, ORS 475C.205

AMEND: 845-025-5500

RULE TITLE: Marijuana Worker Permit

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details marijuana worker permits. The proposed amendments implement legislation by adding worker permit requirement to perform certain work on behalf of a laboratory licensee; specify violation category.

RULE TEXT:

(1) A marijuana worker permit is required for any individual who performs work for or on behalf of a marijuana retailer, producer, processor, wholesaler, or laboratory licensee if the individual participates in:

- (a) The delivery, possession, handling, production, propagation, processing, sampling, securing, selling, or testing of marijuana items at the premises for which the license has been issued;
- (b) The recording of the delivery, possession, handling, production, propagation, processing, sampling, securing, selling, or testing of marijuana items at the premises or laboratory for which the license has been issued;
- (c) The verification of any document described in ORS 475C.217; or
- (d) The direct supervision of a person described in subsections (a) to (c) of this section.

(2) An individual who is required by section (1) of this rule to hold a marijuana worker permit must carry that permit on their person at all times when performing work on behalf of a marijuana retailer.

(3) A person who holds a marijuana worker permit must notify the Commission in writing within 10 days of any conviction for a felony.

(4) A marijuana retailer, producer, processor, wholesaler, or laboratory licensee must verify that an individual has a valid marijuana worker permit issued in accordance with OAR 845-025-5500 to 845-025-5590 before allowing the individual to perform, or continue to perform, any work at the licensed premises or laboratory.

(5) Violations.

(a) A violation of section (2) of this rule is a Category IV violation.

(b) A violation of section (3) or (4) of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.269, 475C.273

STATUTES/OTHER IMPLEMENTED: ORS 475C.269, 475C.273, 2022 OL Ch. 117 Sec. 4

AMEND: 845-025-5720

RULE TITLE: Labeling, Storage, and Security of Pre-Tested Marijuana Items

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details labeling, storage, and security requirements for marijuana items that have been submitted for testing. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) Following samples being taken from a harvest or process lot batch a licensee must:

(a) Label the batch with the following information:

(A) The licensee's license number;

(B) The harvest or process lot unique identification number;

(C) The name and accreditation number of the laboratory that took samples and the name and accreditation number of the laboratory that will perform the testing, if different;

(D) The test batch or sample unique identification numbers supplied by the laboratory personnel;

(E) The date the samples were taken; and

(F) In bold, capital letters, no smaller than 12 point font, "PRODUCT NOT TESTED."

(b) Store and secure the batch in a manner that prevents the product from being tampered with or transferred or sold prior to test results being reported.

(c) Be able to easily locate a batch stored and secured under subsection (b) of this section and provide that location to the Commission or a laboratory upon request.

(2) A batch may be stored in more than one receptacle as long as the labeling requirements are met.

(3) If the samples pass testing the product may be sold or transferred in accordance with the applicable Commission rules.

(4) If the samples do not pass testing the licensee must comply with OAR 845-025-5740 and 333-007-0450, as applicable.

(5) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.540, 475C.544

STATUTES/OTHER IMPLEMENTED: ORS 475C.540, 475C.544

AMEND: 845-025-5730

RULE TITLE: Wholesaler Coordination of Sampling and Testing

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details wholesaler coordination of sampling and testing. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

A wholesaler:

- (1) May accept a batch, as that term is defined in OAR 333-007-0310 from a producer or processor that:
 - (a) Has not been sampled or tested in accordance with OAR chapter 333, divisions 7 and 64 and may order tests and arrange for the sampling and testing of the batch in accordance with OAR chapter 333, divisions 7 and 64 as specified in those rules.
 - (b) Has been sampled but has not yet been tested in accordance with OAR chapter 333, divisions 7 and 64.
- (2) Must secure, label, and store pre-tested marijuana items in accordance with OAR 845-025-5720.
- (3) May not transfer or sell a marijuana item unless that marijuana item:
 - (a) Has been sampled and tested in accordance with OAR chapter 333, divisions 7 and 64.
 - (b) Has passed all the required tests in OAR chapter 333, division 7.
- (4) Is jointly and severally responsible for ensuring compliance with OAR chapter 333, divisions 7 and 64 with the licensee that produced or processed the marijuana item.
- (5) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.093, 475C.544

STATUTES/OTHER IMPLEMENTED: ORS 475C.093, 475C.544

AMEND: 845-025-5740

RULE TITLE: Failed Test Samples

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details requirements for marijuana items that fail compliance testing. The proposed amendments specify violation category; amend and clarifying licensee requirements for failed test samples.

RULE TEXT:

- (1) For the purposes of this rule, "batch" has the meaning given that term in OAR 333-007-0310.
- (2) If a sample fails a compliance test the licensee must comply with OAR 333-007-0450.
- (3) If a batch or a sample from a batch fails a compliance test under these rules a licensee:
 - (a) Must store and segregate the batch in a secure area and label the batch indicating it has failed a test.
 - (b) May not remove the batch from the premises without permission from the Commission.
- (4) Violations. A violation of this rule is a Category II violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.540, 475C.544, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.540, 475C.544, 571.337

AMEND: 845-025-5760

RULE TITLE: Audit, Compliance, and Random Testing

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details audit, compliance, and random testing. The proposed amendments specify violation category; amend and clarify the audit testing process; allow OLCC to require relabeling if audit testing deviates significantly from compliance test result.

RULE TEXT:

- (1) The Commission may require a licensee or laboratory licensee to submit samples identified by the Commission to one or more laboratories of the Commission's choosing to be tested in order to determine whether a licensee is in compliance with the cannabis testing rules found in OAR chapter 333, division 7 or any other rules of the Commission and may require additional testing that is not required by these rules.
- (2) A laboratory doing audit testing must comply with these rules, to the extent they are applicable, and if conducting testing not required by these rules, may only use Authority approved methods, unless otherwise authorized by the Commission.
- (3) The Commission may, at any time, require a licensee or laboratory licensee to permit the sampling of or submit a sample of a marijuana item, industrial hemp, or a hemp item of the Commission's choosing to the Commission for testing. Such testing may include testing for:
 - (a) Anything that is required to be tested under OAR chapter 333, division 7 of the Oregon Administrative Rules.
 - (b) Any microbiological contaminant.
 - (c) Heavy metals.
 - (d) Other adulterants, pesticides, solvents, additives, or contaminants that may pose a risk to public health and safety, or are prohibited by law.
- (4) When audit testing for potency pursuant to this rule, the Commission may require any portion of a batch with a compliance test for potency on or after December 1, 2022, to be relabeled with the mean average result from laboratories conducting audit testing if the Commission determines that there is a statistically significant difference at a 99 percent confidence interval between the audit testing result of samples from the batch and the original compliance testing result of the same batch.
 - (a) The Commission shall use the Shapiro-Wilk test to determine if the audit testing results are normally distributed at a 95 percent confidence interval.
 - (b) For audit testing results that are normally distributed, the Commission shall use the one-sample Student's t-test to determine statistical significance.
 - (c) For audit testing results that are not normally distributed, the Commission shall use the one-sample Wilcoxon Signed-Rank test to determine statistical significance.
 - (d) For purposes of this subsection, "batch" has the meaning given that term in OAR 333-007-0310.
- (5) A licensee shall submit all samples required for testing under this rule within a timeframe established by the Commission.
- (6) Violations. Failure to submit requested samples to OLCC as described in this rule is a Category II violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.540, 475C.544, 571.275, 475C.612, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.540, 475C.544, 571.337

AMEND: 845-025-5790

RULE TITLE: Product Recalls

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details product recalls. The proposed amendments specify violation category; amend and clarify requirements for product recalls.

RULE TEXT:

(1) The Commission may request or require a licensee to recall any marijuana item, hemp item, or industrial hemp that the licensee has sold or transferred that does not meet the minimum standards established by these rules, including but not limited to when there is evidence that:

- (a) Pesticides were used in the production of marijuana or industrial hemp in violation of ORS chapter 634 or OAR chapter 603, division 57;
- (b) A marijuana item, hemp item, or industrial hemp is adulterated, contaminated, may pose a risk to public health and safety, or is otherwise unfit for human use, consumption, or application;
- (c) A marijuana item was not produced or processed by a licensee or was processed using a marijuana item that was not produced or processed by a licensee, except as explicitly allowed by these rules; or
- (d) A marijuana item, hemp item, or industrial hemp is labeled or packaged in a manner that poses a risk to public health and safety.

(2) If a product is being recalled, the Commission:

- (a) May notify, or require the licensee to notify, the public and licensees of the recall;
- (b) May require a licensee to notify a person to whom a marijuana item, industrial hemp, or a hemp item was sold; and
- (c) May require that the licensee destroy the recalled product.

(3) If the Commission requests or requires a licensee to initiate a recall pursuant to this rule, the Commission must provide to the licensee the reason for the recall and any other information necessary for the licensee to initiate a recall.

(4) A licensee conducting a voluntary or required recall must:

- (a) Have a product removal strategy appropriate to the threat and location of the recalled product.
- (b) Identify the scope of impacted product and establish a process for identifying affected product subject to a recall, which must include the following:
 - (A) Distribution list. When identifying products subject to a recall, the licensee must create a distribution list that includes the following information:
 - (i) The name, license number, and address of the licensees, hemp certificate holders, and unlicensed persons that a processor transferred to under OAR 845-025-3320 that received the product subject to the recall;
 - (ii) Manifest or transfer date for each product subject to the recall; and
 - (iii) Business contact information for each person that received product subject to the recall, including names and telephone numbers.

(B) Product information. When identifying each product subject to a recall, the licensee must document the following product information:

- (i) Product description;
- (ii) If applicable, a photograph of the principle display panel;
- (iii) If applicable, the label identification number required by OAR 845-025-7030;
- (iv) The license number of the licensee that produced or manufactured the product subject to the recall; and
- (v) Date or date range of the manufacture or harvest of the product subject to the recall.

(c) Provide notification to the following:

- (A) The Commission, within 24 hours of initiating the recall.
- (B) Each business identified on the licensee's distribution list under paragraph (4)(b)(A) of this rule that includes the following information:
 - (i) Product description for the product subject to the recall;

- (ii) The reason for recall and related hazards, if any. If the product is being removed for quality rather than public health and safety reasons, the notice may state that the product does not meet internal company specifications and is being removed from distribution;
 - (iii) The license number, name, and trade name of the licensee that produced or manufactured the product subject to the recall;
 - (iv) Expiration date(s) for the product subject to the recall, if applicable;
 - (v) Date or date range of the manufacture or harvest of the product subject to the recall; and
 - (vi) Instructions regarding the disposition of the affected product subject to the recall.
- (C) No later than 48 hours from issuing a recall notice under paragraph (B) of this subsection, notify consumers of the recall using the most effective method available, which may include any of the following methods or combination of methods:
- (i) An e-mail to a customer e-mail list.
 - (ii) An alert on the licensee's website.
 - (iii) A warning that is clearly and visibly posted on the licensed premises at locations that are open to the public.
 - (iv) A press release to notify consumers.
 - (d) Make all reasonable efforts to remove the affected products from commerce. Affected products that are either still in control of the originating licensee or in commerce must be secured, segregated, clearly labeled not for sale or distribution, and separated from any other non-affected products.
 - (e) Complete recall effectiveness checks to verify that all receiving business have been notified and have taken the appropriate action, including:
 - (A) Confirming the receiving business received the recall notification;
 - (B) Determining whether the recalled marijuana item, hemp item, or industrial hemp was handled as instructed in the recall notification; and
 - (C) If the product was further distributed or sold by the receiving business before receipt of the recall notification, and if so, were these additional businesses notified.
 - (5) Prior to the recall being initiated, the Commission may require the licensee to submit any information required by this rule.
 - (6) Business records created as part of a recall should be maintained in accordance with OAR 845-025-1200.
 - (7) Violations. A violation of this rule is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 571.337, 571.275, 475C.237

STATUTES/OTHER IMPLEMENTED: ORS 475C.021, 571.337

ADOPT: 845-025-5800

RULE TITLE: Definitions for Industrial Hemp and Hemp Item Testing

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule sets definitions for the purposes of industrial hemp and hemp item testing. This is a new rule to clarify hemp and hemp item testing requirements that were previously articulated in OAR 845-025-2750, 845-025-2755, and 845-025-2785. Defines terms for the purposes of specifying hemp and hemp item testing requirements in OAR 845-025-5800 to 845-025-5850.

RULE TEXT:

For the purposes of OAR 845-025-5800 to 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 industrial hemp concentrate, industrial 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 "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 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

ADOPT: 845-025-5810

RULE TITLE: Industrial Hemp and Hemp Item Testing – Purpose and Scope

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the purpose and scope of the industrial hemp and hemp item testing rules. This is a new rule to clarify hemp and hemp item testing requirements that were previously articulated in OAR 845-025-2750, 845-025-2755, and 845-025-2785. Establishes the purposes and scope of hemp and hemp item testing requirements in OAR 845-025-5800 to 845-025-5850.

RULE TEXT:

- (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 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

ADOPT: 845-025-5815

RULE TITLE: Ordering Tests for Industrial Hemp and Hemp Items

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details how to order tests for industrial hemp and hemp items. This is a new rule to clarify hemp and hemp item testing requirements that were previously articulated in OAR 845-025-2750, 845-025-2755, and 845-025-2785. Specifies requirements for ordering tests in accordance with OAR 845-025-5800 to 845-025-5850.

RULE TEXT:

- (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 Oregon Health Authority, or the Oregon Department of Agriculture.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

ADOPT: 845-025-5820

RULE TITLE: Compliance Testing Requirements for Industrial Hemp and Hemp Items

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule describes compliance testing requirements for industrial hemp and hemp items. This is a new rule to clarify hemp and hemp item testing requirements that were previously articulated in OAR 845-025-2750, 845-025-2755, and 845-025-2785. Specifies required tests by product category for testing in accordance with OAR 845-025-5800 to 845-025-5850.

RULE TEXT:

(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 as described in OAR 333-007-0430, in addition to and 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 as described in OAR 333-007-0430, in addition to and 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 industrial hemp 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 industrial hemp extract tested for adult use cannabinoid and CBD concentration as described in OAR 333-007-0430, in addition to and 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 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

ADOPT: 845-025-5830

RULE TITLE: Batch Testing Requirements for Industrial Hemp and Hemp Items

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details batch testing requirements for industrial hemp and hemp items. This is a new rule to clarify hemp and hemp item testing requirements that were previously articulated in OAR 845-025-2750, 845-025-2755, and 845-025-2785. Specifies batch requirements for testing in accordance with OAR 845-025-5800 to 845-025-5850.

RULE TEXT:

(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 processor or 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 processor or 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 from 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 required in OAR 333-007-0360 for the equivalent marijuana item identified in OAR 845-025-5800.
- (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 plant material.
 - (c) Flavor does not include flavoring constituents derived from the cannabis plant.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

ADOPT: 845-025-5840

RULE TITLE: Wholesaler Coordination of Sampling and Testing for Industrial Hemp and Hemp Items

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details wholesaler coordination of sampling and testing for industrial hemp and hemp items. This is a new rule to clarify hemp and hemp item testing requirements that were previously articulated in OAR 845-025-2750, 845-025-2755, and 845-025-2785. Allows a wholesaler to coordinate testing on behalf of a processor in accordance with OAR 845-025-5800 to 845-025-5850.

RULE TEXT:

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 that processed the hemp item.

STATUTORY/OTHER AUTHORITY: ORS 475C.093, 475C.544, 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.093, 475C.544, 571.336, 571.337

ADOPT: 845-025-5850

RULE TITLE: Failed Test Samples for Industrial Hemp and Hemp Items

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details options and requirements for failed test samples for industrial hemp and hemp items. This is a new rule to clarify hemp and hemp item testing requirements that were previously articulated in OAR 845-025-2750, 845-025-2755, and 845-025-2785. Specifies options for hemp and hemp items that fail testing in accordance with OAR 845-025-5800 to 845-025-5850.

RULE TEXT:

- (1) Additional potency testing failures. In addition to the criteria for a failed test 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 571.336, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

AMEND: 845-025-7000

RULE TITLE: Packaging and Labeling — Definitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule sets definitions for the purposes of packaging and labeling. The proposed amendments update and clarify definitions; add sesame as a major food allergen to match changes in food law; conform language to conventions.

RULE TEXT:

For the purposes of OAR 845-025-7000 to 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 item or hemp item.
- (2) "Added substances" means any component or ingredient added to usable marijuana, a cannabinoid concentrate, a cannabinoid extract, industrial hemp, or a hemp item during or after processing that is present in the final cannabinoid product or hemp 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.
- (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 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" 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 or hemp item is placed and any outer receptacle intended to display a marijuana item or hemp 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 hemp items 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 or hemp 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 item 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) "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, or industrial hemp concentrates.

(c) Does not include:

(A) Usable hemp by itself;

(B) Hemp stalk by itself;

(C) A hemp concentrate or extract by itself;

(D) Hemp seed incapable of germination by itself;

(E) Other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients; or

(F) A cannabinoid product.

(26) "Hemp capsule"

(a) Means a small, soluble pill, tablet, or container that contains liquid or powdered hemp cannabinoid product, industrial hemp concentrate, or industrial hemp extract and is intended for human ingestion.

(b) Does not mean a cannabinoid capsule.

(27) "Hemp concentrate or extract" means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269.

(28) "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:

(A) Hemp seed incapable of germination by itself;

(B) Other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients; or

(C) A cannabinoid edible.

(29) "Hemp item" has the meaning given that term in OAR 845-025-1015.

(30) "Hemp symbol" means the image, established by the Commission and made available to licensees, indicating the item is a hemp item.

(31) "Hemp tincture"

(a) Means a liquid hemp cannabinoid product packaged in a container of 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 an industrial hemp concentrate, industrial hemp extract, or usable hemp, and perhaps other ingredients, intended for human consumption 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; industrial hemp concentrate,

industrial hemp extract, or usable hemp; and other ingredients that does not contain any added sweeteners and is intended for human consumption or ingestion.

(b) Does not mean a cannabinoid tincture.

(32) "Hemp topical"

(a) Means a hemp cannabinoid product intended to be applied to skin or hair.

(b) Does not mean a cannabinoid topical.

(33) "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.

(34) "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.

(35) "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 hemp item.

(36) "Licensee" has the meaning given that term in ORS 475C.009.

(37) "Major food allergen" means an ingredient that contains any of the foods or food groups listed in subsections (a) to (i) of this section or an ingredient that contains protein derived from one of the foods listed in subsections (a) to (i) of this section:

(a) Milk;

(b) Egg;

(c) Fish;

(d) Crustacean shellfish;

(e) Tree nuts;

(f) Wheat;

(g) Peanuts;

(h) Soybeans; and

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

(38)(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.

(39) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product, or a cannabinoid concentrate or extract.

(40) "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.

(41) "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.

(42) "Medical marijuana dispensary" means a facility registered under ORS 475C.833.

(43) "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.

(44) "Net volume" means the fluid measure of a liquid product expressed as milliliters and fluid ounces.

(45) "Net weight"

(a) Means the gross weight minus the tare weight of the packaging expressed as ounces and grams or milligrams.

(b) Includes, as applied to pre-rolled marijuana, the dried marijuana leaves and flowers, the rolling paper, and the filter or tip.

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

(47) "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."

(48) "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.

(49) "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.

(50) "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.

(51) "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.

(52) "Product identity" means a truthful or common name of the product that is contained in the package.

(53) "Registrant" means a person registered with the Authority under ORS 475C.770 to 475C.919.

(54) "Registry identification cardholder" means a person to whom a registration card has been issued under ORS 475C.783.

(55) "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.

(56) "THC" means total delta-9-tetrahydrocannabinol as calculated pursuant to OAR 333-064-0100.

(57) "These rules" means OAR 845-025-7000 to 845-025-7190.

(58) "UID number" means the unique identification number generated by CTS at the time the marijuana item or hemp item was packaged and labeled for ultimate sale to a consumer, patient, or designated primary caregiver.

(59) "Ultimate sale" means the final sale from a retail location or dispensary to a consumer, patient, or designated primary caregiver.

(60) "Universal symbol" means the image, established by the Authority and made available to licensees and registrants, indicating the marijuana item contains marijuana.

(61) "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 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.

(62) "Usable marijuana"

(a) Means the dried leaves and flowers of marijuana and 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.

(b) 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, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.604, 571.337

AMEND: 845-025-7010

RULE TITLE: Purpose, Scope and Effective Date

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the purpose, scope, and effective date of the packaging and labeling rules. The proposed amendments clarify hemp item labeling requirements.

RULE TEXT:

(1) The purpose of OAR 845-025-7000 to 845-025-7190 is to set the minimum standards for the packaging and labeling of marijuana items and hemp 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;

(b) A Commission-certified hemp handler transferring a hemp item to a licensee if the hemp item is in its final form ready for sale or transfer to a consumer; and

(c) 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 a hemp item or industrial hemp 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, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.604, ORS 475C.612

AMEND: 845-025-7020

RULE TITLE: Packaging for Sale to Consumer

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details requirements for packaging for sale to a consumer. The proposed amendments clarify hemp item packaging requirements.

RULE TEXT:

- (1) Containers or packaging for marijuana items and hemp 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 hemp 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, cannabinoid extract, hemp cannabinoid product, or hemp concentrate or 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, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.612, ORS 475C.065, 475C.085, 475C.093, 571.337

AMEND: 845-025-7030

RULE TITLE: Labeling for Sale to Consumer

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details requirements for labeling for sale to a consumer. The proposed amendments clarify hemp item labeling requirements; clarify principal display panel for very small containers; conform language to conventions.

RULE TEXT:

(1) A label required by these rules must:

(a) Be printed on or affixed to the container holding the marijuana item or hemp item and printed on or affixed to any outer package or container that is used to display the marijuana item or hemp 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 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 hemp 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 hemp 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 a hemp 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 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. 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 or 845-025-2760, 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 hemp 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 hemp 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 hemp 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, the following warning is required on the label: "For use only by adults 21 and older. Keep out of reach of children."

(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 (a) of this section on a hangtag attached to the marijuana item or hemp item.

(c) May use a peel-back or accordion label with the information required in subsection (b) of this 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 hemp item that is in a container that has a complete surface area available for applying a label that is less than two inches squared:

(a) May have a label printed on or affixed to the container that holds the marijuana item or hemp item 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 (a) of this section on a hangtag attached to the marijuana item or hemp item.
- (c) May use a peel-back or accordion label with the information required in subsection (c) of this 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 hemp 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 hemp item that simultaneously falls within more than one category must comply with the labeling requirements that apply to each category, 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. 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.
- (15) If a marijuana item or hemp 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 hemp 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 hemp item used to make the product.
- (18) A cannabinoid edible or hemp 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 or hemp 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 hemp 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 hemp 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 or hemp 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, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.604, 571.337

AMEND: 845-025-7110

RULE TITLE: Cannabinoid Tincture and Capsule Labeling Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details cannabinoid tincture and capsule labeling requirements. The proposed amendments update warning language for medical grade cannabinoid tinctures to conform with past updates to warning language for other cannabinoid tinctures.

RULE TEXT:

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) "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

AMEND: 845-025-7140

RULE TITLE: Labeling Requirements for Hemp Items

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details labeling requirements for hemp items. The proposed amendments clarify hemp item labeling requirements.

RULE TEXT:

(1) A licensee or Commission-certified hemp handler processing or selling hemp items may only possess and offer for sale hemp items that are labeled and packaged for ultimate sale to a consumer as outlined in OAR 845-025-7000 to 845-025-7120 and 845-025-7145 with the following exceptions:

- (a) The principal display panel must contain the hemp symbol instead of the universal symbol;
- (b) 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."
- (c) 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.
- (2) Except as described in section (1) of this rule:
 - (a) Usable hemp must be labeled as outlined in OAR 845-025-7070.
 - (b) A hemp topical must be labeled as outlined in OAR 845-025-7080.
 - (c) A hemp edible must be labeled as outlined in OAR 845-025-7090.
 - (d) A hemp concentrate or extract must be labeled as outline in OAR 845-025-7100.
 - (e) A hemp tincture or hemp capsule must be labeled as outlined in OAR 845-025-7110.
 - (f) A hemp cannabinoid product other than a hemp edible, hemp topical, hemp tincture, or hemp capsule must be labeled as outlined in OAR 845-025-7120.

STATUTORY/OTHER AUTHORITY: ORS 475C.604, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.604, 571.337

AMEND: 845-025-7150

RULE TITLE: Wholesaler and Retailer Packaging and Labeling Compliance Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details wholesaler and retailer packaging and labeling compliance requirements. The proposed amendments clarify hemp item packaging and labeling requirements.

RULE TEXT:

(1) If a wholesaler or a retailer receives a marijuana item or hemp 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 hemp 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 hemp 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, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.612, ORS 475C.093, 571.337

AMEND: 845-025-7160

RULE TITLE: Packaging and Labeling Pre-approval Process

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the packaging and labeling pre-approval process. The proposed amendments clarify hemp item packaging requirements; conform language to conventions.

RULE TEXT:

(1) Prior to selling, offering for sale, or transferring a marijuana item or hemp item that is for ultimate sale to a consumer, patient, or designated primary caregiver, a licensee, a license applicant, 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, 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 items 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 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 hemp item that is not compliant with ORS 475C, OAR chapter 333, divisions 7 and 8, or OAR chapter 845, 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, divisions 7 and 8, or OAR chapter 845, 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, 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's, registrant's, or 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, 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, registrant, or Commission-certified hemp handler must resubmit the packaging or labeling in accordance with section (1) of this rule.

(7) A licensee, applicant, 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, registrants, and Commission-certified hemp handlers who have approved label applications.

(12) Labels for marijuana items and hemp 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.237, ORS 475C.616, 571.337, 475C.604, ORS 475C.608

STATUTES/OTHER IMPLEMENTED: ORS 475C.616, 571.337, ORS 475C.608

AMEND: 845-025-7170

RULE TITLE: Packaging and Labeling Prohibited Conduct

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details packaging and labeling prohibited conduct. The proposed amendments specify civil penalty caps for packaging and labeling violations; clarify hemp item packaging and labeling prohibited conduct.

RULE TEXT:

(1) The following conduct is prohibited:

(a) Failure to comply with any provision of ORS 475C.600 to 475C.648 or these rules.

(b) Transferring, selling, or offering to sell a marijuana item or hemp item for ultimate sale to a consumer to another licensee that is not packaged or labeled in accordance with these rules.

(c) Failure to receive package and label approval prior to transferring, selling, or offering for sale a marijuana item or hemp item that is for ultimate sale to a consumer.

(d) Transferring, selling, or offering for sale a marijuana item or hemp item that has not received package or label approval.

(e) Selling or offering to sell a marijuana item or hemp item under a different label or package than what was approved.

(f) Selling a marijuana item or hemp item in a package that is not resealable and continually child-resistant as required by these rules.

(2) For each violation of a provision of ORS 475C.600 to 475C.648 or a rule adopted thereunder, the Commission may impose a civil penalty of up to \$500 per violation.

(a) Each violation of a provision of ORS 475C.600 to 475C.648 or a rule adopted thereunder is a separate violation.

(b) Each unit of sale that is in violation of a rule or statute constitutes a separate violation.

(c) Civil penalties are assessed as follows:

(A) Except as provided in paragraphs (B) to (D) of this subsection, violations of OAR 845-025-7000 to 845-025-7190 will be assessed up to \$50 per violation with an overall cap of \$10,000 for all violations charged concurrently in a single notice.

(B) Violations of OAR 845-025-7030(2) will be assessed up to \$250 per violation with an overall cap of \$50,000 for all violations charged concurrently in a single notice.

(C) Knowing violations of OAR 845-025-7030(2) in which a label contains any untruthful or misleading content will be assessed up to \$500 per violation with an overall cap of \$100,000 for all violations charged concurrently in a single notice.

(D) Notwithstanding paragraphs (A) to (C) of this subsection, violations that create a present or substantial likelihood of a threat to public health or safety will be assessed up to \$500 per violation with an overall cap of \$500,000 for all violations that are charged concurrently in a single notice.

(E) If a licensee has within the previous two years been assessed a civil penalty for any packaging or labeling violation, the Commission may assess the maximum of \$500 per violation with an overall cap of double the overall cap amounts described in paragraphs (A) to (D) of this subsection for all violations charged concurrently in a single notice.

STATUTORY/OTHER AUTHORITY: ORS 475C.604, 475C.608, 475C.612, 475C.616, 475C.636, 475C.644, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.604, 475C.644, 571.337

AMEND: 845-025-7180

RULE TITLE: Approval Withdrawal

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the process for withdrawal of approval for packaging and labeling. The proposed amendments clarify hemp item packaging and labeling requirements.

RULE TEXT:

(1) The licensee, 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, registrant, or Commission-certified hemp handler of the withdrawal of approval and provide the licensee, registrant, or Commission-certified hemp handler with the deficiencies that provide the basis for the withdrawal. The licensee, 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, 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, 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, 475C.612, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.604, 475C.612, 475C.608, 475C.616, 571.337

AMEND: 845-025-7190

RULE TITLE: Effective Date

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule sets the effective date for packaging and labeling rule requirements. The proposed amendments clarify hemp item packaging and labeling requirements.

RULE TEXT:

- (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 hemp 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 hemp 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 item 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.237, ORS 475C.604, 475C.612, 475C.608, 475C.616, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.604, 571.337

AMEND: 845-025-7500

RULE TITLE: Seed-To-Sale Tracking — CTS Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details CTS tracking requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) A licensee must:

(a) Use CTS as the primary inventory and recording keeping system.

(b) Have a CTS account activated and functional within three business days of being licensed and must maintain an active account while licensed.

(2) A licensee must have at least one license holder who is a CTS administrator. A licensee may authorize additional license holders or licensee representatives to obtain Administrator accounts.

(3) In order to obtain a CTS administrator account, a license holder must attend and successfully complete all required CTS training, except as provided in section (4) of this rule. The Commission may also require additional ongoing, continuing education for individual administrators to retain their CTS administrator account.

(4) A licensee may designate licensee representatives as CTS users. A designated user must be trained by a CTS administrator in the proper and lawful use of CTS. Notwithstanding section (3) of this rule, a licensee may designate a licensee representative to attend and successfully complete required CTS training so long as both the licensee and the designated representative obtain CTS administrator accounts.

(5) A licensee must:

(a) Maintain an accurate and complete list of all CTS administrators and CTS users for each licensed premises and must update the list when a new CTS user is trained.

(b) Train and authorize any new CTS users before those users are permitted to access CTS or input, modify, or delete any information in CTS.

(c) Cancel any CTS administrator or user from an associated CTS account if that individual is no longer a licensee representative or the administrator or user has violated OAR 845-025-7500 to 845-025-7590.

(d) Correct any data that is entered into CTS in error.

(6) A licensee is accountable for all actions licensee representatives take while logged into CTS or otherwise conducting inventory tracking activities.

(7) Nothing in this rule prohibits a licensee from using secondary separate software applications to collect information to be used by the business including secondary inventory tracking or point of sale systems. If a licensee uses a separate software application that links to the CTS system it must get approval from the CTS vendor contracting with the Commission and the software application must:

(a) Accurately transfer all relevant CTS data to and from CTS for the purposes of reconciliations with any secondary systems.

(b) Preserve original CTS data when transferred to and from a secondary application.

(8) If at any point a licensee loses access to CTS for any reason, the licensee must keep and maintain comprehensive records detailing all tracking inventory activities that were conducted during the loss of access.

(a) Once access is restored, all inventory tracking activities that occurred during the loss of access must be entered into CTS.

(b) A licensee must document when access to the system was lost and when it was restored.

(c) A licensee may not transport any marijuana items to another licensed premises until such time as access is restored and all information is recorded into CTS.

(9) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.548, ORS 475C.177

STATUTES/OTHER IMPLEMENTED: ORS 475C.177

AMEND: 845-025-7520

RULE TITLE: Unique Identification (UID) Tags

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details UID tag requirements. The proposed amendments specify violation category.

RULE TEXT:

(1) A licensee, grow site administrator, person responsible for a marijuana processing site, person responsible for a dispensary, and hemp certificate holder must:

(a) Use UID tags issued by a Commission-approved vendor that is authorized to provide UID tags for CTS. Each licensee is responsible for the cost of all UID tags and any associated vendor fees.

(b) Have an adequate supply of UID tags at all times, except during the first ten calendar days of licensure so long as UID tags have been ordered and are in transit to the premises.

(c) Assign and affix a UID tag to each individual marijuana plant being cultivated no later than when each plant reaches a height of 36 inches or when the individual plant is flowering, whichever is sooner.

(d) Assign and affix a UID tag to all other marijuana items, or receptacles containing marijuana items, in a manner that:

(A) Establishes an accurate record from one marijuana item to another; and

(B) Uses a new UID tag each time a marijuana item is added to or placed in a receptacle.

(e) Place tags in a position that can be clearly read by an individual standing next to the item and the tag must be kept free from dirt and debris.

(2) The requirements of subsection (1)(d) of this rule do not apply to:

(a) Marijuana harvested by producers or grow site administrators in the first 45 days after the harvest of the marijuana plant if a UID tag has not yet been designated in CTS; or

(b) Marijuana items that are part of an active process lot and that are being tracked pursuant to OAR 845-025-7575.

(3) A licensee, research certificate holder, laboratory licensee, hemp certificate holder, grow site subject to CTS tracking, or medical marijuana processing site may not combine marijuana items or hemp items of different size, potency, or category under a single UID tag, except for:

(a) Mixed lots of usable marijuana;

(b) Mixed lots of usable hemp;

(c) Pre-rolled marijuana of identical weight of usable marijuana; or

(d) Cannabinoid concentrates, extracts, or hemp items that are transferred to a processor or processing site to be processed.

(4) Violations.

(a) A violation of subsection (1)(d) of this rule is a Category III violation.

(b) All other violations of this rule are Category IV violations.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.548, 475C.097, ORS 475C.177

STATUTES/OTHER IMPLEMENTED: ORS 475C.177

AMEND: 845-025-7560

RULE TITLE: Seed-To-Sale Tracking — System Notifications

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details licensee requirements related to CTS system notifications. The proposed amendments specify violation category.

RULE TEXT:

A licensee must:

- (1) Monitor all compliance notifications from CTS and resolve the issues detailed in the compliance notification in a timely fashion. A licensee may not dismiss a compliance notification in CTS until the licensee resolves the compliance issues detailed in the notification.
- (2) Take appropriate action in response to informational notifications received through CTS, including but not limited to notifications related to UID billing, enforcement alerts, and other pertinent information.
- (3) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.548, ORS 475C.177

STATUTES/OTHER IMPLEMENTED: ORS 475C.177

AMEND: 845-025-7570

RULE TITLE: Seed-To-Sale Tracking — Cultivation Batches

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details CTS requirements cultivation batches. The proposed amendments specify violation category.

RULE TEXT:

- (1) Immature marijuana plants under 36 inches in height at the premises of a producer, at a grow site subject to tracking in CTS, or at the premises of a research certificate holder must be recorded in CTS as part of a cultivation batch.
- (2) A producer, research certificate holder, or grow site administrator must assign each cultivation batch a unique user-generated batch name and record the batch name and number of immature marijuana plants in each cultivation batch in CTS.
- (3) Batch names must be physically affixed to the cultivation batch or the segregated area where the cultivation batch is physically located.
- (4) A cultivation batch may not have more than 100 immature marijuana plants less than 36 inches tall.
- (5) A producer, research certificate holder, or grow site administrator may have an unlimited number of cultivation batches at any one time.
- (6) Violations. A violation of this rule is a Category IV violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.177

STATUTES/OTHER IMPLEMENTED: ORS 475C.065, 475C.177

ADOPT: 845-025-7575

RULE TITLE: Seed-To-Sale Tracking - Processing

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details CTS requirements for processing. This is a new rule establishing CTS tracking requirements for processing.

RULE TEXT:

- (1) For purposes of this section, "SOP" means the standard policy or procedure required by OAR 845-025-3230.
- (2) On and after April 15, 2023, for each process lot, all licensees and medical marijuana processing sites must utilize "Processing Jobs" in CTS to record:
 - (a) The unique process lot number or name;
 - (b) The UID and quantity of all cannabis material being used for the lot;
 - (c) The UID and quantity of all outputs of the lot;
 - (d) The date that processing of the lot is completed; and
 - (e) The quantity of waste generated from the source cannabis material during processing.
 - (A) For methods that are an extraction of cannabinoids as described in paragraph (3)(b)(A) of this rule, the waste weight should be calculated as the difference between the weight of the source cannabis material and the weight of any cannabinoid concentrates or extracts created during the processing job.
 - (B) For methods that are an incorporation of cannabinoids as described in paragraph (3)(b)(B) of this rule, the waste weight should be determined by directly weighing any portion of the source cannabis material being disposed of as waste.
- (3) Each process lot must be associated with a job type in CTS that contains:
 - (a) The unique name of the SOP or SOPs being utilized;
 - (b) Whether the processing method or methods are:
 - (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 processing method or methods include any of the following processes or results in any of the following outputs:
 - (A) Processes that result in effective sterilization.
 - (B) Processes that use hydrocarbon solvents.
 - (C) Processes that are purely mechanical and do not include the use of solvents.
 - (D) Outputs that are intended for oral consumption or intended to be used as an ingredient in a product intended for oral consumption.
 - (E) Outputs that contain any major food allergen, as that term is defined in OAR 845-025-7000.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.177

STATUTES/OTHER IMPLEMENTED: ORS 475C.085, 475C.177

AMEND: 845-025-7580

RULE TITLE: Reconciliation with Inventory

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details reconciliation with inventory in CTS. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) All licensees, laboratory licensees, research certificate holders, grow site administrators, medical marijuana processing sites, and medical marijuana dispensaries must:

- (a) Use CTS for all inventory tracking activities, as defined by these rules.
- (b) By 8 a.m. local time of the next calendar day, reconcile all marijuana item inventories and weights in CTS;
- (c) Record all required information for usable marijuana, cannabinoid concentrates, and extracts by weight;
- (d) Record the wet weight of each harvested marijuana plants immediately after harvest; and
- (e) Record all required information for cannabinoid products by unit count but must also record the weight per unit of a product.

(2) Notwithstanding subsection (1)(b) of this rule, during the first 45 days following the harvest of a marijuana plant, daily reconciliation of the weight of moisture lost to evaporation is not required for marijuana. The weight of moisture loss must be reconciled prior to any transfer, processing, sale, or packaging and no later than 45 days after the harvest, whichever comes first.

(3) The requirements in subsection (1)(b) and section (5) of this rule do not apply during the first ten calendar days of licensure or registration so long as the licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary has ordered UID tags and the UID tags are in transit to the receiving party.

(4) The requirements in subsection (1)(b) of this rule do not apply to marijuana items held by a laboratory licensee that are undergoing analytical testing required by these rules or OAR chapter 333, division 7 so long as the marijuana items do not leave the laboratory's licensed premises and are reconciled on the same day that the analytical testing concludes.

(5) Notwithstanding subsection (1)(d) of this rule, the wet weight of each harvested marijuana plant may be entered as the mean average of the plants being harvested. The mean average shall be calculated as the sum total wet weight of the plants being entered into CTS as an individual group divided by the number of plants in that group.

(6) In addition to the requirements in section (1) of this rule, retailers and medical marijuana dispensaries must record each sale, delivery, or transfer of a marijuana item to a consumer as a sales transaction and record the price before tax and amount of each item sold and the date of each transaction in CTS for each individual transaction. A marijuana item transferred to a medical marijuana patient or caregiver for no cost must be recorded as a sales transaction with zero price.

(7) Information that was not required to be recorded and reconciled daily pursuant to section (3) of this rule must be recorded and reconciled within three calendar days of the licensee's, grow site administrator's, medical marijuana processing site's, or medical marijuana dispensary's receipt of UID tags.

(8) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, ORS 475C.177

STATUTES/OTHER IMPLEMENTED: ORS 475C.177

AMEND: 845-025-7590

RULE TITLE: Seed-To-Sale Tracking — Inventory Audits

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details CTS inventory audits. The proposed amendments remove requirement to notify a licensee prior to an inventory audit.

RULE TEXT:

The Commission may perform a physical audit of the inventory of any licensee at the agency's discretion. Variances between the physical audit and the inventory reflected in CTS at the time of the audit, which cannot be attributed to normal moisture variation in usable marijuana, are violations. The Commission may impose a civil penalty, suspend, or revoke a licensee for violation of this section.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.205

AMEND: 845-025-7700

RULE TITLE: Transportation and Delivery of Marijuana Items

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details requirements for the transportation and delivery of marijuana items. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) Marijuana items transferred by licensees.

(a) Marijuana items transferred between licensed premises may only be transported by:

(A) A licensee or licensee representative of the originating license or another license under common ownership;

(B) A licensee or licensee representative of the receiving license; or

(C) A wholesale licensee or wholesale licensee representative on behalf of the originating or receiving licensee.

(b) Marijuana items transferred by a licensee to a PRMG or to the residence of a registry identification cardholder or designated primary caregiver may only be transported by the originating licensee or a licensee representative of the originating licensee.

(c) Samples of marijuana items that are obtained by a laboratory licensee pursuant to OAR 333-007-0360 may only be transported by the laboratory licensee or a laboratory licensee representative of the receiving laboratory.

(2) Physical transport requirements for licensees.

(a) An individual authorized to transport marijuana items on behalf of a licensee or laboratory licensee must have a valid driver license.

(b) A licensee or laboratory licensee must:

(A) Store marijuana items in the delivery vehicle within a locked, secured area, shielded from view from the exterior of the vehicle;

(B) When transporting perishable marijuana items, provide appropriate temperature control within the transport vehicle;

(C) Use a delivery vehicle that is equipped with an alarm system and is insured at or above the legal requirements in Oregon;

(D) Deliver marijuana items to all destinations and return any remaining marijuana items to the origin premises within 60 hours of original departure;

(E) Document all overnight stops in the planned route of the manifest and include the address, estimated arrival time at, and estimated departure time from the location of each overnight stop;

(F) Package all marijuana items for transport in shipping containers and assign and affix a UID tag to all receptacles containing marijuana items as required by these rules;

(G) Provide a copy of the manifest to each location receiving the inventory described on the manifest, but may prepare a separate CTS manifest for each receiving location in order to maintain transaction confidentiality;

(H) Contact the Commission immediately, or as soon as possible under the circumstances, if a vehicle transporting marijuana items is involved in any accident or other situation involving product loss;

(I) Travel directly from the originating location to the destination location as described in the manifest route;

(J) Notify the Commission in advance of every stop at an unlicensed location that exceeds two hours in duration and is not already listed in the manifest route; and

(K) Immediately make the vehicle and its contents available for inspection upon the Commission's request if the delivery vehicle is stopped at an unlicensed location.

(c) A licensee or laboratory licensee may not:

(A) Make any unnecessary stops in between the originating and destination locations except to other licensed premises receiving inventory as described on the manifest;

(B) Remove the marijuana items from the vehicle until they arrive at the destination recorded in the manifest. Licensees or laboratory licensees may not transfer marijuana items to, nor store marijuana items in a hotel or any other unlicensed

premises;

(C) Except as allowed in section (8) of this rule, void or change a manifest after departing the originating premises; or

(D) Travel with any persons not listed on the manifest.

(3) CTS Manifest General Requirements.

(a) Prior to removing a marijuana item from the originating location for the purposes of transport or delivery, the originating licensee, laboratory licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must use CTS to generate a printed transport manifest containing the following information:

(A) The originating location's license number and address as it appears in CTS;

(B) The destination location's license number and address as it appears in CTS;

(C) The UID, product name, and quantity (by weight or unit as applicable) of each marijuana item;

(D) The actual date and estimated time of departure;

(E) Location and duration of time for any overnight stop;

(F) The arrival date and estimated time of arrival or completion of delivery;

(G) The delivery vehicle make, model, and license plate number; and

(H) The name, contact information, worker permit number and signature of the individual accompanying the transport.

(b) A physical, printed copy of the generated manifest must accompany every transport of marijuana items.

(c) An originating licensee transporting marijuana items to a retailer licensee must generate a manifest at least 24 hours in advance of initiating transport, if the marijuana items being transported exceed:

(A) 25 pounds of usable marijuana;

(B) One pound of cannabinoid concentrate or extract; or

(C) 1,000 units of sale of any individual cannabinoid product.

(d) Notwithstanding subsection (b) of this section, a manifest is not required for a sales transaction or transfer of marijuana to a consumer, patient, or caregiver when the physical transfer of the marijuana occurs at the premises of a licensed retailer or at a medical marijuana dispensary.

(4) CTS Manifest Requirements for Transports to Consumers. When transporting marijuana items to a consumer as allowed by these rules, the manifest must include:

(a) The information required on the manifest by subsection (3)(a) of this rule, except for a destination location license number;

(b) The name of the individual receiving the marijuana item;

(c) The address of the destination; and

(d) All information for the manifest required under OAR 845-025-2880.

(5) CTS Manifest Requirements for Transfers to PRMGs, Registry Identification Cardholders, or Designated Primary Caregivers.

(a) Prior to transferring marijuana items to a PRMG, registry identification cardholder, or designated primary caregiver, a licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must use CTS to generate a printed transport manifest containing:

(A) The information required on a manifest by subsection (3)(a) of this rule, except for a destination location license number;

(B) The name of the individual receiving the marijuana item;

(C) The address of the destination, if the delivery is not completed at the originating location;

(D) If delivered to a registry identification cardholder, the registry identification card number;

(E) If delivered to a designated primary caregiver on behalf of a patient, designated primary caregiver identification card; and

(F) If delivered to a PRMG, the marijuana grower and grow site registration card number of the PRMG.

(b) A licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary transporting marijuana to individuals or locations not in CTS must record whether each marijuana item was accepted by the recipient or rejected and returned to the originating location inventory, and if accepted, record the transport as complete in CTS.

(6) CTS Requirements when Receiving from Locations in CTS. Upon receipt of a delivery of marijuana items, the receiving licensee, laboratory licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must:

- (a) Record each applicable UID as accepted and received or rejected in CTS as applicable;
- (b) Verify the marijuana items received are as described on the manifest and record receipt of the marijuana items in CTS if accepted; and
- (c) Separately and for each UID, document any differences between the quantities specified on the manifest and the quantities received in CTS.

(7) CTS Requirements when Receiving from Locations Not in CTS. When receiving marijuana items from a source not subject to CTS tracking but otherwise allowed by these rules or OAR chapter 333, division 8, a licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must:

- (a) Use CTS to record an incoming manifest including the registry identification card number, designated primary caregiver identification card number, or grow site registration card number, as applicable;
- (b) Assign and affix a UID tag to each quantity of marijuana items received;
- (c) Use CTS to record the incoming transport no later than the time of daily inventory reconciliation as required by these rules; and
- (d) Verify the marijuana items received are as described on the manifest and record receipt of the marijuana items in CTS.

(8) Licensee Transport of Marijuana to Intermediary Stops. A licensee may remove marijuana items from a manifest after departing from the originating premises if:

- (a) The route of the original manifest lists the trade name, license number, address, and estimated arrival time for each licensed premises that will be visited as an intermediary stop;
- (b) All marijuana items in the vehicle are included on a CTS manifest at the time of departure from the originating premises;
- (c) Marijuana items that are removed from the original manifest at an intermediary stop are immediately added to a new CTS manifest. The destination license on the new manifest must be listed on the original manifest route as an intermediary stop;
- (d) Changes to the original manifest under subsection (c) of this section are only made while the marijuana items subject to the change are physically located within the licensed premises of the intermediary stop to which they are being transferred; and
- (e) The amount of marijuana items being transported in the vehicle does not exceed:
 - (A) 25 pounds of usable marijuana;
 - (B) One pound of concentrate or extract; or
 - (C) 1,000 units of sale of any individual cannabinoid product.

(9) Violations.

- (a) A violation of section (1) of this rule is a Category I violation.
- (b) A violation of sections (2) to (4) of this rule is a Category III violation.
- (c) A violation of sections (5) to (8) of this rule is a Category IV violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.177

STATUTES/OTHER IMPLEMENTED: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097, 475C.177

ADOPT: 845-025-7725

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

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the transfer of marijuana items between state and tribal licensees. This is a new rule allowing transfers of marijuana items between state and tribal licensees.

RULE TEXT:

(1) For the purposes of this rule, "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 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: ORS 475C.017, ORS 475C.521

STATUTES/OTHER IMPLEMENTED: ORS 475C.521

AMEND: 845-025-7750

RULE TITLE: Waste Management

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details waste management. The proposed amendments specify violation category; conform language to conventions.

RULE TEXT:

(1) A licensee must:

(a) Store, manage and dispose of solid and liquid wastes generated during marijuana production and processing in accordance with applicable state and local laws and regulations which may include but are not limited to:

(A) Solid waste requirements in ORS 459 and OAR chapter 340, divisions 93 to 96;

(B) Hazardous waste requirements in ORS 466 and OAR chapter 340, divisions 100 to 106; and

(C) Wastewater requirements in ORS 468B and OAR chapter 340, divisions 41 to 42, 44 to 45, 53, 55, and 73.

(b) Store marijuana waste in a secured waste receptacle in the possession of and under the control of the licensee.

(c) If a licensee generates the waste post-harvest or if an entire marijuana plant greater than 24 inches tall is designated as waste:

(A) The waste must be held on the licensed premises for at least three business days under camera coverage prior to disposal.

(B) The licensee must document a reason for the waste in a form and manner prescribed by the Commission.

(C) The licensee must document the exact time and method of destruction in a form and manner prescribed by the Commission.

(d) For waste that was previously designated a marijuana item, all licensees must:

(A) Hold on the licensed premises for at least three business days under camera coverage prior to disposal;

(B) Document a reason for the waste in a form and manner prescribed by the Commission; and

(C) Document the exact time and method of destruction in a form and manner prescribed by the Commission.

(2) A licensee may give or sell marijuana waste to a producer, processor, or wholesale licensee or research certificate holder. Any such transaction must be entered into CTS pursuant to OAR 845-025-7500.

(3) In addition to information required to be entered into CTS pursuant to OAR 845-025-7500, a licensee must maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana.

(4) Waste items consisting of usable marijuana, concentrates, extracts, or cannabinoid products must be disposed of on the licensed premises or transferred to another licensee for disposal.

(5) Any product containing marijuana or hemp waste may not be transferred or sold to any licensee for consumption.

(6) Violations. A violation of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.117, 475C.117

STATUTES/OTHER IMPLEMENTED: 475C.117, ORS 475C.065, 475C.085, 475C.093, 475C.097, 475C.117

AMEND: 845-025-8040

RULE TITLE: Advertising Restrictions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details advertising restrictions. The proposed amendments specify violation category.

RULE TEXT:

(1) Marijuana advertising may not:

(a) Contain statements that are deceptive, false, or misleading;

(b) Contain any content that can reasonably be considered to target individuals under the age of 21, including but not limited to images of minors, cartoons, toys, or similar images and items typically marketed towards minors, or references to products that are commonly associated with minors or marketed by minors;

(c) Specifically encourages the transportation of marijuana items across state lines or otherwise encourages illegal activity;

(d) Assert that marijuana items are safe because they are regulated by the Commission or have been tested by a certified laboratory or otherwise make claims that any government agency endorses or supports marijuana;

(e) Make claims that recreational marijuana has curative or therapeutic effects;

(f) Display consumption of marijuana items;

(g) Contain material that encourages the use of marijuana because of its intoxicating effect; or

(h) Contain material that encourages excessive or rapid consumption.

(2) A licensee may not make any deceptive, false, or misleading assertions or statements on any informational material, any sign, or any document provided to a consumer.

(3) A licensee must include the following statements on all print, billboard, television, radio, and internet advertising in font size legible to the viewer:

(a) "Do not operate a vehicle or machinery under the influence of this drug.";

(b) "For use only by adults twenty-one years of age and older."; and

(c) "Keep out of the reach of children."

(4) Violations. A violation of this rule is a Category V violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.017

AMEND: 845-025-8060

RULE TITLE: Advertising Media, Coupons, and Promotions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details restrictions related to advertising media, coupons, and promotions. The proposed amendments specify violation category.

RULE TEXT:

- (1) The Commission prohibits advertising through handbills that are passed out in public areas such as parking lots and publicly owned property.
- (2) A licensee may not utilize television, radio, billboards, print media, or internet advertising unless the licensee has reliable evidence that no more than 30 percent of the audience for the program, publication, or internet web site in or on which the advertising is to air or appear is reasonably expected to be under the age of 21.
- (3) A licensee who advertises via web page must utilize appropriate measures to ensure that individuals visiting the web page are over 21 years of age.
- (4) A licensee may not engage in advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature.
- (5) Violations. A violation of this rule is a Category V violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.017

AMEND: 845-025-8080

RULE TITLE: Removal of Objectionable and Non-Conforming Advertising

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details removal of objectionable and non-conforming advertising. The proposed amendments specify violation category.

RULE TEXT:

- (1) A licensee must remove any sign, display, or advertisement if the Commission finds it violates these rules.
- (2) The Commission will notify the licensee and specify a reasonable time period for the licensee to remove any sign, display, or advertisement that the Commission finds objectionable.
- (3) Violations. A violation of this rule is a Category V violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.017

AMEND: 845-025-8500

RULE TITLE: Responsibility of Licensee, Responsibility for Conduct of Others

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the responsibility of licensees for violations and for the acts and omissions of licensee representatives. The proposed amendments specify violation category.

RULE TEXT:

Each licensee or laboratory licensee is responsible for violations of any provision of ORS chapter 475C affecting the licensed privileges, or these rules and for any act or omission of a licensee representative that violates any law, administrative rule, or regulation affecting the licensed privileges.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.017

AMEND: 845-025-8520

RULE TITLE: Prohibited Conduct

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details prohibited conduct. The proposed amendments specify violation category; amend to allow walk-up sales and clarify on-site delivery; renumber reference to amended rule.

RULE TEXT:

(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, 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 themselves and who enters or wants to enter a licensed premises to conduct an inspection to ensure compliance with ORS chapter 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 themselves and requests entry on the basis that there is a reason to believe a violation of ORS chapter 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 chapter 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 845-025-1180(4);

(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, 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 window.

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

(c) Deliver marijuana items 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) Permit industrial hemp or a hemp item to be present on the licensed premises, except as allowed by these rules. A violation of this subsection is a Category II violation.

(e) A violation of subsection (a) to (c) of this section is a Category III 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, 475C.097, 475C.229, 475C.329, 475C.333, 475C.109

AMEND: 845-025-8540

RULE TITLE: Dishonest Conduct

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details prohibitions on dishonest conduct. The proposed amendments update to include laboratory licensees; amend to prohibit permittees as well as licensees from supplying adulterated marijuana items.

RULE TEXT:

(1) False Statements. A licensee, laboratory licensee, or permittee may not:

- (a) Make a false statement or representation to the Commission or law enforcement in order to induce or prevent action or investigation by the Commission or law enforcement. Violation of this subsection is a Category II violation.
- (b) If the Commission finds that the false statement or representation was intentional, the Commission may charge the violation as a Category I violation and could result in license or permit revocation.

(2) Marijuana Item Misrepresentations.

(a) A licensee, laboratory licensee, or permittee may not misrepresent any marijuana item to a consumer, licensee, laboratory licensee, or the public, including:

- (A) Misrepresenting the contents of a marijuana item;
- (B) Misrepresenting the testing results of a marijuana item;
- (C) Misrepresenting the potency of a marijuana item; or
- (D) Making representations or claims that the marijuana item has curative or therapeutic effects.

(b) A licensee may not treat or otherwise adulterate usable marijuana with any chemical, biologically active drug, plant, substance, including nicotine, or other compound that has the effect or intent of altering the usable marijuana's color, appearance, weight, or smell or that has the effect or intent of increasing potency, toxicity, or addictiveness.

(c) A knowing or intentional violation of this section is a Category I violation and could result in license or permit revocation.

(d) Violation of this section in any manner other than knowing or intentional is a Category II violation.

(3) Supply of Adulterated Marijuana Items.

(a) A licensee or permittee may not supply adulterated marijuana items.

(b) Violation of this section is a Category I violation and could result in license revocation.

(4) Evidence. A licensee, laboratory licensee, or permittee may not:

(a) Intentionally destroy, damage, alter, remove, or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so. Violation of this subsection is a Category I violation and could result in license revocation.

(b) Destroy, damage, alter, remove or conceal potential evidence, or attempt to do so, or ask or encourage another person to do so, in any manner other than intentional. Violation of this subsection is a Category II violation.

(c) Refuse to give, or fail to promptly give, a Commission regulatory specialist or law enforcement officer evidence when lawfully requested to do so. Violation of this subsection is a Category II violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.065, 475C.085, 475C.093, 475C.097

STATUTES/OTHER IMPLEMENTED: ORS 475C.245

AMEND: 845-025-8560

RULE TITLE: Inspections

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details inspections. The proposed amendments specify violation category.

RULE TEXT:

(1) The Commission may conduct:

(a) An inspection at any time to ensure that a registrant, licensee, or permittee is in compliance with ORS chapter 475C or these rules; or

(b) Compliance transactions in order to determine whether a licensee or permittee is complying with ORS chapter 475C or these rules.

(2) A licensee, licensee representative, or permittee must cooperate with the Commission during an inspection.

(3) If licensee, licensee representative, or permittee fails to permit the Commission to conduct an inspection the Commission may seek an investigative subpoena to inspect the premises and gather books, payrolls, accounts, papers, documents, or records.

(4) Failure to cooperate with the Commission during an inspection as described in 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.301, 475C.628

AMEND: 845-025-8570

RULE TITLE: Uniform Standards for Minor Decoy Operations

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details standards for minor decoy operations. The proposed amendments specify violation category.

RULE TEXT:

(1) Purpose. ORS chapter 475C prevents anyone who has not reached 21 years of age from obtaining marijuana or marijuana items. It is the Commission's intention that decoy operations are to be an impartial test of a licensee's ability and willingness to obey laws on preventing sale of marijuana or marijuana items to minors.

(2) Uniform standards for minors used in minor decoy operations:

- (a) The minor must be under 21 years of age; and
- (b) The minor may not use false identification; and
- (c) The minor may not lie about their age.

(3) Uniform standards for coordination with law enforcement agencies. The Commission will coordinate with law enforcement agencies to ensure, to the greatest extent possible, that:

- (a) Law enforcement agencies are informed of the Commission's uniform standards for minor decoy operations; and
- (b) Law enforcement agencies provide the Commission with copies of their minor decoy policies.

(4) In order for the Commission to process violation cases in a timely manner, law enforcement agencies will be encouraged to provide the Commission with the results of any minor decoy operation.

(5) Licensees or any employee of a licensee must immediately return identification presented by the minor decoy upon request of law enforcement or an OLCC representative. Failure to return ID as described in this section is a Category II violation.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.017

AMEND: 845-025-8590

RULE TITLE: Suspension, Cancellation, Civil Penalties, Sanction Schedule

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details license suspension, license cancellation, civil penalties, and sanctions. The proposed amendments update and clarify license suspension, cancellation, and civil penalties; amend sanction schedule; conform language to conventions.

RULE TEXT:

(1) The Commission may suspend or cancel:

(a) A license issued under ORS 475C.005 to 475C.525 or 475C.548.

(b) A marijuana worker permit issued under ORS 475C.269.

(c) A research certificate issued under ORS 475C.289.

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

(e) A laboratory license issued under ORS 475C.548.

(2) The Commission may cancel a license under ORS 475C.265(1)(a) only when the conduct poses a significant risk to public health and safety. A significant risk to public health and safety includes, but is not limited to:

(a) Exercising licensed privileges while the license is suspended, or in violation of restrictions imposed on the license;

(b) Allowing minors at a processor license;

(c) Prohibited conduct involving a deadly or dangerous weapon or conduct that results in death or serious injury;

(d) Prohibited use of pesticides, fertilizers, and agricultural chemicals;

(e) Diversion of marijuana, inversion of marijuana, or other conduct described in ORS 475C.185;

(f) Transferring or providing adulterated marijuana items or hemp items to a licensee or consumer;

(g) Prohibited conduct by laboratory licensees as described in OAR 845-025-5075;

(h) Failure to meet testing requirements as described in OAR 845-025-5700 and OAR chapter 333, divisions 7 and 64;

(i) Intentionally destroying, damaging, altering, removing, or concealing potential evidence, or attempting to do so, or asking or encouraging another person to do so.

(3) Civil Penalties.

(a) The Commission may impose a civil penalty under ORS 475C.405. Civil penalties will be calculated by multiplying:

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

(B) The number of days in a suspension, if suspension could be or is being imposed, by \$250 for licensees or certificate holders for all other violation categories; or

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

(b) The Commission may impose for each violation of a provision of ORS 475C.600 to 475C.644 or OAR 845-025-7000 to 845-025-7190, a civil penalty of no more than \$500 for each day the violation occurs.

(A) For violations of OAR 845-025-7000 to 845-025-7190, civil penalties will be calculated as described in OAR 845-025-7170(2).

(B) For violations of OAR 845-025-2800(4)(p), 845-025-2900(4), or 845-025-3220(2)(e):

(i) Each violation of a provision of ORS 475C.600 to 475C.648 or a rule adopted thereunder is a separate violation.

(ii) Each unit of sale that is in violation of a rule or statute constitutes a separate violation.

(iii) Except as provided in subparagraph (iv) of this paragraph, civil penalties will be assessed at \$25 per violation with an overall cap of \$5,000 for all violations charged concurrently in a single notice.

(iv) If a licensee has previously been assessed a civil penalty under this paragraph, in assessing any subsequent civil penalty under this paragraph within a two year period the Commission will double the amount per violation and the overall cap for all violations charged concurrently in a single notice.

(4) The Commission uses the following violation categories for licensees licensed under ORS 475C.005 to 475C.525:

(a) Category I — Violations that make licensee ineligible for a license or pose a significant risk to public health and safety;

(b) Category II — Violations that create a present threat or substantial likelihood of a present threat to public health or safety;

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

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

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

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

(5) Violation sanctions.

(a) The Commission may sanction a licensee, permittee, Commission-certified hemp grower, or Commission-certified hemp handler in accordance with the guidelines set forth in Exhibit 1, incorporated by reference.

(b) Exhibit 1 lists the proposed sanctions for single or multiple violations that occur within a two year period for each category described in section (3) of this rule. The Commission may allege multiple violations in a single notice or may count violations alleged in notices issued within the previous two year period toward the total number of violations. In calculating the total number of violations, the Commission may consider a proposed violation for which the Commission has not yet issued a final order. The Commission reserves the right to sanction producer licensees by imposing civil penalties without the option of suspension.

(c) The proposed sanctions in Exhibit 1 are guidelines. If the Commission finds one or more mitigating or aggravating circumstances, it may assess a lesser or greater sanction, up to and including revocation. Mitigating circumstances may decrease the penalty but will not dismiss the violation. The Commission may decrease or increase a sanction to prevent inequity or to take account of particular circumstances in the case. The Commission may use a standard 30 percent reduction in sanctions during the settlement process.

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

(A) Making a good faith effort to prevent a violation. Examples of a good faith effort to prevent a violation may include employee training programs, management oversight, and the existence and enforcement of relevant policies. This mitigation factor reduces the sanction by three percent.

(B) Cooperation in the violation investigation demonstrating the licensee, permittee, certificate holder, Commission-certified hemp grower, or Commission-certified hemp handler accepts responsibility. This mitigation factor reduces the sanction by five percent.

(C) Self-reporting of a violation by a licensee or applicant. This mitigation factor reduces the sanction by seven percent.

(D) The licensee or applicant has demonstrated to the satisfaction of the Commission that the conduct that led to the violation is not persistent or serious. This mitigation factor reduces the sanction by three percent.

(E) The licensee or applicant has demonstrated to the satisfaction of the Commission a willingness and ability to control the licensed premises and inventory. This mitigation factor reduces the sanction by two percent.

(F) The licensee or applicant was not personally involved or aware of the violation occurring. This mitigation factor reduces the sanction by 10 percent.

(G) Repeated violations in a two-year period do not qualify for the mitigating factors described in paragraphs (A), (D), and (E) of this subsection on a subsequent violation of the same rule.

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

(A) Receiving a prior warning about one or more compliance problems. This aggravating circumstance increases the sanction by two percent.

(B) Repeated failure to comply with laws. This aggravating circumstance increases the sanction by two percent.

(C) Failure to use age verification equipment purchased as an offset to a previous penalty. This aggravating circumstance increases the sanction by two percent.

(D) Efforts to conceal a violation. This aggravating circumstance increases the sanction by five percent.

(E) Intentionally committing a violation. This aggravating circumstance increases the sanction by five percent.

(F) A violation involving more than one consumer or employee. This aggravating circumstance increases the sanction by two percent.

- (G) A violation involving a juvenile. This aggravating circumstance increases the sanction by four percent.
- (H) A violation resulting in injury or death. This aggravating circumstance increases the sanction by six percent.
- (I) A violation that occurred at a licensed premises that has been granted a security waiver. This aggravating circumstance increases the sanction by two percent.
- (f) Aggravating circumstances as described in subsection (e) of this section cannot increase the penalty beyond a maximum penalty of \$10,000 per violation.
- (g) License suspensions that are decreased or increased as described in subsections (c) to (e) of this section will be rounded to the nearest whole number of days.
- (6) A licensee, certificate holder, Commission-certified hemp grower, or Commission-certified hemp handler may not avoid the sanction for a violation or the application of the provision for successive violations by changing the corporate structure. For example, by adding or dropping a partner or converting to another form of legal entity when the individuals who own, operate, or control the business are substantially similar.
- (7) For the purposes of these rules, "a violation of this rule" means a violation of any provision of the rule.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, 475C.644, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 475C.109, 475C.265, 475C.405, 475C.548, 475C.628, 475C.644, 571.337

OAR 845-025-8590
Exhibit 1

Category	1 Violation in a 2-year period	2 Violations in a 2-year period	3 Violations in a 2-year period	4 Violations in a 2-year period	5 Violations in a 2-year period	6 Violations in a 2-year period
I	Revoke					
II	30 days or \$7,500	40 days or \$10,000	Revoke			
II(b)	30 days or \$4,950	30 days	Revoke			
III	10 days or \$2,500	20 days or \$5,000	30 days or \$7,500	Revoke		
IV	7 days or \$1,750	10 days or \$2,500	20 days or \$5,000	30 days or \$7,500	Revoke	
V	3 days or \$750	7 days or \$1,750	10 days or \$2,500	20 days or \$5,000	30 days or \$7,500	Revoke

ADOPT: 845-025-8760

RULE TITLE: Recommendation of Licensee in Good Standing for another Jurisdiction

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details the process for requesting a recommendation of a licensee in good standing. This is a new rule establishing a process for licensees to request the Commission provide a letter representing that the licensee is in good standing and licensable by the Commission.

RULE TEXT:

(1) A current licensee of the Commission may request that the Commission provide a letter representing that the licensee is in good standing ("letter of good standing") for the purpose of a licensee seeking licensure in another state.

The Commission will only provide such a letter if the licensee:

(a) Has no pending violations being investigated or violations that are the subject of an administrative hearing.

(b) Has not had any adjudicated Category II through V violations in the last two years.

(c) Has filed all marijuana tax returns required by ORS 475C.682 and paid the tax as reported on those returns or as adjusted by the Department of Revenue. A retailer may demonstrate compliance with this requirement with a letter of good standing issued by the Department of Revenue.

(2) A licensee that has at any time been found to have committed a Category I violation is not eligible for a letter of good standing.

(3) The Commission will issue a letter of good standing to a licensee that meet the criteria in section (1) of this rule, unless the Commission has public health and safety concerns with the licensee.

(4) The Commission will make a form available upon request for a licensee to request a good standing letter.

STATUTORY/OTHER AUTHORITY: ORS 475C.017

STATUTES/OTHER IMPLEMENTED: ORS 475C.017

AMEND: 845-026-0100

RULE TITLE: Definitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule sets definitions for terms used in Division 26 rules. The proposed amendments update and clarify definitions.

RULE TEXT:

In addition to the definitions in OAR 845-025-1015, unless otherwise specified, the following definitions apply to OAR 845-026-0100 to 845-026-7070:

(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 Commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, by rule.

(4) "Authority" means the Oregon Health Authority.

(5) "Cannabinoid" 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" has the meaning given that term in OAR 845-025-1015.

(8) "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) "Cannabinoid extract" has the meaning given that term in OAR 845-025-1015.

(10) "Cannabinoid product" has the meaning given that term in OAR 845-025-1015.

(11) "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.

(12) "Cannabinoid tincture" has the meaning given that term in OAR 845-025-1015.

(13) "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.

(14) "Cannabinoid transdermal patch" means an adhesive substance applied to human skin that contains a cannabinoid product, concentrate, or extract for absorption into the bloodstream.

(15) "Cannabis plant" means a plant of the genus Cannabis within the plant family Cannabaceae.

(16) "Commission" means the Oregon Liquor and Cannabis Commission.

(17) "Consumption or use" means to eat, drink, ingest, inhale, apply topically to the skin or hair, or otherwise consume an item.

(18) "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.

(19) "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.

(20) "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.

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

(22) "Hemp" has the same meaning as "industrial hemp."

(23) "Hemp cannabinoid product" has the meaning given that term in OAR 845-025-1015.

(24) "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-cannabis ingredients.

(25) "Hemp tincture" means a liquid hemp cannabinoid 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) "Hemp topical" means a hemp cannabinoid product intended to be applied to skin or hair.

(27) "Hemp transdermal patch" means an adhesive substance applied to human skin that contains a hemp cannabinoid product, industrial hemp concentrate, or industrial hemp extract for absorption into the bloodstream.

(28) "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) "Immature cannabis plant" means a cannabis plant that is not flowering.

(30) "Industrial hemp" has the meaning given that term in ORS 571.269.

(31) "Industrial hemp commodity or product" has the meaning given that term in OAR 603-048-0010.

(32) "Industrial hemp concentrate" has the meaning given that term in ORS 571.269.

(33) "Industrial hemp extract" has the meaning given that term in ORS 571.269.

(34) "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) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.

(36) "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) "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) "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) "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) "Marijuana item" has the meaning given that term in OAR 845-025-1015.

(41) "Mature cannabis plant" means a cannabis plant that is not an immature cannabis plant.

(42) "Non-cannabis additive" means a substance or group of substances that are derived from a source other than industrial hemp or marijuana.

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

(44) "Presumptive test" means testing under 845-026-4100.

(45) "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) "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) "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 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

AMEND: 845-026-0210

RULE TITLE: Retail Marijuana Item Concentration and Serving Size Limits

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule sets retail marijuana item concentration and serving size limits. The proposed amendments correct maximum amount of THC in a container for cannabinoid suppositories and cannabinoid products intended for human consumption other than edibles, topicals, tinctures, capsules, or transdermal patches; remove provisions that no longer apply.

RULE TEXT:

- (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.

STATUTORY/OTHER AUTHORITY: ORS 475C.017, ORS 475C.620

STATUTES/OTHER IMPLEMENTED: ORS 475C.620

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	10 mg	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	10 mg	100 mg

AMEND: 845-026-7000

RULE TITLE: Industrial Hemp-derived Vapor Item Labeling – Definitions

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule sets definitions for the purposes of labeling industrial hemp-derived vapor items. The proposed amendments add definitions to clarify labeling requirements for industrial hemp-derived vapor items.

RULE TEXT:

For the purposes of OAR 845-026-7000 to 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:

(3) "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.

(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) "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.

(5) "CBD" means total cannabidiol as calculated pursuant to OAR 333-064-0100.

(6) "Consumer" means a person who purchases, acquires, owns, holds, or uses industrial hemp-derived vapor items other than for the purpose of resale.

(7) "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.

(8) "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.

(9) "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.

(10) "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.

(11) "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.

(12) "Lot" means:

(a) A batch, or a specific identified portion of a batch, having uniform character and quality within specified limits.

(b) As applied to an industrial hemp-derived vapor item produced by continuous process, a specific identified amount produced in a unit of time or quantity in a manner that assures it has uniform character and quality within specified limits.

(13) "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.

(14) "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.

(15) "Net volume" means the fluid measure of a liquid product expressed as milliliters and fluid ounces.

(16) "Net weight" means the gross weight minus the tare weight of the packaging expressed as ounces and grams or milligrams.

(17) "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.

(18) "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.

(19) "Product identity" means a truthful or common name of the product that is contained in the package.

(20) "Retailer" means a person or business that sells industrial hemp-derived vapor items to consumers.

(21) "Serving" or "serving size" means an amount of product that is suggested for use by a consumer trying the item for the first time.

(22) "THC" means total delta-9-tetrahydrocannabinol as calculated pursuant to OAR 333-064-0100.

(23) "These rules" means OAR 845-026-7000 to 845-026-7070.

(24) "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

AMEND: 845-026-7030

RULE TITLE: Industrial Hemp-derived Vapor Item Labeling for Sale to Consumer

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details labeling industrial hemp-derived vapor items for sale to a consumer. The proposed amendments clarify labeling requirements for industrial hemp-derived vapor items; conform language to conventions.

RULE TEXT:

(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 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 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 an industrial hemp 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 (a) of this 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 (b) of this 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 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 (a) of this 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 (b) of this 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

AMEND: 845-026-7040

RULE TITLE: Industrial Hemp-derived Vapor Item Labeling Requirements

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details industrial hemp-derived vapor item labeling requirements. The proposed amendments clarify labeling requirements for industrial hemp-derived vapor items.

RULE TEXT:

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) On or after July 1, 2023, a lot number or batch number;
- (4) Date the industrial hemp-derived vapor item was made;
- (5) Net weight or volume in U.S. customary and metric units;
- (6) Serving size and number of servings per container;
- (7) Amount, in milligrams, of THC and CBD in each serving and in the container;
- (8) Activation time, expressed in words or through a pictogram;
- (9) Name of the laboratory that performed any test and any test analysis date;
- (10) Hemp symbol;
- (11) A statement that reads: "This product is not approved by the FDA to treat, cure, or prevent any disease";
- (12) 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.
- (13) 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.
- (14) 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 to 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

AMEND: 845-026-7070

RULE TITLE: Industrial Hemp-derived Vapor Item Labeling Prohibited Conduct

NOTICE FILED DATE: 09/28/2022

RULE SUMMARY: This rule details industrial hemp-derived vapor item labeling prohibited conduct. The proposed amendments specify civil penalty caps for industrial hemp-derived vapor item labeling violations; remove duplicated language.

RULE TEXT:

(1) The following conduct is prohibited:

(a) Failure to comply with any provision of ORS 475C.600 to 475C.648 or these rules.

(b) 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.

(c) Failure 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.

(d) Transferring, selling, or offering for sale an industrial hemp-derived vapor item that has not received label approval.

(e) Selling or offering to sell an industrial hemp-derived vapor item under a different label than what was approved.

(2) For each violation of a provision of ORS 475C.600 to 475C.648 or a rule adopted thereunder, the Commission may impose a civil penalty of up to \$500 per violation.

(a) Each violation of a provision of ORS 475C.600 to 475C.648 or a rule adopted thereunder is a separate violation.

(b) Each unit of sale that is in violation of a rule or statute constitutes a separate violation.

(c) Civil penalties are assessed as follows:

(A) Except as provided in paragraphs (B) to (D) of this subsection, violations of OAR 845-026-7000 to 845-026-7070 will be assessed up to \$50 per violation with an overall cap of \$10,000 for all violations charged concurrently in a single notice.

(B) Violations of OAR 845-026-7030(2) will be assessed up to \$250 per violation with an overall cap of \$50,000 for all violations charged concurrently in a single notice.

(C) Knowing violations of OAR 845-026-7030(2) in which a label is untruthful or misleading will be assessed up to \$500 per violation with an overall cap of \$100,000 for all violations charged concurrently in a single notice.

(D) Notwithstanding paragraphs (A) to (C) of this subsection, any violations that create a present or substantial likelihood of a threat to public health or safety will be assessed up to \$500 per violation with an overall cap of \$500,000 for all violations charged concurrently in a single notice.

(E) If a person has within the previous two years been assessed a civil penalty under this rule, the Commission may assess the maximum of \$500 per violation with an overall cap of double the overall cap amounts described in paragraphs (A) to (D) of this subsection for all violations charged concurrently in a single notice.

(3) Section (2) of this rule does not apply to a person who is a hemp handler licensed under ORS 571.281.

STATUTORY/OTHER AUTHORITY: ORS 475C.604, 475C.608, 475C.612, 475C.616, 475C.636, 475C.644

STATUTES/OTHER IMPLEMENTED: ORS 475C.604, 475C.644