



# OREGON LIQUOR CONTROL COMMISSION

The Commission proposes to:

Amend OAR 845-025-2070

## NOTICE OF PUBLIC HEARING

**Date and Time:** May 15, 2017 at 10:00 a.m.  
**Location:** Oregon Liquor Control Commission  
9079 SE McLoughlin Blvd.  
Portland, OR 97222  
**Presiding Officer:** Bryant Haley  
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*Auxiliary aids for persons with disabilities are available upon advance request.*

### **CAPTION:**

The amendments align the rule with the Oregon Department of Agriculture's Marijuana Compliance Assistance Program.

### **RULE SUMMARY:**

This past January the Commission temporarily amended 845-025-2070 to align the rule with the Oregon Department of Agriculture's Marijuana Compliance Assistance Program. This program allows marijuana producers who participate in the program to accept responsibility for potential illegal pesticide applications. A producer that accepts responsibility will receive a notice of warning from the Oregon Liquor Control Commission for their first violation instead of a Category I violation. Any subsequent violations would result in a Category I violation, as the Assistance program is only available to first time violators.

### **HOW TO OBTAIN THE PROPOSED RULE LANGUAGE:**

A copy of the proposed rule language is attached to this Notice. Alternatively, you may obtain a copy of the proposed rule language by calling the Oregon Liquor Control Commission at the phone number listed above. For your convenience, the proposed

rule language is also available on our website at:  
<http://www.oregon.gov/OLCC/pages/index.aspx>.

Go to the “Laws and Rules” tab on the left side of the screen, and then follow the link to the “Proposed Rulemaking” section of our website. You will find all of the relevant rulemaking documents, including the proposed rule language, under the “845-025-2070 - Pesticides, Fertilizers and Agricultural Chemicals” section of this webpage.

### **HOW TO SUBMIT COMMENTS:**

During the hearing, you may present oral or written testimony that includes opinions, information, concerns or proposals related to this rulemaking matter. The Commission also requests comments on whether other options exist and/or should be considered for achieving the rule’s substantive goals while reducing the negative economic impact of the proposed rule on business.

After the hearing, you may submit written comments in person, by mail, by fax or by e-mail (see above for relevant contact information). **However, all written comments must be received by 5:00 p.m. on May 30, 2017.**

The Commission reserves the right to request and receive additional comments at any time on or before the date the Commission takes final action on this rulemaking matter.

### **STATEMENT OF NEED AND FISCAL IMPACT:**

In the Matter of: The proposed amendments of OAR 845-025-2070.

Statutory Authority: ORS 475B.025 & 475B.070

Statutes Implemented: ORS 475B.070 & 475B.160

#### **Need for the Rule:**

The newly forming recreational marijuana market has faced challenges related to the testing of marijuana and marijuana items for pesticides. The Oregon Department of Agriculture Marijuana Compliance Assistance Program aides first time violators. The proposed amendments will align 845-025-2070 with the Department of Agriculture’s program.

#### **Documents Relied Upon and Where They Are Available:**

ORS 471.070 available from Legislative Counsel

Rule File available from the Oregon Liquor Control Commission, Administrative Policy & Process Division.

Fiscal and Economic Impact Statement:

This statement takes into account the fiscal impact on: (a) Licensees/Permittees; (b) Local Government; (c) State Agencies; and (d) the Public.

(a) Licensees

- The amendments to OAR 845-025-2070 will have a positive impact upon marijuana producer licensees. Specifically, Licensees marijuana whose marijuana fails pesticide testing will be able to work with the Department of Agriculture to rectify their growing techniques and not face a Category I violation from the Commission.

(b) Local Government.

- The amendments will have no impact upon local government, as this rule does not apply to local government agencies.

(c) State Agencies.

- The amendments will have some impact upon both the Oregon Liquor Control Commission and the Oregon Department of Agriculture, as both agencies will need to work with licensees whom fail pesticide testing.

(d) The Public.

- The amendments may have a positive impact upon the public, as licensees will be given a chance to rectify their products and continue supplying the growing marijuana market.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

- State agencies
  - The amendments will have some impact upon both the Oregon Liquor Control Commission and the Oregon Department of Agriculture, as both agencies will need to work with licensees whom fail pesticide testing.
- Local Government
  - The amendments will have no impact upon local government, as this rule does not apply to local government agencies.
- Public
  - The amendments may have a positive impact upon the public, as licensees will be given a chance to rectify their products and continue supplying the growing marijuana market.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

As of April 10, 2017 the Commission has licensed 1,292 marijuana producer licensees.

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

This Marijuana Compliance Assistance program will require producer licensees and state administrative staff to work together. This will involve documentation of testing results and growing practices. However, this program is voluntary for producers and is a better option than cancelation of their licensed privileges to produce marijuana.

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

This Marijuana Compliance Assistance program will require producer licensees and state administrative staff to work together. This will involve documentation of testing results and growing practices. However, this program is voluntary for producers and is a better option than canceling the license.

How were small businesses involved in the development of this rule?

As the amendments implement another agencies program, staff saw no reason to hold an advisory committee.

Was an administrative rule advisory committee consulted?

No.

**(This notice was sent on April 14, 2017)**