

PERMANENT ADMINISTRATIVE ORDER

OLCC 15-2017

CHAPTER 845

OREGON LIQUOR CONTROL COMMISSION

FILING CAPTION: The amendments revise Division 25 rules with both technical and 2017 legislative revisions.

EFFECTIVE DATE: 12/28/2017

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RULES:

845-025-1015, 845-025-1030, 845-025-1045, 845-025-1060, 845-025-1080, 845-025-1090, 845-025-1115, 845-025-1160, 845-025-1175, 845-025-1190, 845-025-1230, 845-025-1275, 845-025-1300, 845-025-1330, 845-025-1335, 845-025-1400, 845-025-1430, 845-025-2000, 845-025-2020, 845-025-2025, 845-025-2040, 845-025-2045, 845-025-2060, 845-025-2070, 845-025-2080, 845-025-2100, 845-025-2110, 845-025-2120, 845-025-2130, 845-025-2140, 845-025-2150, 845-025-2500, 845-025-2510, 845-025-2520, 845-025-2530, 845-025-2540, 845-025-2550, 845-025-2560, 845-025-2700, 845-025-2750, 845-025-2800, 845-025-2820, 845-025-2840, 845-025-2880, 845-025-2890, 845-025-2900, 845-025-3210, 845-025-3215, 845-025-3220, 845-025-3260, 845-025-3285, 845-025-3290, 845-025-3305, 845-025-3500, 845-025-3505, 845-025-3510, 845-025-5030, 845-025-5045, 845-025-5500, 845-025-5520, 845-025-5540, 845-025-5580, 845-025-5700, 845-025-5760, 845-025-7570, 845-025-7580, 845-025-7700, 845-025-7750, 845-025-8040, 845-025-8060, 845-025-8520, 845-025-8560, 845-025-8590

AMEND: 845-025-1015

RULE TITLE: Definitions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

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

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

(a) It bears or contains any poisonous or deleterious substance in a quantity rendering the marijuana item injurious to health, including but not limited to tobacco or nicotine;

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

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.

(2) "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.

(3) "Authority" means the Oregon Health Authority.

(4) "Business day" means Monday through Friday excluding legal holidays.

(5) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana or industrial hemp.

(6) "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.

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

(8) "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.

(9) Cannabinoid Product

(a) "Cannabinoid product" 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) "Cannabinoid product" does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate by itself;

(C) A cannabinoid extract by itself; or

(D) Industrial hemp, as defined in ORS 571.300.

(10) "Cannabinoid tincture" means a solution of alcohol, cannabinoid concentrate or extract, and perhaps other ingredients intended for human consumption or ingestion, and that is exempt from the Liquor Control Act under ORS 471.035.

(11) "Cannabis Tracking System" or "CTS" means the system for tracking the transfer of marijuana items and other information as authorized by ORS 475B.150.

(12) "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.

(13) "Common Ownership" 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.

(14) "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.

(15) "Container" means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed prior to being sold to a consumer.

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

(17) "Commission" means the Oregon Liquor Control Commission.

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

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

(20) "Date of Harvest" means the date the mature marijuana plants in a harvest lot were cut, picked or removed from the soil or other growing media. If the harvest occurred on more than

one day, the "date of harvest" is the day the last mature marijuana plant in the harvest lot was cut, picked or removed from the soil or other growing media.

(21) "Designated primary caregiver" has the meaning given that term in ORS 475B.410.

(22) (a) "Financial consideration" means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.

(b) "Financial consideration" does not include marijuana, cannabinoid products or cannabinoid concentrates that are delivered within the scope of and in compliance with ORS 475B.245.

(23) "Financial interest" means having an interest in the business such that the performance of the business causes, or is capable of causing, an individual, or a legal entity with which the individual is affiliated, to benefit or suffer financially.

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

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

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

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

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

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

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

(25) "Grow site" means a location registered under ORS 475B.420 where marijuana is produced for use by a patient or, with permission from a patient, for transfer to a registered processing site or dispensary.

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

(27) "Hemp Handler" means a person or entity that is registered with the Oregon Department of Agriculture under ORS 571.305 to process industrial hemp into commodities, products or agricultural hemp seed.

(28) "Hemp item" has the meaning set out in OAR 603-048-2310(14).

(29) "Harvest lot" means a specifically identified quantity of marijuana that is, cultivated utilizing the same growing practices and harvested within a 72 hour period at the same location and cured under uniform conditions.

(30) "Immature marijuana plant" means a marijuana plant that is not flowering.

(31) "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.

(32) "Inventory Tracking" means all of the activities and documentation processes required by these rules to track marijuana and marijuana items from seed to sale in the cannabis tracking system.

(33) "Industrial hemp":

(a) Means all non-seed parts and varieties of the Cannabis plant, whether growing or not, that contain an average tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry weight basis.

(b) Means any Cannabis seed:

(A) That is part of a crop;

(B) That is retained by a hemp grower for future planting;

(C) That is agricultural hemp seed;

(D) That is for processing into or for use as agricultural hemp seed; or

(E) That has been processed in a manner or to an extent that the Cannabis seed is incapable of germination.

(c) Does not mean industrial hemp commodities or products.

(34) "Industrial hemp concentrate" means an industrial hemp product obtained by separating cannabinoids from industrial hemp by:

(a) A mechanical process;

(b) A chemical extraction process using a nonhydrocarbon-based solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol;

(c) A chemical extraction process using carbon dioxide, provided that the process does not involve the use of high heat or pressure; or

(d) Any other process identified by the State Department of Agriculture by rule.

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

(36) "Industrial hemp extract" means an industrial hemp product obtained by separating cannabinoids from industrial hemp by:

(a) A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane or propane;

(b) A chemical extraction process using carbon dioxide, if the process uses high heat or pressure; or

(c) Any other process identified by the State Department of Agriculture by rule.

(37) "Invited guests" means family member and business associates of the licensee, not members of the general public.

(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) "Licensee" means any person who holds a license issued under ORS 475B.070, 475B.090, 475B.100, 475B.110, or 475B.560 and includes:

(a) Each applicant listed on an application that the Commission has approved;

(b) Each individual who meets the qualification described in OAR 845-025-1045 and who the Commission has added to the license under OAR 845-025-1030; or

(c) Each individual who has a financial interest in the licensed business and who the Commission has added to the license under OAR 845-025-1030.

(40) "Licensee representative" means an owner, director, officer, manager, employee, agent, or other representative of a licensee, to the extent that the person acts in a representative capacity.

(41) "Limited access area" means a building, room, or other contiguous area on a licensed premises where a marijuana item is produced, processed, stored, weighed, packaged, labeled, or sold, but does not include a consumer sales area on a licensed retailer premises.

(42) "Marijuana"

(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

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

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

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

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

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

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

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

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

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

(51) "Medical grade cannabinoid product, cannabinoid concentrate or cannabinoid extract" means a cannabinoid product, cannabinoid concentrate or cannabinoid extract that has a concentration of tetrahydrocannabinol that is permitted under ORS 475B.625 for consumers who hold a valid registry identification card issued under ORS 475B.415.

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

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

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

(55) "Non-profit Dispensary" means a medical marijuana dispensary registered under ORS 475B.450, owned by a nonprofit corporation organized under ORS chapter 65, and that is in compliance with the Authority's rules governing non-profit dispensaries in OAR 333, Division 8.

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

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

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

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

(60) "Premises" or "licensed premises" includes the following areas of a location licensed under section ORS 475B.070, 475B.090, 475B.100, 475B.110 or 475B.560:

(a) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;

(b) All areas outside a building that the Commission has specifically licensed for the production, processing, wholesale sale or retail sale of marijuana items; and

(c) "Premises" or "licensed premises" does not include a primary residence.

(61) "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.

(62) "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.

(63) "Person responsible for a marijuana grow site," or "PRMG" means any individual designated by a patient to produce marijuana for the patient, including a patient who identifies him or herself as a person responsible for the marijuana grow site, who has been registered as a PRMG by the Authority under OAR 333-008-0033.

(64) "Processes"

(a) "Processes" means the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

(b) "Processes" does not include packaging or labeling.

(65) "Process lot" means:

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

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

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

(67) "Produces"

(a) "Produces" means the manufacture, planting, propagation, cultivation, growing or harvesting of marijuana.

(b) "Produces" does not include:

(A) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or

(B) The cultivation and growing of an immature marijuana plant by a marijuana wholesaler or marijuana retailer if the marijuana wholesaler or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.

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

(69) "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.

(70) "Regulatory specialist" means a full-time employee of the Commission who is authorized to act as an agent of the Commission in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing chapter 471, ORS 474.005 to 474.095, 474.115, 475B.010 to 475B.395, 475B.550 to 475B.590 and 475B.600 to 475B.655, Commission rules and any other statutes the Commission considers related to regulating liquor or marijuana.

(71) "Registry identification cardholder" or "patient" has the meaning given that term in ORS 475B.410.

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

(73) "Safe" means:

(a) A metal receptacle with a locking mechanism capable of storing all marijuana items on a licensed premises that:

(A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or

(B) Weighs more than 750 pounds.

(b) A "vault"; or

(c) A refrigerator or freezer capable of being locked for storing marijuana items that require cold storage that:

(A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or

(B) Weighs more than 750 pounds.

(74) "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.

(75) "Security plan" means a plan as described in OAR 845-025-1030 that fully describes how an applicant will comply with applicable laws and rules regarding security.

(76) "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.

(77) "These rules" means OAR 845-025-1000 to 845-025-8590.

(78) UID Tags.

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

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

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

(79)(a) "Usable Marijuana" means the dried leaves and flowers of marijuana.

(b) "Usable Marijuana" includes pre-rolled marijuana as long as the pre-roll consists of only dried marijuana leaves and flowers, an unflavored rolling paper and a filter or tip.

(c) "Usable marijuana" does not include:

(A) The seeds, stalks and roots of marijuana; or

(B) Waste material that is a by-product of producing or processing marijuana.

(80) "Vault" means an enclosed area or room that is constructed of steel-reinforced or block concrete and has a door that contains a multiple-position combination lock or the equivalent, a relocking device or equivalent, and a steel plate with a thickness of at least one-half inch.

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.015, 475B.025

AMEND: 845-025-1030

RULE TITLE: Application Process

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A person may submit an application to the Commission, on a form prescribed by the Commission, for a marijuana producer, processor, wholesaler, retail, or laboratory license.

(2) An application for a license and all documentation required in the application instructions and any requirements of this rule must be submitted in a manner specified by the Commission. The application fee specified in OAR 845-025-1060 must also be paid in a manner specified by the Commission.

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

(a) Any individual or legal entity with a financial interest, as defined in these rules, who holds or controls an interest of ten percent or more in the business proposed to be licensed.

(b) Any individual or legal entity that has an ownership interest in the business proposed be licensed as described in OAR 845-025-1045.

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

(a) All general partners in a limited partnership;

(b) Limited partners whose investment commitment is ten percent or more of the total investment commitment;

(c) All members in a limited liability company or partnership whose investment commitment or membership interest is ten percent or more;

(d) All directors who own or control three percent or more of the voting stock;

(e) Principal Officers of corporate applicants and;

(f) All natural person stockholders owning or controlling ten percent or more of the voting stock of a corporate entity.

(5) An application must include the names and other required information for all individuals and legal entities who are applicants as described in this rule and the names and other required information for all individuals and legal entities who are not applicants but who have a "financial interest" in the business, as defined in OAR 845-025-1015.

(6) Applicants must submit the following:

(a) Information or fingerprints for individual applicants and individuals within a legal entity who have been identified as applicants in order to perform a criminal background check in accordance with OAR 845-025-1080;

(b) Any forms required by the Commission and any information identified in the form that is required to be submitted;

(c) A map or sketch of the premises proposed for licensure, including the defined boundaries of the premises and the location of any primary residence located on the same tax lot as the licensed premises;

(d) A scaled floor or plot plan sketch of all enclosed areas with clear identification of walls, partitions, counters, windows, all areas of ingress and egress, and all limited access areas;

(e) Proof of right to occupy the premises proposed for licensure;

(f) An operating plan that demonstrates at a minimum, how the applicant's proposed premises and business will comply with the applicable laws and rules regarding:

(A) Security;

(B) Employee qualifications and training;

(C) Transportation of product;

(D) Preventing minors from entering the licensed premises; and

(E) Preventing minors from obtaining or attempting to obtain marijuana items.

(g) For producers:

(A) The proposed canopy size and tier as described in OAR 845-025-2040 and a designation of the canopy area within the license premises.

(B) A report describing the applicant's electricity and water usage, on a form prescribed by the Commission.

(i) For initial licensure, the report must describe the estimated electricity and water usage taking into account all portions of the premises and expected requirements of the operation for the next twelve months.

(ii) For renewal, the report must describe the actual electricity and water usage for the previous year taking into account all portions of the premises.

(C) A description of the growing operation including growing media, a description of equipment to be used in the production, and whether production will be indoor, outdoor or both.

(D) Proof of a legal source of water as evidenced by:

(i) A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resources Department;

(ii) A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or

(iii) Proof from the Oregon Water Resources Department that the water to be used for production is from a source that does not require a water right.

(h) For processors:

(A) On a form prescribed by the Commission, the proposed endorsements as described in OAR 845-025-3210.

(B) A description of the type of products to be processed, a description of equipment to be used, including any solvents, gases, chemicals or other compounds used to create extracts or concentrates.

(7) In addition to submitting the application form and the items described in section (5) of this rule, the Commission may require the following to be submitted:

(a) For an individual identified as a person with a financial interest, who holds or controls an interest of less than ten percent in the business proposed to be licensed:

(A) Information or fingerprints for a criminal background check in accordance with OAR 845-025-1080; and

(B) Any forms required by the Commission and any information identified in the form that is required to be submitted.

(b) For a legal entity that is identified as having a financial interest of less than ten percent of the business proposed to be licensed:

(A) Information or fingerprints for any individual within the legal entity for a criminal background check in accordance with OAR 845-025-1080; and

(B) Any forms required by the Commission and any information identified in the form that is required to be submitted.

(c) Any additional information if there is a reason to believe that the information is needed to determine the merits of the license application.

(8) The Commission must review an application to determine if it is complete. An application may be considered incomplete if an application form is not complete, the full application and license fee has not been paid, or some or all of the additional information required under these rules is not submitted.

(9) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Commission within ten days of the date the incomplete notice was mailed to the applicant. The Commission shall give the applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(10) If, prior to an application being acted upon by the Commission, there is a change with regard to who is an applicant or who is a person with a financial interest in the proposed business, the new applicant or person with a financial interest must submit a form, prescribed by the Commission, that:

(a) Identifies the individual or person;

(b) Describes the individual's or person's financial interest in the business proposed for licensure; and

(c) Includes any additional information required by the Commission, including but not limited to information and fingerprints required for a criminal background check.

(11) Failure to comply with subsection (8) of this rule may result in an application being denied.

STATUTORY/OTHER AUTHORITY: ORS 475B.025 & 2016 OL Ch. 24

STATUTES/OTHER IMPLEMENTED: ORS 475B.040, 475B.045, 475B.060, 475B.070, 475B.090, 475B.100, 475B.110, 475B.560

AMEND: 845-025-1045

RULE TITLE: True Name on Application; Interest in Business

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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 that have an ownership interest in the business proposed to be licensed by identifying all such persons and legal entities as applicants.

(2) License privileges. License privileges are available only to the applicants identified in the application and their authorized representatives and only for the premises designated on the license.

(3) 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 ownership interest exists. For purposes of this rule, an "ownership interest" is indicated by the following behaviors, benefits or obligations:

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

(b) Any person or legal entity, other than an employee acting under the direction of the owner, that incurs, or is entitled to incur, debt or similar obligations on behalf of the business;

(c) Any person or legal entity, other than an employee acting under the direction of the owner, that enters into, or is entitled to enter into, a contract or similar obligations on behalf of the business; or

(d) Any person or legal entity identified as the lessee of the premises proposed to be licensed.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.045, 475B.070, 475B.090, 475B.100, 475B.110, 475B.560 & 2016 OL Ch. 24

AMEND: 845-025-1060

RULE TITLE: Fees

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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.

(E) Medical Canopy \$100

(b) Processors: \$4,750.

(c) Wholesalers: \$4,750.

(d) Micro Wholesalers: \$1,000.

(e) Retailers: \$4,750.

(f) Laboratories: \$4,750.

(g) Sampling Laboratory: \$2,250.

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

(4) If the Commission approves an application and grants a hemp certificate, the fee is \$500 for one year.

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

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

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

(8) The Commission shall charge the following fees:

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

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

(c) Packaging preapproval: \$100.

(d) Labeling preapproval: \$100.

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110, 475B.218, 475B.560, 475B.610, 475B.620, 2016 OL Ch. 24 Sec. 1

AMEND: 845-025-1080

RULE TITLE: Criminal Background Checks

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) If an individual is required by the Commission to undergo a criminal background check, the individual must provide to the Commission:

(a) A criminal background check request form, prescribed by the Commission that includes but is not limited to:

(A) First, middle and last name;

(B) Any aliases;

(C) Date of birth;

(D) Driver license information; and

(E) Address and recent residency information.

(b) Fingerprints in accordance with the instructions on the Commission's webpage.

(2) The Commission may request that an applicant disclose his or her Social Security Number if notice is provided that:

(a) Indicates the disclosure of the Social Security Number is voluntary; and

(b) That the Commission requests the Social Security Number for the purpose of positively identifying the applicant during the criminal records check process.

(3) An applicant's criminal history must be evaluated by the Commission in accordance with ORS 670.280 and 475B.050.

(4) The Commission may conduct a criminal background checks in accordance with this rule every year at the time of application renewal.

(5) Records concerning criminal background checks must be kept and handled by the Commission in accordance with ORS 181.534(15).

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.050

AMEND: 845-025-1090

RULE TITLE: Application Review

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) Once the Commission has determined that an application is complete it must review the application to determine compliance with ORS Chapter 475B and these rules.

(2) The Commission:

(a) Must, prior to acting on an application for a new license, a change to a larger producer canopy designation, a change to producer cultivation method designation or change in processor endorsement type, receive a land use compatibility statement from the city or county that authorizes land use in the city or county in which the applicant's proposed premises is located.

(b) May, in its discretion, prior to acting on an application:

(A) Contact any applicant or individual with a financial interest and request additional documentation or information; and

(B) Verify any information submitted by the applicant.

(3) The requirements of section (2)(a) of this rule do not apply to applicants for a producer license if the applicant demonstrates in a form and manner specified by the Commission that:

(a) The applicant is applying for a license at an address where a marijuana grow site registered under ORS 475B.420 is located;

(b) The address is outside of city limits;

(c) At least one person responsible for a marijuana grow site located at the address first registered with the Authority under ORS 475B.420 before January 1, 2015;

(d) Each person responsible for a marijuana grow site located at the address first registered with the Authority under ORS 475B.420 before February 1, 2016; and

- (e) The applicant is applying for a mature marijuana plant grow canopy of:
- (A) 5,000 square feet or less, if the marijuana is produced outdoors; or
 - (B) 1,250 square feet or less, if the marijuana is produced indoors.
- (4) The Commission must inspect the proposed premises prior to issuing a license.
- (5) If during an inspection the Commission determines the applicant is not in compliance with these rules, the applicant will be provided with a notice of the failed inspection and the requirements that have not been met.
- (a) An applicant that fails an inspection will have 30 calendar days from the date the notice was sent to submit a written response that demonstrates the deficiencies have been corrected.
- (b) An applicant may request in writing one extension of the 30-day time limit in subsection (a) of this section, not to exceed 45 days.
- (6) If an applicant does not submit a timely plan of correction or if the plan of correction does not correct the deficiencies in a manner that would bring the applicant into compliance, the Commission may deny the application.
- (7) If the plan of correction appears, on its face, to correct the deficiencies, the Commission will schedule another inspection.
- (8) If an applicant fails a second inspection, the Commission may deny the application unless the applicant shows good cause for the Commission to perform additional inspections.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.045, 475B.285, 475B.063 & 2016 OL Ch. 23

AMEND: 845-025-1115

RULE TITLE: Denial of Application

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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) On federal property.

(B) 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.

(C) At the same location or address, as a retail, processor or wholesale license, unless the licenses are of different types and all of the licenses at the address or location are held or sought by identical applicants.

(d) The location proposed to be licensed is prohibited under OAR 845-025-1230.

(e) 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 will be separated from the premises proposed to be licensed and how the applicant will prevent transfer of industrial hemp to the licensed premises.

(f) 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.

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

(A) Except as provided in Oregon Laws 2016, chapter 83, section 29b, 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.

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

(i) A city or county has prohibited the license type for which the applicant is applying, in accordance with ORS 475B.800.

(2) The Commission may deny an initial or renewal application, unless the applicant shows good cause to overcome the denial criteria, if it 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 475B.010 to 475B.395, 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 475B.275;

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

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

(iv) Violations of local ordinances adopted under ORS 475B.340, 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.

(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 475B.045(3).

(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 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.

(e) The proposed licensed premises of a producer applicant is on the same tax lot, as another producer licensee under common ownership.

(f) The proposed licensed premises of a producer applicant is on the same tax lot, as another producer licensee under diverse ownership if the Commission reasonably believes that the presence of multiple producers on the same tax lot creates a compliance risk or other risk to public health and safety.

(g) The applicant proposed to be licensed does not have access to the proposed license premises.

(3) The Commission may refuse to issue a license to any license applicant or refuse to renew the license of any 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 or 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 his or her 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.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.040, 475B.045, 475B.063, 475B.070, 475B.090, 475B.100, 475B.110, 475B.560, 475B.800, 2016 OL Ch. 24, Sec. 1 & 2016 OL Ch. 83

AMEND: 845-025-1160

RULE TITLE: Notification of Changes

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) An applicant or 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 or an individual with a financial interest;

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

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

(d) The permanent closure of the business.

(2) An applicant or licensee must notify the Commission in a manner prescribed by the Commission within 24 hours of the arrest or conviction for any misdemeanor or felony of an individual listed in an application or subsequently identified as an applicant, licensee or individual with a financial interest. Violation of this section is a Category I violation.

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

(4) Changes in Financial Interest or Business Structure. A licensee that proposes to change its corporate structure, ownership structure or change who has a financial interest in the business must submit a form prescribed by the Commission, and any information identified in the form to be submitted, to the Commission, prior to making such a change.

(a) The Commission must review the form and other information submitted under subsection (1) of this rule, and will approve the change if the change would not result in an initial or renewal application denial under OAR 845-025-1115, or serve as the basis of a license suspension or revocation.

(b) If the Commission denies the change but the licensee proceeds with the change the licensee must surrender the license or the Commission will propose to suspend or revoke the license.

(c) The Commission may refuse to accept a form for a change in corporate structure or financial interest if the license is expiring in less than 90 days, the licensee is under investigation by the Commission, or has been issued a Notice by the Commission following an alleged violation and the alleged violation has not been resolved.

(d) If a licensee has a change in ownership that is 51% or greater, a new application must be submitted in accordance with OAR 845-025-1030.

(5) Change of Location.

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

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

(6) Addition or Change of Trade Name.

(a) A 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.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.055, 475B.045

AMEND: 845-025-1175

RULE TITLE: Changing, Altering, or Modifying Licensed Premises

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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 subsection (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.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.070, 475B.090, 475B.100, 475B.110, 475B.560

AMEND: 845-025-1190

RULE TITLE: License Renewal

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) Renewal Applications:

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

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

(A) If the Commission receives a completed license renewal application less than 20 days before the date the existing license expires, the Commission will, upon receipt of the appropriate late renewal fee in OAR 845-025-1070, issue a letter of authority to operate beyond the expiration of the license, pending a decision by the Commission.

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

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

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

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

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

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

(2) For purposes of this rule, a completed application:

(a) Is considered filed when received by the Commission; and

(b) Is one that is completely filled out, is signed by all applicants and includes the appropriate application and license fees.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110, 475B.560

STATUTES/OTHER IMPLEMENTED: ORS 475B.040

AMEND: 845-025-1230

RULE TITLE: Licensed Premises Restrictions and Requirements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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 475B.420;

(B) Medical marijuana processing site registered under ORS 475B.435;

(C) Medical marijuana dispensary registered under ORS 475B.450; 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) 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.

(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 license representative who has a current registry identification card issued under ORS 475B.415 may consume marijuana during his or her work shift on the licensed premises as necessary for his or her medical condition, if the employee is alone, in a closed room and not visible to others outside the room. A license 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 primary caregiver and is over eighteen 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, contractors and license representatives who perform work on the licensed premises.

(a) A licensee must record the name and permit number of every current employee and license representative in CTS.

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

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

(d) If a current employee or license representative is not required to have a marijuana worker permit, the licensee must record the name and date of birth for that individual in CTS.

(e) A licensee must record the name and date of birth 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.

(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 if the licensee submits a control plan in writing and the plan is approved by the Commission.

(a) The plan must describe how conduct of the individuals on the tour will be monitored, how access to usable marijuana will be limited, and what steps the licensee will take to ensure that no minors are permitted on the licensed premises.

(b) The Commission may withdraw approval of the control plan if the Commission finds there is poor compliance with the plan. Poor compliance may be indicated by, for example, individuals on the tour not being adequately supervised, an individual on the tour obtaining a marijuana item while on the tour, a minor being part of a tour, or the tours creating a public nuisance.

(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.

(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.

STATUTORY/OTHER AUTHORITY: 475B.070, 475B.090, 475B.100, 475B.110, ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.090, 475B.100, 475B.110, 475B.260, 475B.005, 475B.180, 475B.280

AMEND: 845-025-1275

RULE TITLE: Closure of Business

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

- (1) A license expires upon death of a licensee unless the Commission issues an order as described in subsection (2) of this rule.
- (2) The Commission may issue an order providing for the manner and condition under which:
 - (a) Marijuana items left by a deceased, insolvent or bankrupt person or licensee, or subject to a security interest, may be foreclosed, sold under execution or otherwise disposed.
 - (b) The business of a deceased, insolvent or bankrupt licensee may be operated for a reasonable period following the death, insolvency or bankruptcy.
- (3) A secured party, as defined in ORS 79.0102, may continue to operate a business for which a license has been issued under section ORS 475B.070, 475B.090, 475B.100 or 475B.110 for a reasonable period after default on the indebtedness by the debtor.
- (4) If a license is revoked, the Commission may address in its order the manner and condition under which marijuana items held by the licensee may be transferred or sold to other licensees or must be otherwise disposed.
- (5) If a license is surrendered or expires the Commission may address by order the manner and condition under which marijuana items held by the licensee may be transferred or sold to other licensees or must be otherwise disposed of.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.033

AMEND: 845-025-1300

RULE TITLE: Licensee Prohibitions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has

made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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 to any person who is visibly intoxicated;

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

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

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

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

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

(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 himself or herself on duty; or

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

STATUTES/OTHER IMPLEMENTED: ORS 475B.185, 475B.190, 475B.195, 475B.205, 475B.270, 475B.275

AMEND: 845-025-1330

RULE TITLE: Trade Samples

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) The following licensees may provide samples of marijuana items to other licensees for the purpose of determining whether to purchase the product:

(a) A producer may provide a sample of usable marijuana to a marijuana producer, wholesaler, retailer or processor licensee.

(b) A processor may provide a sample of a cannabinoid product, concentrate or extract to a marijuana producer, processor, wholesaler or retailer.

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

(2) The sample marijuana items may not be consumed or used on a licensed premises.

(3) The sample may not be resold to another licensee or consumer.

(4) Any sample provided to another licensee or received by a licensee must be recorded in CTS.

(5) Any samples provided under this rule must be tested in accordance with OAR 333-007-0300 to 333-007-0490.

(6) A licensee is limited to providing the following aggregate amounts of sample marijuana items to an individual recipient licensee in a 30-day period:

(a) 30 grams of usable marijuana;

(b) 5 grams of cannabinoid concentrates or extracts; and

(c) 3 units of sale of any individual cannabinoid product.

(7) Any sample given to a licensee shall have a label containing the following in any legible font that is at least 1/16th 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 marijuana item;

(b) The product identity;

(c) The UID; and

(d) The net weight or contents of the marijuana or marijuana item.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

ADOPT: 845-025-1335

RULE TITLE: Marijuana Promotional Events

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

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

(2) Definitions.

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

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

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

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

(3) Event Organizer.

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

(b) Event Organizers must:

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

(B) Update and maintain the application;

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

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

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

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

(4) Promotional events may not be held:

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

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

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

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

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

(b) Marijuana items from the inventory of the participating licensee.

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

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

(b) Display any hemp items;

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

(d) Distribute any samples of marijuana items; or

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

(8) Transportation and Possession.

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

(A) 24 ounces of usable marijuana;

(B) 4 mature marijuana plants;

(C) 10 immature plants;

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

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

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

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

(9) Promotional event CTS requirements.

- (a) All marijuana items must be tracked and tagged pursuant to CTS rule requirements.
- (b) Each marijuana item is required to have the item's associated UID tag affixed to the item or package;
- (c) All participating licensees must generate a printed transport manifest in CTS that accompanies all marijuana items for the duration of the promotional event that contains the following information:
 - (A) The name, contact information of a licensee representative, licensed premises address and license number of the licensee transporting the marijuana items;
 - (B) Product name and quantities (by weight or unit) of each marijuana item contained in each transport, along with the UIDs for every item;
 - (C) The date of transport and approximate time of departure;
 - (D) Date and estimated time when the marijuana items will be returned to the licensed premises at the conclusion of the promotional event; and
 - (E) Delivery vehicle make and model and license plate information.
- (d) Failure to properly track marijuana items as required in this subsection is a Category III violation. An intentional violation of this rule is a Category I violation and may result in license revocation.

(10) Application Requirements.

- (a) The Commission may refuse to process any application that is not made in writing at least 28 days before the date of the event in a form and manner prescribed by the Commission.
- (b) The Commission may only accept one application per promotional event.
- (c) The Commission may require additional forms, documents, or information as part of the application.
- (d) The Commission may refuse to process any application that is not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate and process the application.
- (e) The Commission may limit approval of any application to a single day or to any consecutive number of days, not to exceed sixteen consecutive days.

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

- (a) The names of all participating licensees;

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

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

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

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

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

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

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

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

(12) Denial.

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

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

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025 & 2017 SB 1057

STATUTES/OTHER IMPLEMENTED: 2017 SB 1057

AMEND: 845-025-1400

RULE TITLE: Security Plans

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

- (1) An applicant must have a security plan. The Commission will not conduct any pre-licensing inspection under OAR 845-025-1090(4) 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 subsection (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 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

AMEND: 845-025-1430

RULE TITLE: Video Surveillance Equipment

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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; and

(E) A minimum of one monitor on premise capable of viewing video.

(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 the licensee or 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, all video surveillance equipment and recordings must be stored in a locked secure area that is accessible only to the licensee, licensee representatives and 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.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

AMEND: 845-025-2000

RULE TITLE: Canopy Definitions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

As used in OAR 845-025-2000 to 845-025-2080:

(1) "Mature Canopy" means the surface area which may be utilized to produce mature marijuana plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants including all of the space within the boundaries. Both immature and mature marijuana plants may be cultivated in this space.

(2) "Indoor production" means producing marijuana in any manner:

(a) Utilizing artificial lighting on mature marijuana plants; or

(b) Other than "outdoor production" as that is defined in this rule.

(3) "Outdoor production" means producing marijuana:

(a) In an expanse of open or cleared ground; or

(b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.

(4) "Immature Canopy" means the area used exclusively to propagate immature marijuana plants calculated in square feet and measured using the outside boundaries of the footprint that includes immature marijuana plants including all of the space within the boundaries.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.075

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.075

AMEND: 845-025-2020

RULE TITLE: Producer Privileges; Prohibitions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A producer may:

(a) Plant, cultivate, grow, harvest and dry marijuana in the manner approved by the Commission and consistent with ORS 475B and these rules;

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

(c) Sell or transport:

(A) Usable marijuana to the licensed premises of a marijuana 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 marijuana 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; and

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

(d) Purchase and receive:

(A) Immature marijuana plants and seeds from a producer, wholesaler, 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; and

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

(e) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490.

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

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

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

(C) Accurately records the transaction in the CTS.

(2) A producer may not sell, deliver, purchase, or receive any marijuana item other than as provided in section (1) of this rule.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.075

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.075, 2016 OL Ch. 23, 2016 OL Ch. 24

ADOPT: 845-025-2025

RULE TITLE: Micro Tier Processing. Privileges; Prohibitions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) In addition to the privileges in OAR 845-025-2020, Micro Tier I & 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 set forth within OAR 845-025-3210, 845-025-3220, 845-025-3230, and 845-025-3240.

(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 an 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) 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.

STATUTORY/OTHER AUTHORITY: 2017 OL Ch. 476 Sec. 8

STATUTES/OTHER IMPLEMENTED: 2017 OL Ch. 476 Sec. 8, ORS 475B.025 , 2016 OL Ch. 24, Sec. 1

AMEND: 845-025-2040

RULE TITLE: Production Size Limitations

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) Maximum Canopy Size Limits for mature canopy area.

(a) Indoor Production.

(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.

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

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

(C) Tier 1: 5,001 to 20,000 square feet.

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

(c) Mixed production. If a producer intends to have a mixture of indoor and outdoor mature canopy production the Commission will determine the producer's tiers and mature canopy area by applying the following standards:

(A) A producer may produce marijuana indoors and outdoors at the same time on the same licensed premises. The Commission must be notified of a producer's plan to engage in the indoor and outdoor production of marijuana at the time of initial licensure or at renewal, and not at any other time. A producer who utilizes mixed production may only change designated canopy areas from one production type to another at the time the producer submits a renewal application.

(B) The Commission must approve the canopy size applicable to each method.

(C) 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 (1) of this rule. For example, if a Tier II producer in the first year of licensure has 5,000 square feet of indoor canopy space, then the producer may have up to 20,000 square feet of outdoor canopy space at the same time.

(2) Immature Canopy Size Limits. Unless otherwise provided by these rules, the maximum Canopy Size Limits for immature canopy area for licenses issued or renewed after April 1, 2018 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.

(3) Canopy Measurements. Square footage of canopy space is measured horizontally starting from the outermost point of the furthest plant in a designated growing space and continuing around the outside of all plants located within the designated growing space. If immature plants are grown on racks or shelving within the immature canopy, only the footprint of the area containing the immature plants will be used to calculate the immature canopy.

(a) For Licenses issued or renewed after April 1, 2018 a producer may designate no more than 20 canopy areas including both immature and mature canopy areas at a licensed premises and those areas must be separated by a physical boundary such as an interior wall or by at least eight feet of open space.

(b) On an annual basis, the Commission will evaluate market demand for marijuana items, the number of person 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.

(4) Canopy Size Limit — Designation and Increases.

(a) A producer must clearly identify designated mature and immature canopy areas and proposed canopy size in the initial license application and upon renewal. A producer may change a designated canopy area within a production type during the term of the license with prior written approval from the Commission, but a producer may only change canopy tiers at the time of renewal in accordance with this rule.

(b) A producer may submit a request to change canopy tiers at the time the producer submits an application for renewal of the license. The Commission will grant approval of the request to increase the canopy tier for the producer's next licensure term if:

(A) The producer's renewal application is otherwise complete;

(B) There are no bases to deny or reject the producer's renewal application;

(C) The producer has not already reached the applicable maximum canopy size set forth in section (2) of this rule; and

(D) During the preceding year of licensure, the producer has not been found to be in violation, and does not have any pending allegations of violations of ORS 475B or these rules.

(c) The Commission shall give a producer an opportunity to be heard if a request is rejected under this section.

(5) Mature marijuana plants may only be located within the designated canopy area.

(6) Violations. An intentional violation of this rule is a Category I violation and may result in license revocation. All other violations are Category III violations.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.075

STATUTES/OTHER IMPLEMENTED: ORS 475B.075

ADOPT: 845-025-2045

RULE TITLE: Propagation Endorsement

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

- (1) A producer licensee may apply for a propagation endorsement in order to grow additional immature marijuana plant canopy as defined by these rules.
- (2) Application. A producer applying for an endorsement under this rule, must submit a propagation plan that demonstrates that additional immature marijuana plant canopy is required for the production of immature plants or seeds for sale to other licensees.
- (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 for a propagation endorsement, so long as there is no change in the aggregate size of the mature and immature canopy areas.
 - (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 applying for a propagation endorsement 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) Denial and Revocation. The Commission may deny a producer's request for an endorsement or revoke the endorsement. If the Commission denies or revokes the endorsement, the producer has a right to a hearing under the procedures of ORS chapter 183.

STATUTORY/OTHER AUTHORITY: 475B.025

STATUTES/OTHER IMPLEMENTED: 2017 OL Ch. 183

AMEND: 845-025-2060

RULE TITLE: Recreational Marijuana Producers — Start-up Inventory

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) Marijuana producers may not receive immature marijuana plants or seeds from any source other than from another licensee, except:

(a) Between January 1, 2016 and July 1, 2018 a marijuana producer may receive immature marijuana plants and seeds from any source within Oregon for up to 90 days following initial licensure by the Commission;

(b) Pursuant to the transfer of medical marijuana inventory under OAR 845-025-2100.

(2) The marijuana producer shall, through CTS, report receipt of the number of immature marijuana plants or seeds received under this section within 24 hours of the plants or seeds arriving at the licensed premises. A producer does not have to document the source of the immature plants or seeds during the 90 day start-up period.

(3) The requirements in section (2) of this rule do not apply during the first ten calendar days of licensure so long as the licensee has ordered UID tags and the UID tags are in transit to the licensee.

(4) Failure to comply with this rule is a Category I violation and could result in license revocation.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070

STATUTES/OTHER IMPLEMENTED: ORS 475B.023, 475B.070 & 2016 OL Ch. 24

AMEND: 845-025-2070

RULE TITLE: Pesticides, Fertilizers and Agricultural Chemicals

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting

to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) Pesticides. A producer may only use pesticides in accordance with ORS Chapter 634 and OAR 603, division 57.

(2) Fertilizers, Soil Amendments, Growing Media. A producer may only use fertilizer, agricultural amendments, agricultural minerals and lime products in accordance with ORS Chapter 633.

(3) A producer 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.

(4) In addition to other records required by these rules, a producer must maintain, at all times and on the licensed premises:

(a) The material safety data sheet (MSDS) for all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana;

(b) The original label or a copy thereof for all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana; and

(c) A log of all pesticides, fertilizers or other agricultural chemicals used by the producer in the production of marijuana. The log must include:

(A) The information required to be documented by a pesticide operator in ORS 634.146; and

(B) The unique identification tag number of the cultivation batch or individual mature marijuana plant to which the product was applied, or if applied to all plants on the licensed premises a statement to that affect.

(5) A producer may maintain the records required under this rule in electronic or written form. If electronic, a producer shall maintain a backup system or sufficient data storage so that records are retained for no less than two years after harvest of any marijuana on which documented products were used. If written, a producer shall ensure that the records are legible and complete, shall keep them in a safe and secure location, and shall retain the records for no less than two years after harvest of any marijuana on which documented products were used.

(6) A producer must make the records required under this rule immediately available during a premises inspection by a Commission regulatory specialist. If the Commission requests

copies of the records at any time other than during a premises inspection, a producer shall produce the records upon request.

(7) A violation of sections (1) to (3) of this rule is a Category 1 violation and could result in license revocation.

(8) Notwithstanding (7) of this rule, if a licensee accepts responsibility for an illegal pesticide application through Department of Agriculture's Marijuana Compliance Assistance Program and successfully completes the program, the licensee will receive a notice of warning for their first violation. Any subsequent violations are Category I violations.

(9) A failure to keep complete records as required by section (4) rule is a Category III violation. A failure to keep records on the licensed premises, or failure to timely produce records, is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070

STATUTES/OTHER IMPLEMENTED: ORS 475B.070, 475B.160

AMEND: 845-025-2080

RULE TITLE: Harvest Lot Segregation

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A producer, within 45 days of harvesting a harvest lot must;

(a) Physically segregate the harvest lot from other harvest lots;

(b) Place the harvest lot in a receptacle or multiple receptacles;

(c) Assign and affix a UID tag to each receptacle that is linked to each plant that was harvested;

(d) Ensure all inventory tracking procedures have been followed as required by 845-025-7540 to 845-025-7580;

(e) Ensure current weights of all receptacles described in subsection (c) of this section are accurately recorded in CTS pursuant to the system requirements of CTS; and

(f) Ensure all weight of the harvest has been recorded and designated in CTS as either usable marijuana with an assigned UID tag, waste or moisture loss.

(g) Failure to follow any portion of this section is a violation.

(2) Except as allowed under OAR 333-007-0300 to 333-007-0490 for purposes of sampling, or when providing usable marijuana to a processor a producer may not combine harvest lots that are of a different strain, were produced using different growing practices or harvested at a different locations or at different times.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070

STATUTES/OTHER IMPLEMENTED: ORS 475B.070, 475B.150

AMEND: 845-025-2100

RULE TITLE: Transfer of Medical Marijuana Grower Inventory

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) An individual applicant listed on an application for a producer license under ORS 475B.070 that is also a PRMG may submit a transfer request to the Commission, on a form prescribed by the Commission, to transition a medical marijuana grow site from being registered with the Authority to being licensed by the Commission. The request must include, at a minimum, the following information:

(a) The names, contact information, and Authority issued registry identification number for each PRMG currently registered at the grow site address that is the proposed premises to be licensed;

(b) Copies of all personal agreements entered into under ORS 475B.425 that specify whether a patient has authorized the transfer of marijuana plants or usable marijuana to the Commission license and if so, how much may be transferred; and

(c) An authorization that permits the Authority to disclose to the Commission the PRMG's registration information.

(2) Upon receipt of a request under section (1) of this rule the Commission must verify with the Authority:

(a) The registration status of each PRMG identified in the transfer request;

(b) The number of PRMGs registered at the grow site address that is the proposed premises to be licensed; and

(c) The number of patients each PRMG is producing marijuana for at that grow site address.

(3) The Commission will deny a transfer request if an applicant has not complied with this rule or if a license is denied under OAR 845-025-1115.

(4) If the information in the transfer request is verified by the Authority and the Commission approves a license application under ORS 475B.070, the Commission must notify the applicant of the number of seeds, marijuana plants and usable marijuana permitted to be transferred. Information regarding the seeds, marijuana plants and usable marijuana transferred must be recorded in CTS within ten calendar days of licensure.

(a) The number of mature marijuana plants, immature marijuana plants and amount of usable marijuana that is permitted to be transferred will be based on the number of patients whose registration status has been verified by the Authority in accordance with section (2) of this rule and who have authorized the transfer of marijuana items to the Commission license.

(b) There is no limit on seeds that may be transferred to the Commission license, subject to subsection (a) of this section.

(c) No more than six mature plants and 12 immature plants per patient may be transferred to the Commission license, subject to subsection (a) of this section.

(d) For a medical marijuana grow site located outdoors no more than 12 pounds of usable marijuana per mature plant may be transferred to the Commission license, subject to subsection (a) of this section.

(e) For a medical marijuana grow site located indoors no more than 6 pounds of usable marijuana per mature plant may be transferred to the Commission license, subject to subsection (a) of this section.

(f) Any seeds, marijuana plants or usable marijuana that exceed the amount permitted by the Commission to be transferred must be removed from the premises by the applicant prior to the initial date of licensure and lawfully transferred or disposed of.

(5) The licensee must notify the Commission once the marijuana plants and usable marijuana are entered into CTS and the Commission may inspect the premises to verify the information the licensee entered into CTS.

(6) Once the transfer of inventory under this section is complete the Commission must notify the Authority that the grow site address is now a licensed premises and that the licensed premises may not be registered as a grow site address under ORS 475B.420.

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

(8) Any usable marijuana transferred from a medical marijuana grow site to the licensed premises under this rule must be tested, labeled and packaged, in accordance with OAR 845-025-7000 to 845-025-7060 and 845-025-5700 as applicable, before transferring the usable marijuana to another licensee.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070

STATUTES/OTHER IMPLEMENTED: 2016 OL Ch. 24, Sec. 25

ADOPT: 845-025-2110

RULE TITLE: Medical Marijuana Registrant CTS Registration

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

All PRMG's registered at a grow site that is subject to tracking under OAR 333, Division 8 and a processing site or dispensary registered with the Authority under 475B.435 or 475B.450 must no later than July 1, 2018:

- (1) Register for a CTS account in a form and manner specified by the commission;
- (2) Activate the assigned CTS account within 10 business days of notification by the Commission that activation is required; and
- (3) Use CTS to track inventory as required by these rules.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2017 OL Ch. 183

ADOPT: 845-025-2120

RULE TITLE: Medical Registrant CTS Requirements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) As used in this rule, "medical registrant" means a person responsible for a marijuana grow site as that term is defined in OAR 333-008-0010 and PRMG who is subject to tracking under 2017 OL Ch. 183, Sec. 40 and 41, a marijuana processing site registered under ORS 475B.435 and a medical marijuana dispensary registered under ORS 475B.450.

(2) A PRMG, as defined in OAR 333-008-0010, who is subject to tracking under 2017 Oregon Laws Chapter 183, Sec. 40 and 41 must:

(a) Use CTS to record all inventory as specified by the requirements of these rules, including but not limited to OAR 845-025-7500, 845-025-7520, 845-025-7540, 845-025-7560, 845-025-7570 and 845-025-7580; and

(b) Use CTS to record all transfers of marijuana items to patients, registered medical marijuana dispensaries and registered medical marijuana processing sites, documenting:

(A) The amount of usable marijuana transferred to each patient or designated primary caregiver, the patient or caregiver's OMMP registration number, and the date of the transfer;

(B) The amount of usable marijuana, seeds and number of immature plants transferred to each registered dispensary, the dispensary's OMMP registration number and the date of transfer; and

(C) The amount of usable marijuana transferred to each registered processing site, the processing site's OMMP registration number and the date of transfer.

(3) A registered medical marijuana processing site must:

(a) Use CTS to record all inventory as specified by the requirements of these rules, including but not limited to OAR 845-025-7500, 845-025-7520, 845-025-7540, 845-025-7560, 845-025-7570 and 845-025-7580; and

(b) Use CTS to record all transfers of marijuana items to patients, registered medical marijuana dispensaries and registered medical marijuana processing sites, documenting:

(A) The amount of marijuana items transferred to each patient or designated primary caregiver, the patient or caregiver's OMMP registration number, and the date of the transfer;

(B) The amount of marijuana items transferred to each registered dispensary, the dispensary's OMMP registration number and the date of transfer; and

(C) The amount of marijuana items transferred to each registered processing site, the processing site's OMMP registration number and the date of transfer.

(4) A registered medical marijuana dispensary must;

(a) Use the CTS to record all inventory as specified by the requirements of these rules, including but not limited to OAR 845-025-7500, 845-025-7520, 845-025-7540, 845-025-7560, 845-025-7570 and 845-025-7580; and

(b) Use CTS to record all transfers of marijuana items to patients or designated primary care givers documenting the amount of marijuana items transferred to each patient or designated primary caregiver, the patient or caregiver's OMMP registration number, and the date of the transfer.

(5) Harvesting. A PRMG that is subject to tracking must:

(a) Within 45 days of harvesting a harvest lot, physically segregate the harvest lot from other harvest lots, place the harvest lot in a receptacle or multiple receptacles and assign a UID tag to each receptacle that is linked to each plant that was harvested; and

(b) Except as allowed under OAR 333-007-0300 to 333-007-0490 for purposes of sampling, or when providing usable marijuana to a processor a PRMG may not combine harvest lots that are of a different strain, were produced using different growing practices or harvested at a different locations or at different times.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2017 OL Ch. 183

ADOPT: 845-025-2130

RULE TITLE: Grow site Transfers to Processor or Wholesaler Licensees

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015

& 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) Transfers to Licensees of the Commission.

(a) Eligibility. A grow site that is authorized to produce more than twelve mature marijuana plants may transfer limited quantities of usable marijuana to a processor or wholesaler licensees of the Commission licensed under ORS 475B.090 or 475B.100 if a PRMG at that grow site has:

(A) Registered in a form and manner specified by the Commission;

(B) Provided proof to the Commission of a legal source of water as evidenced by:

(i) A copy of a water right permit, certificate, or other water use authorization from the Oregon Water Resources Department;

(ii) A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or

(iii) Proof from the Oregon Water Resources Department that the water to be used for production is from a source that does not require a water right.

(C) Activated the assigned CTS account; and

(D) Received approval from the Commission.

(b) Testing Requirements. A PRMG transferring usable marijuana to a processor or wholesaler licensee of the Commission must comply with the Authority's testing rules in OAR 333-007-0300 to 333-007-0490 and OAR 333, division 64 prior to the sale or transfer of a marijuana item, as specified in those rules.

(c) Manifest. A PRMG transferring usable marijuana to a processor or wholesaler licensee of the Commission must generate a manifest in CTS that contains the following information:

(A) The name, contact information of the PRMG representative, grow site address and grow site registration number of the PRMG transporting the usable marijuana;

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

(C) Product name and quantities (by weight) of the usable marijuana 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 PRMG medical grower's representative accompanying the transport.

(2) Transfer limits. All PRMG's located at the same grow site address are limited to transferring an aggregate of twenty pounds of usable marijuana per grow site address to processor and wholesaler licensees in any twelve month period.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2017 OL Ch. 613

ADOPT: 845-025-2140

RULE TITLE: Registrant to Patient Transfers

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

Transfers to cardholders or designated primary caregivers. A medical grow site registered with the Commission must use CTS to document the amount of usable marijuana transferred to each registrant, the date of the transfer, and the registrant's OMMP number.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2017 OL Ch. 183

ADOPT: 845-025-2150

RULE TITLE: Medical Marijuana Inspections and Compliance

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting

to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) An Authority registrant that is subject to tracking in CTS, under OAR 333, Division 8 must permit Commission staff to conduct inspections of the registered premises.

(2) The Commission will refer all compliance issues concerning registrants to the Authority who will determine, in its discretion and under its rules whether enforcement action should be taken.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2017 OL Ch. 183

AMEND: 845-025-2500

RULE TITLE: Registration to Produce Usable Marijuana for Patients

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) Eligibility. A licensed producer may produce a medically designated mature canopy in an amount equal to ten percent of their approved mature canopy tier licensed under ORS 475B.075, 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) Pay the fee specified in OAR 845-025-1060;

(c) Provide the Commission with a scaled floor plan or map specifying where the medically designated mature canopy will be located on the licensed premises; and

(d) Submit a control plan describing how the producer will:

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

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

(3) Land-use Compatibility Statement.

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

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

(4) 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.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2017 OL Chapter 183

REPEAL: 845-025-2510

RULE TITLE: Licensed Producer and Patient Agreements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A licensed producer who is registered by the Commission to produce marijuana for patients may have agreements with up to 24 patients during any one calendar year.

(2) A licensed producer must use a form of patient agreement prescribed by the Commission that includes:

- (a) The name, contact information, and OMMP card number of the patient and the patient's designated primary caregiver, if applicable.
 - (b) A statement that the producer may not be compensated by the patient for producing or providing marijuana to the patient, but may reimburse the producer for the costs associated with producing or providing marijuana to the patient.
 - (c) A statement that the producer may not produce more than the equivalent in square feet of six mature plants for the patient.
 - (d) The amount of usable marijuana that may be provided to the patient or to the patient's designated primary caregiver, not to exceed 24 ounces in any one transfer or three pounds in a 12 month period.
 - (e) The amount of usable marijuana the producer is permitted to transfer, if any, to other patients not named in the agreement, not to exceed 24 ounces in any one transfer or three pounds per patient in a 12 month period.
 - (f) The amount of usable marijuana the producer is permitted to transfer or sell if any to a registered marijuana processing site or registered dispensary, not to exceed 25% of the total annual yield from the producer's medical canopy.
 - (g) The requirements for terminating an agreement as prescribed by the Commission.
 - (h) A statement that the producer may not produce marijuana for the patient unless the producer has been registered with the Commission to produce marijuana for patients.
- (3) A producer may not enter into an agreement with a patient who has a grower registered with the Authority or with a patient who has entered into an agreement with another licensed producer under this rule.
- (4) A producer may not produce marijuana for a patient until the Commission:
- (a) Verifies the patient's registration status with the Authority;
 - (b) Approves the agreement; and
 - (c) Notifies the producer that the producer may produce and provide usable marijuana to that patient.
- (5) A producer may neither give nor receive consideration for entering into a patient agreement, except as allowed by these rules.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2016 OL Ch. 83 Sec. 2

REPEAL: 845-025-2520

RULE TITLE: Termination of Producer and Patient Agreements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

- (1) A producer or a patient may terminate an agreement at any time with 30 days written notice.
- (2) The producer must provide a copy of any notice of termination to the Commission within 2 business days of terminating an agreement or receiving notice of termination from a patient.
- (3) Effect of the termination. The producer's medical canopy will be reduced by 280 square feet for outdoor producers and 70 square feet for indoor producers if the producer has agreements with fewer than 14 patients and the producer fails to enter into a new agreement as described in OAR 845-025-2530.
- (4) If a patient, at any time during the term of the producer-patient agreement is no longer registered with the Authority, the agreement is invalid.
- (5) If the Commission learns that a patient has been disciplined by the Authority for violations of the Oregon Medical Marijuana Act or the Authority's rules, has been convicted of marijuana related crimes, or has a registered grower under ORS 475B.420, the Commission may notify the producer and the patient that the agreement is no longer valid and will provide instructions to the producer regarding the disposition of any marijuana plants or usable marijuana that were produced for that patient.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2016 OL Ch. 83 Sec. 2

REPEAL: 845-025-2530

RULE TITLE: Adding or Replacing Patients Agreements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting

to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) If a producer or a patient terminates an agreement at least 90 days before the date the producer's license expires, the producer may, within 90 days of the notice of termination, enter into a new agreement with a patient to replace a patient whose agreement is being terminated.

(2) Except as provided in section (1) of this rule, after August 31, 2017, new patient agreements may only be entered into and submitted to the Commission for verification and review at the time the producer applies for a new license or renewal of an existing license.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2016 OL Ch. 83 Sec. 2

REPEAL: 845-025-2540

RULE TITLE: Grow Canopy Limitation for Producers Registered to Produce Marijuana for Patients

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A licensed producer who has been registered by the Commission to produce marijuana for patients may only produce the following amounts of marijuana for patients:

(a) For outdoor producers, up to 240 square feet per patient agreement, not to exceed a sum total of 3360 square feet of mature plant canopy.

(b) For indoor producers, up to 60 square feet per patient agreement, not to exceed a sum total of 840 square feet of mature plant canopy.

(2) A licensed producer must physically separate usable marijuana produced for patients from the marijuana canopy authorized under OAR 845-025-2040.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2016 OL Ch. 83 Sec. 2

AMEND: 845-025-2550

RULE TITLE: Requirements for Producing and Providing Marijuana for Patients

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

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

(1) Must:

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

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

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

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

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

(2) 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 the patient's designated primary caregiver up to 24 ounces of usable marijuana in any one transfer and three pounds in a calendar year.

(c) Terminate their registration with prior notice to the commission.

(d) 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 an OMMP card holder or primary care giver, as allowed by these rules.

(3) May not:

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2016 OL Ch. 83 Sec. 2

AMEND: 845-025-2560

RULE TITLE: Cancellation of Registration; Violations

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

In addition to taking action against the producer's license, the Commission may cancel or suspend a licensed producer's registration to produce marijuana plants on a medically designated grow canopy if the producer violates these rules.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2016 OL Ch. 83 Sec. 2

ADOPT: 845-025-2700

RULE TITLE: Application for Industrial Hemp Certificate

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

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

(2) The application must include:

(a) Proof of registration under ORS 571.305;

(b) The license and application fees specified in OAR 845-025-1060; and

(c) Any other information identified in the application form.

(3) Denial. The Commission will deny any application under this rule that does not meet the requirements of (2) or contains false or misleading information.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2017 OL Ch. 531

ADOPT: 845-025-2750

RULE TITLE: Industrial Hemp Certificate Privileges; Prohibitions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

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

(2) A hemp handler may deliver industrial hemp concentrates and industrial hemp extracts to a marijuana processor that holds a license issued under ORS 475B.090 in accordance with subsection (3) and (4) of this rule.

(3) The hemp grower or handler must:

(a) Hold a valid Industrial Hemp Certificate issued by the Commission;

(b) Only deliver to a marijuana processor licensed under ORS 475B.090 that holds an industrial hemp endorsement; and

(c) Provide the marijuana processor a copy of any test result conducted on the industrial hemp, industrial hemp concentrate or extract pursuant to OAR 603-048-0600 and OAR 603-048-2300.

(4) A hemp grower or handler may only deliver industrial hemp and industrial hemp concentrates or extracts if they have passed required testing under OAR 603-048-0600 and OAR 603-048-2300.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 2017 OL Ch. 531

AMEND: 845-025-2800

RULE TITLE: Retailer Privileges; Prohibitions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A retailer is the only licensee that is authorized to sell a marijuana item to a consumer.

(2) A retailer may:

(a) Between the hours of 7:00 AM and 10:00 PM local time, sell marijuana items from the licensed premises to a consumer 21 years of age or older;

(b) Sell and deliver:

(A) Marijuana items, industrial hemp concentrates, industrial hemp extracts or industrial hemp commodities or products 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 to a clients between ages 18-21, so long as:

(i) The client has a valid OMMP card; and

(ii) The retailer has a valid medical endorsement.

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

(D) Industrial hemp concentrates, industrial hemp extracts or industrial hemp commodities or products as long as those items were received from an OLCC processor with an approved industrial hemp processor endorsement as required by 845-025-3285. Hemp items that were received from other sources prior to December 28, 2017 may be retained and sold at retail until April 1, 2018.

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

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

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

(C) Accurately records the transaction in the CTS; and

(D) Does not resell any items returned by customers.

(d) Purchase and receive:

(A) Usable marijuana, immature marijuana plants, and seeds from a producer or from a research certificate holder;

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

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

(D) Any marijuana item from a laboratory; and

(E) Marijuana items from a retailer that is owned by the same or substantially the same persons. For purposes of this rule, substantially the same means that individuals named on the approved license or persons with a financial interest in the licensed businesses are identical.

(e) Refuse to sell marijuana items to a consumer;

(f) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490; and

(g) Accept returned marijuana 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.

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

(3) A retailer may not:

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

(A) One ounce of usable marijuana to recreational consumers;

(B) 24 ounces of usable marijuana to registry identification cardholders and designated primary caregivers pursuant to the requirements of OAR 845-025-2900;

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

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

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

(F) Four immature marijuana plants; and

(G) Ten marijuana seeds.

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

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

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

(e) 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.

- (f) Sell a marijuana item at a nominal price for promotional purposes.
- (g) Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day.
- (h) Permit a licensed representative to handle an unpackaged marijuana 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.
- (i) Sell or transfer a returned marijuana item to another consumer.
- (j) Sell, transfer, deliver, purchase, or receive any marijuana item other than as provided in section (2) of this rule.
- (k) Permit a consumer to open or alter a package containing a marijuana item or otherwise remove a marijuana item from packaging required by these rules within the licensed premises or in an area that the licensee controls.
- (l) Permit a consumer to bring marijuana items onto the licensed premises except for marijuana items being returned for refund or exchange as allowed by this rule.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.110

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.110

AMEND: 845-025-2820

RULE TITLE: Retailer Operational Requirements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.110

STATUTES/OTHER IMPLEMENTED: ORS 475B.035

AMEND: 845-025-2840

RULE TITLE: Retailer Premises

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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 475B.110 (2)(d), a marijuana retailer may be located within 1,000 feet of a school if the marijuana retailer is not located within 500 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 (1)(a); and

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

(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) A retailer must designate a consumer sales area on the licensed premises where consumers are permitted. The area shall include the portion of the premises where marijuana items are displayed for sale to the consumer and 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.

(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.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.110

STATUTES/OTHER IMPLEMENTED: 2016 OL Ch. 83, ORS 475B.110, 475B.160

AMEND: 845-025-2880

RULE TITLE: Delivery of Marijuana Items by Retailer

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015

& 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A marijuana retailer may deliver a marijuana item to a residence in Oregon subject to compliance with this rule. For purposes of this rule, "residence" means a dwelling such as a house or apartment but does not include a dormitory, hotel, motel, bed and breakfast or similar commercial business.

(2) Delivery Approval Process.

(a) The retailer must request approval from the Commission prior to undertaking delivery service of marijuana items, on a form prescribed by the Commission that includes a statement that the retailer:

(A) Understands and will follow the requirements for delivery listed in this rule; and

(B) Has taken steps to ensure the personal safety of delivery personnel, including providing any necessary training.

(b) The retailer must receive written approval from the Commission prior to making any deliveries.

(c) The Commission may refuse to review any request for approval that is not complete and accompanied by the documents or disclosures required by the form.

(d) The Commission may deny a retailer's request for approval to deliver marijuana items if the retailer does not meet the requirements of this or any other pertinent rule. If the Commission denies the request, the retailer has a right to a hearing under the procedures of ORS chapter 183.

(e) The Commission may withdraw approval for delivery service at any time if the Commission finds that the retailer is not complying with this rule, the personal safety of delivery personnel is at risk, the retailer's delivery service has been the target of theft, or the delivery service is creating a public safety risk.

(3) Bona Fide Orders.

(a) A bona fide order must be received by an approved retailer from the individual requesting delivery, before 8:00 p.m. on the day the delivery is requested.

(b) The bona fide order must contain:

(A) The individual requestor's name, date of birth, the date delivery is requested and the address of the residence where the individual would like the items delivered;

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

(C) A statement that the marijuana is for personal use and not for the purpose of resale.

(4) Delivery Requirements.

(a) Deliveries must be made before 9:00 p.m. local time and may not be made between the hours of 9:00 p.m. and 8:00 a.m. local time.

(b) The marijuana retailer may only deliver in a motor vehicle to the individual who placed the bona fide order and only to individuals who are 21 years of age or older.

(c) At the time of delivery the individual performing delivery must check the identification of the individual to whom delivery is being made in order to determine that it is the same individual who submitted the bona fide order, that the individual is 21 years of age or older, and must require the individual to sign a document indicating that the items were received.

(d) A marijuana retailer may not deliver a marijuana item to an individual who is visibly intoxicated at the time of delivery.

(e) Deliveries may not be made more than once per day to the same physical address or to the same individual.

(f) Marijuana items delivered to an individual's residence must:

(A) Comply with the packaging rules in OAR 845-025-7000 to 845-025-7060; and

(B) Be placed in a larger delivery receptacle that has a label that reads: "Contains marijuana: Signature of person 21 years of age or older required for delivery".

(g) A retailer may not carry or transport at any one time more than a total of \$3000 in retail value worth of marijuana items designated for retail delivery.

(h) All marijuana items must be kept in a lock-box securely affixed inside the delivery motor vehicle.

(i) A manifest must be created for each delivery or series of deliveries and the individual doing the delivery may not make any unnecessary stops between deliveries or deviate substantially from the manifest route.

(5) Documentation Requirements. A marijuana retailer must document the following regarding deliveries:

- (a) The bona fide order and the date and time it was received by the retailer;
 - (b) The date and time the marijuana items were delivered;
 - (c) A description of the marijuana items that were delivered, including the weight or volume and price paid by the consumer;
 - (d) Who delivered the marijuana items; and
 - (e) The name of the individual to whom the delivery was made and the delivery address.
- (6) A retailer is only required to maintain the name of an individual to whom a delivery was made for one year.
- (7) Prohibitions.
- (a) A retailer may deliver marijuana items only to a location within:
 - (A) The city in which the licensee is licensed, if a licensee is located within a city; or
 - (B) Unincorporated areas of the county in which the licensee is licensed, if a licensee is located in an unincorporated city or area within the county.
 - (b) A retailer may not deliver marijuana items to a residence located on publicly-owned land.
- (8) Sanction. 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 475B.025, 475B.110, 475B.160

STATUTES/OTHER IMPLEMENTED: ORS 475B.160

AMEND: 845-025-2890

RULE TITLE: Marijuana Retailers — Collection of Taxes

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A retailer must collect, at the point of sale, the tax imposed on the consumer under ORS 475B.705 and remit the tax to the Oregon Department of Revenue in accordance with Department of Revenue rules.

(2) A retailer may not collect a tax on:

(a) Any medical sales to either Oregon Medical Marijuana Program patients or their designed primary caregivers; or

(b) On sales of products other than marijuana items.

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

(4) An intentional violation of this rule is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.160

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.160

AMEND: 845-025-2900

RULE TITLE: Retail Sale of Marijuana for Medical Purposes

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) In order to sell marijuana items for medical purposes, a marijuana retailer licensed under ORS 475B.110 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 475B.110 who has registered with the commission to sell marijuana items for medical purposes, may:

(a) Sell marijuana items tax free to registry identification cardholders and designated primary caregivers.

(b) Sell medical grade cannabinoid product, cannabinoid concentrate or extract to registry identification cardholders and designated primary caregivers.

(c) 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.

(d) 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 333-007-0100 to 333-007-0100 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 333-007-0220.

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 2016 OL Ch. 83

AMEND: 845-025-3210

RULE TITLE: Retail Marijuana Processors — Endorsements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

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

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

(2) Industrial Hemp processor. A processor may only process industrial hemp items if the processor licensee has received an industrial hemp processor endorsement as by required by 845-025-3285.

(3) An applicant must request an endorsement upon submission of an initial application but may also request an endorsement at any time following licensure.

(4) To apply for an endorsement an applicant or processor licensee must submit a form prescribed by the Commission that includes a description of the type of products to be processed, a description of equipment to be used, and any solvents, gases, chemicals or other compounds proposed to be used to create extracts or concentrates.

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

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

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

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

(9) The Commission may deny a processor's request for an endorsement or revoke an existing endorsement if the processor cannot or does not meet the requirements in OAR 845-025-3200

to 845-025-3290 for the endorsement that is requested. If the Commission denies or revokes approval the processor has a right to a hearing under the procedures of ORS chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.090

STATUTES/OTHER IMPLEMENTED: ORS 475B.090, 475B.135, 2017 OL 476 , 2017 OL 531

AMEND: 845-025-3215

RULE TITLE: Processor Privileges; Prohibitions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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; and

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

(b) Purchase and 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, OMMP patient or designated primary care giver, or from a research certificate holder;

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

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

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

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

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

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

(c) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490.

(d) Accept or make returns, 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 whom supplied or purchased the item; and

(C) Accurately records the transaction in the CTS.

(2) A processor may not transfer, sell transport, purchase, or receive any marijuana or hemp item other than as provided in section (1) of this rule.

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.090

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.090 , 2016 OL Ch. 23, OL 2016 Ch. 24, 2017 OL Ch. 531

AMEND: 845-025-3220

RULE TITLE: General Processor Requirements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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 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 and enter this information into CTS.

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

(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).

(3) A processor may not treat or otherwise adulterate a cannabinoid product, concentrate or extract with any non-cannabinoid additive that would increase potency, toxicity or addictive potential, or that would create an unsafe combination with other psychoactive substances. Prohibited additives 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 2 years.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.090

STATUTES/OTHER IMPLEMENTED: ORS 475B.090, 2017 OL Ch. 531

AMEND: 845-025-3260

RULE TITLE: Cannabinoid Concentrate and Extract Processor Requirements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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) Must:

(A) Process in a:

(i) Fully enclosed room clearly designated on the current diagram of the licensed premises.

(ii) Room and 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.

(B) 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).

(C) 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.

(D) Have equipment and facilities used in processing approved for use by either the local or state fire code official.

(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.

(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;

(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 heat over 180 degrees (Fahrenheit) or pressure.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.090

STATUTES/OTHER IMPLEMENTED: ORS 475B.090, 2017 OL Ch. 531

ADOPT: 845-025-3285

RULE TITLE: Industrial Hemp Processor Requirements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025 , 475B.090, 2017 OL Ch. 531

STATUTES/OTHER IMPLEMENTED: 475B.090, 2017 OL Ch. 531

AMEND: 845-025-3290

RULE TITLE: Processors Recordkeeping

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting

to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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".

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.090

STATUTES/OTHER IMPLEMENTED: ORS 475B.090, 2017 OL Ch. 531

ADOPT: 845-025-3305

RULE TITLE: Processing for Cardholders

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) Eligibility. A processor licensed under ORS 475B.090 who has registered in the form and manner prescribed by the commission may receive usable marijuana from a patient or the patient's designated primary caregiver and, for a fee, process that usable marijuana into cannabinoid products, concentrates and extracts for transfer to the patient or the patient's designated primary caregiver subject to the following conditions:

(a) The processor cannot receive more than 24 ounces of usable marijuana from a patient or the patient's designated primary caregiver in a single transaction; and

(b) The processor cannot receive more than three pounds from a patient or the patient's designated primary caregiver in any 12-month period;

(c) The processor may not transfer more than the following amounts of marijuana items to a patient or the patient's designated primary caregiver in a single transaction:

(A) One ounce of cannabinoid extracts;

(B) 16 ounces of cannabinoid concentrates;

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

(D) 72 ounces of cannabinoid products in liquid form.

(d) In total the processor may not transfer more than the following amounts of marijuana items to a patient or the patient's designated primary caregiver in any 12 month period:

(A) Two ounces of cannabinoid extracts;

(B) 32 ounces of cannabinoid concentrates;

(C) 32 ounces of cannabinoid products in solid form; or

(D) 144 ounces of cannabinoid products in liquid form.

(e) The processor must:

(A) Record all activity under this rule in CTS; and

(B) Have the proper endorsements listed within 845-025-3210.

(2) Transfer requirements. Prior to transferring any cannabinoid products, concentrates or extracts processed under this rule to a patient or the patient's designated primary caregiver the processor must:

(a) Label the package with a statement that reads "Marijuana item. Not for resale."; and

(b) Comply with the:

(A) Testing requirements applicable to licensed processors in ORS 475B.550 to ORS 475B.590 and OAR 333-007-0300 to 333-007-0490;

(B) The concentration limit requirements in ORS 475B.625 and any rules adopted thereunder; and

(C) Packaging and labeling requirements, as set forth in OAR 333-007-0010 to 333-007-0100.

(3) Record Keeping. In addition to the requirements of (1)(e) the processor must record all patient or designated primary caregiver's OMMP number from whom they receive usable marijuana and the OMMP number of the patient or designated primary caregiver to whom they transfer cannabinoid products, concentrates and extracts.

(4) Processing Requirements. The processor may only combine usable marijuana received from patients or designated primary caregivers when processing cannabinoid products, concentrates and extracts for a patients or the patients' designated primary caregiver. A processor may not add or contribute any other usable marijuana or hemp items to the processing.

(a) When distributing a cannabinoid product derived from usable marijuana received from multiple patients in (4) of this rule, the processor must distribute in proportional shares.

(b) The processor must segregate all usable marijuana received under this rule and all cannabinoid products, concentrates and extracts processed under this rule from its other inventory.

(5) Violations. The Commission may cancel or suspend a licensed processor's registration under this rule or the processor's license if the processor violates these rules.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.090 , 2017 OL Ch. 183

STATUTES/OTHER IMPLEMENTED: 475B.090 , 2017 OL Ch. 183

AMEND: 845-025-3500

RULE TITLE: Wholesale License Privileges; Prohibitions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has

made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A wholesale licensee may:

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

(A) Any type of or marijuana 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 a producer license that the wholesale license has stored on the producer's behalf;

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

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

(F) An industrial hemp commodity or product received from a processor licensee of the Commission.

(b) Purchase or receive:

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

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

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

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

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

(F) Industrial hemp commodities and products from a processor licensee of the Commission.

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

(d) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490.

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

(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 (A) of this section from the original licensee whom supplied or purchased the item; and

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

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

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

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

(2) A wholesale licensee may not sell, deliver, purchase, or receive any marijuana item other than as provided in section (1) of this rule.

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.090

STATUTES/OTHER IMPLEMENTED: ORS 475B.100, 475B.400 , 2016 OL Ch. 23, 2017 OL Ch. 531 , 2017 OL Ch. 183

ADOPT: 845-025-3505

RULE TITLE: Wholesaler For-Hire Trimming Privilege

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) Eligibility.

(a) A licensee that holds a wholesaler license under ORS 475B.100 may apply for a for-hire trimming privilege.

(b) This rule does not apply to entities solely providing staffing services for trimming operations.

(2) Definitions.

(a) "For-hire trimmer" means any wholesale licensee who has applied for and received approval under this rule.

(b) "Mobile trimming equipment" is equipment that is transported to the licensed premises which alters the security plan approved by the Commission.

(c) "Trim" means the process of separating marijuana usable flower from usable marijuana leaves and stems.

(3) Application Requirements.

(a) A wholesale licensee must receive approval from the Commission prior to providing for-hire trimming services of marijuana, on a form prescribed by the Commission.

(b) The application for a for-hire trimmer privilege under this rule shall include a description of any mobile equipment that will be transported to the producer's licensed premises and a written control plan on a form prescribed by the Commission. The control plan shall include:

(A) Procedures that prevent unlawful activity and violations; and

(B) Procedures that prevent any person under 21 years to be admitted to the areas where marijuana will be trimmed.

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

(d) The Commission may require an inspection of the wholesale licensee's mobile trimming operation at any time.

(e) The Commission may refuse to process any application that is not complete or is not accompanied by the documents or disclosures required by the form or the Commission.

(4) Operations Requirements.

(a) The approved wholesaler must notify the Commission at least 3 business days in advance before transporting the mobile trimming equipment to the producer's licensed premises.

(b) The approved wholesaler and producer must:

(A) Ensure that all trimming activities are captured on video and meet the requirements of OAR 845-025-1450;

(B) Capture and maintain surveillance video as set forth in 845-025-1450. If the activity is captured on video by the wholesaler, the wholesaler licensee must provide a copy of the video to the producer before leaving the licensed premises; and

(C) Maintain a log of all activity allowed under this rule. The log must contain the first and last name and date of birth of every visitor and the date they visited.

(5) The Commission may deny any application for a for-hire trimmer that does not meet the requirements of this rule.

(6) The Commission may deny, cancel or restrict an application for a for-hire trimmer privilege for any reason for which the Commission may deny, revoke or restrict a regular license or if the Commission, in its discretion, determines that approving the privilege would present a risk to public health and safety.

(7) The Commission may deny or restrict an application for a for-hire trimmer privilege if any participating licensee has been found to have violated ORS 475B.010 to 475B.395 or any rules adopted there under in the past 24 months.

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

(9) The Commission may immediately revoke for-hire trimmer privilege if the Commission has reasonable grounds to believe continued operation presents a risk to public health and safety.

(10) The wholesaler and the producer are jointly liable for any violation of ORS 475B.010 to ORS 475.390 or any rules adopted thereunder that occur on the producer's licensed premises while the wholesaler is present and exercising the for-hire trimmer privilege.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: 475B.100, 2017 OL Ch. 183

AMEND: 845-025-3510

RULE TITLE: Micro-Wholesaler License Privileges

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting

to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A micro-wholesale licensee may:

(a) Purchase 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, 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) A micro-wholesaler may not transfer, sell transport, purchase, or receive any marijuana item other than as provided in section (3) of this rule.

(3) Sell including sale by auction, transfer and 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.

(4) Transport and store marijuana items received from producers with a micro tier 1 or micro tier II canopy, pursuant to the requirements of OAR 845-025-7500 to 845-025-7590 and 845-025-7700.

(5) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0490.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.075

STATUTES/OTHER IMPLEMENTED: ORS 475B.075, 2016 OL Ch. 24

AMEND: 845-025-5030

RULE TITLE: Laboratory Licensing Requirements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) General Requirements.

(a) A laboratory that intends to collect samples or test marijuana items for producer, processor, wholesale, or retail licensees, or research certificate holders must be licensed by the Commission.

(b) An applicant for a license under this rule must comply with all applicable application requirements in OAR 845-025-1030 and pay the required application and license fees.

(c) A laboratory application is subject to the same application review procedures as other applicants.

(d) In addition to the denial criteria in OAR 845-025-1115, the Commission may refuse to issue a laboratory license for any violation ORS 475B.550 to 475B.590, OAR 333-007-0300 to 333-007-0490, OAR 333, Division 64 or these rules.

(e) In addition to the denial criteria in OAR 845-025-1115, the Commission may refuse to issue a laboratory license to any person who:

(A) Holds a producer, processor, wholesale or retail license;

(B) Is registered with the authority under ORS 475B.420 and is a person designated to produce marijuana by a registry identification cardholder as that is defined in ORS 475B.410;
or

(C) Is registered with the authority under ORS 475B.435 or 475B.450.

(f) Laboratory application and license fees are established in OAR 845-025-1060.

(g) A laboratory that is only accredited to perform sampling may be designated as a Sampling Laboratory for purposes of the licensing fee in OAR 845-025-1060. This designation may only be changed upon license renewal.

(2) Accreditation by the Authority

(a) In addition to the requirements listed in section (1) of this rule, an applicant for a laboratory license must be accredited by the Authority under OAR 333, Division 64 for any cannabis sampling or testing the applicant will perform under OAR 333-007-0300 to 333-007-0490.

(b) An applicant for a license under this rule may apply for licensure prior to receiving accreditation, but the Commission will not issue a license until proof of accreditation is received.

(c) The Commission may make efforts to verify or check on an applicant's accreditation status during the licensing process, but an applicant bears the burden of taking all steps needed to secure accreditation and present proof of accreditation to the Commission.

(d) In addition to the denial criteria in OAR 845-025-1115, the Commission may consider an application incomplete if the applicant does not obtain accreditation from the Authority within six months of applying for a license. The Commission shall give an applicant an opportunity to be heard if an application is declared incomplete under this section, but an applicant is not entitled to a contested case proceeding under ORS chapter 183. An applicant whose application is declared incomplete may reapply at any time.

(e) A licensed laboratory must maintain accreditation by the Authority at all times while licensed by the Commission. If a laboratory's accreditation lapses or is revoked at any time for any reason while licensed by the Commission, the laboratory may not perform any activities that are subject to the lapsed or revoked accreditation until it is reinstated.

(f) Exercising license privileges without proper accreditation is a Category I violation and could result in license revocation.

(3) Renewal.

(a) A laboratory must renew its license annually and pay the required renewal fees in accordance with OAR 845-025-1190.

(b) A laboratory renewal application may be denied for any violation of ORS 475B.550 to 475B.590, OAR 333-007-0300 to 333-007-0490, OAR 333, Division 64, or these rules.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.090, 2017 OL Ch. 183

STATUTES/OTHER IMPLEMENTED: ORS 475B.090

AMEND: 845-025-5045

RULE TITLE: Laboratory Tracking and Reporting

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A laboratory licensee is required to utilize CTS for sampling or testing conducted for licensees and research certificate holders and follow all requirements established by OAR 845-025-7500 to 845-025-7590.

(2) A laboratory licensee conducting sampling or testing for licensees 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 licensee or research certificate holder 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; and

(D) Results of all testing performed.

(c) Disposition of any testing sample material.

(3) A laboratory must also comply with any recordkeeping requirements in OAR 333-007-0300 to 333-007-0490 and OAR 333, Division 64.

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

STATUTORY/OTHER AUTHORITY: ORS 475B.560

STATUTES/OTHER IMPLEMENTED: ORS 475B.560

AMEND: 845-025-5500

RULE TITLE: Marijuana Worker Permit

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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 or wholesaler if the individual participates in:

(a) The possession, production, propagation, processing, securing or selling of marijuana items at the premises for which the license has been issued;

(b) The recording of the possession, production, propagation, processing, securing or selling of marijuana items at the premises for which the license has been issued;

(c) The verification of any document described in ORS 475B.170; 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 his or her 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 or wholesaler 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 any work at the licensed premises.

STATUTORY/OTHER AUTHORITY: ORS 475B.215, 475B.218

STATUTES/OTHER IMPLEMENTED: ORS 475B.215, 475B.218, 2016 OL Ch. 23, 2017 OL Ch. 183

AMEND: 845-025-5520

RULE TITLE: Marijuana Worker Applications

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) In order to obtain a marijuana worker permit an individual must submit an application on a form prescribed by the Commission. The application must contain the applicant's:

(a) Name;

(b) Mailing address;

(c) Date of birth;

(d) Signature; and

(e) Response to conviction history questions.

(2) In addition to the application an applicant must submit:

(a) A copy of a driver's license or identification card issued by one of the fifty states in the United States of America or a passport; and

(b) Proof of having passed the worker permit examination.

(3) If an application does not contain all the information requested or if the information required in section (2) of this rule is not provided to the Commission, the application will be considered incomplete.

STATUTORY/OTHER AUTHORITY: ORS 475B.215, 475B.218

STATUTES/OTHER IMPLEMENTED: ORS 475B.215, 475B.218

AMEND: 845-025-5540

RULE TITLE: Marijuana Worker Permit Denial Criteria

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

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

(a) Is not 21 years of age or older;

(b) Has had a marijuana license or worker permit revoked for violation of ORS 475B.010 to 475B.395 or any rule adopted under ORS 475B.010 to 475B.395 within two years of the date of the application.

(2) The Commission may deny an initial or renewal application, if the applicant:

(a) Has been convicted of a felony for possession, manufacture or delivery of a controlled substance or a misdemeanor or felony under ORS 475.856, 475.858, 475.860 or 475.862 within three years of the date the Commission received the application, except that the Commission will not consider convictions for:

(A) Possession of marijuana; or

(B) Manufacture or delivery of marijuana if the date of the conviction is two or more years prior to the date of the application or renewal.

(b) Has been convicted of a felony for a crime involving violence within three years of the date the Commission received the application;

(c) Has been convicted of a felony for a crime of dishonesty or deception, including but not limited to theft, fraud, or forgery, within three years of the date the Commission received the application;

(d) Has been convicted of a felony for a crime involving a firearm, within three years of the date the Commission received the application;

(e) Has more than one conviction for any of the crimes listed in subsections (a) to (d) of this section within five years of the date the Commission received the application;

(f) Has violated any provision of ORS 475B.010 to 475B.395 or any rule adopted under ORS 475B.010 to 475B.395; or

(g) Makes a false statement to the Commission.

(3) If the Commission denies an application under subsection (2)(f) to (g) of this rule the individual will not be eligible for a permit for two years from the date the Commission received the application.

(4) A Notice of Denial must be issued by the Commission in accordance with ORS Chapter 183.

STATUTORY/OTHER AUTHORITY: ORS 475B.215, 475B.218

STATUTES/OTHER IMPLEMENTED: ORS 475B.215, 475B.218, 2016 OL Ch. 24

AMEND: 845-025-5580

RULE TITLE: Marijuana Worker Renewal Requirements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) An individual must renew his or her marijuana worker permit every five years by submitting a renewal application, on a form prescribed by the Commission and the applicable fee specified in OAR 845-025-1060.

(2) Renewal applications will be reviewed in accordance with OAR 845-025-5520 and 845-025-5540.

STATUTORY/OTHER AUTHORITY: ORS 475B.215, 475B.218

STATUTES/OTHER IMPLEMENTED: ORS 475B.215, 475B.218, 2017 OL Ch. 183

AMEND: 845-025-5700

RULE TITLE: Licensee Testing Requirements

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) Licensees must comply with the Authority's testing rules in OAR 333-007-0300 to 333-007-0490 and OAR 333, division 64 prior to the sale or transfer of a marijuana item, as specified in those rules, except as described in subsection (2) of this rule.

(2) If commission staff finds there is insufficient laboratory capacity for the testing of pesticides, staff may issue an order allowing licensed marijuana testing laboratories to test randomly chosen samples from batches of usable marijuana submitted for testing by a licensee, for pesticides, rather than testing every batch of usable marijuana for pesticides.

(a) The number of batches to be tested randomly will be specified in the order and may vary based on the laboratory capacity at the time the order is issued and the size of the harvest lot to be tested. Samples from at least one batch of every harvest lot must be tested for pesticides.

(b) If any one of the randomly chosen samples from a batch of a producer licensee's harvest lot fails a pesticide test every batch from the harvest lot must be tested for pesticides.

(c) If samples from each randomly chosen batch that are tested for pesticides pass, the entire harvest lot is considered to have passed pesticide testing and may be transferred or sold.

(d) If Commission staff determines that there is sufficient laboratory capacity to test every batch of usable marijuana for pesticides the staff shall give licensees 10 days' notice that all batches shall thereafter be required to be tested.

(e) Producer licenses are responsible for testing fee and may choose any laboratory licensee to conduct the test.

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

STATUTORY/OTHER AUTHORITY: ORS 475B.550, 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.550, 475B.555

AMEND: 845-025-5760

RULE TITLE: Audit, Compliance, and Random Testing

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) The Commission may require a licensee to submit samples identified by the Commission to a laboratory of the licensee's choosing to be tested in order to determine whether a licensee is in compliance with OAR 333-007-0300 through 333-007-0490 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.

(3) The commission must establish a process for the random testing of marijuana items for microbiological contaminants that ensures each licensee tests every product for microbiological contaminants at least once a year.

(4) The Commission may exempt a product that has successfully completed a control study in accordance with OAR 333-007-0440 from testing for microbiological contaminants.

STATUTORY/OTHER AUTHORITY: ORS 475B.550, 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.550, 475B.555

AMEND: 845-025-7570

RULE TITLE: Seed-To-Sale Tracking — Cultivation Batches

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) A producer must establish cultivation batches consisting of immature marijuana plants less than 24 inches tall that are not required to be individually tagged by these rules, seeds or tissue cultures and assign each cultivation batch a unique identification number.

(2) A cultivation batch may not have more than 100 immature marijuana plants less than 24 inches tall.

(3) A producer may have an unlimited number of cultivation batches at any one time.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.070, 475B.150

AMEND: 845-025-7580

RULE TITLE: Reconciliation with Inventory

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

(1) All licensees must:

(a) Use CTS for all inventory tracking activities at a licensed premises, as defined by these rules;

(b) Reconcile all on-premises and in-transit marijuana item inventories each day in CTS at the close of business pursuant to system requirements;

(c) Record all required information for seeds, usable marijuana, cannabinoid concentrates and extracts by weight;

(d) Record the wet weight of all 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) The requirements in section (1)(b) and (4) of this rule do not apply during the first ten calendar days of licensure so long as the license has ordered UID tags and the UID tags are in transit to the licensee.

(3) The requirements in section (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 333-

007-0300 to 333-007-0490 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.

(4) In addition to the requirements in section (1) of this rule, retailers must record the price before tax and amount of each item sold to consumers and the date of each transaction in CTS for each individual transaction before the retailer opens the next business day.

(5) Information that was not required to be recorded and reconciled daily pursuant to section (2) of this rule must be recorded and reconciled within three calendar days of the licensee's receipt of UID tags.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

STATUTES/OTHER IMPLEMENTED: ORS 475B.150

AMEND: 845-025-7700

RULE TITLE: Transportation and Delivery of Marijuana Items

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

- (1) Marijuana items may only be transferred between licensed premises by a licensee or licensee representative.
- (2) An individual authorized to transport marijuana items must have a valid Driver's License.
- (3) A licensee must:
 - (a) Keep marijuana items in transit shielded from public view;
 - (b) Use a vehicle for transport that is:
 - (A) Insured at or above the legal requirements in Oregon;
 - (B) Capable of securing (locking) the marijuana items during transportation;
 - (C) Equipped with an alarm system; and

(D) Capable of being temperature controlled if perishable marijuana items are being transported.

(c) Using CTS, generate a printed transport manifest that accompanies every transport of marijuana items that contains the following information:

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

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

(C) Product name and quantities (by weight or unit) of each marijuana item 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 licensee's representative accompanying the transport.

(4) A licensee must generate the manifest required by section (3)(c) of this rule at least 24 hours in advance of initiating transportation if the marijuana items transported pursuant to the manifest 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. (5) A licensee may not void or change a transportation manifest after departing from the originating premises.

(5) A licensee may not void or change a transportation manifest after departing from the originating premises.

(6) All marijuana items must be packaged in shipping containers and labeled with a UID tag prior to transport.

(7) A licensee must provide a copy of the transport manifest to each licensed premises receiving the inventory described in the transport manifest, but in order to maintain transaction confidentiality, may prepare a separate manifest for each receiving licensed premises.

(8) A licensee must provide a copy of the printed transport manifest and any printed receipts for marijuana items delivered to law enforcement officers or other representatives of a government agency if requested to do so while in transit.

(9) A licensee must contact the Commission immediately, or as soon as possible under the circumstances, if a vehicle transporting marijuana items is involved in any accident that involves product loss.

(10) Upon receipt of inventory a receiving licensee must ensure that the marijuana items received are as described in the transport manifest and must record receipt of the inventory in CTS.

(11) A receiving licensee must separately document any differences between the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in CTS and in any relevant business records.

(12) A licensee must provide temperature control for perishable marijuana items during transport.

(13) Any vehicle transporting marijuana items must travel directly from the shipping licensee to the receiving licensee and must not:

(a) Make any unnecessary stops in between except to other licensed premises receiving inventory;

(b) Remove the marijuana items from the vehicle until they arrive at their final destination. Licensees may not transfer marijuana items to, nor store marijuana items in a hotel or any other unlicensed premises; and

(c) Travel with any persons not listed on the manifest.

(14) A licensee must notify the Commission in advance of the location of every stop at an unlicensed location that exceeds two hours in duration.

(15) If the licensee's delivery vehicle is stopped at an unlicensed location the licensee must immediately make the vehicle and its contents available for inspection upon the Commission's request.

(16) A licensee may transport marijuana on behalf of other licensees if the transporting licensee holds a wholesale license.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

AMEND: 845-025-7750

RULE TITLE: Waste Management

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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 340 Divisions 93 to 96;

(B) Hazardous waste requirements in ORS 466 and OAR 340, Divisions 100 to 106; and

(C) Wastewater requirements in ORS 468B and OAR 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 the waste is generated post-harvest or if an entire marijuana plant greater than 24 inches tall is designated as waste, the waste must be held on the licensed premises for at least three business days prior to disposal.

(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.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090

STATUTES/OTHER IMPLEMENTED: ORS 475B.070, 475B.090, 475B.100, 475B.150

AMEND: 845-025-8040

RULE TITLE: Advertising Restrictions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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."

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.025

AMEND: 845-025-8060

RULE TITLE: Advertising Media, Coupons, and Promotions

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.025

AMEND: 845-025-8520

RULE TITLE: Prohibited Conduct

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

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

(a) Violation of this section for an intentional sale to a minor by a licensee, permittee or license 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 license representative must require a person to produce identification as required by ORS 475B.170 before selling or providing a marijuana item to that person. Violation of this section is a Category IV violation.

(3) Access to Premises.

(a) A licensee or permittee may not:

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

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

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

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

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

(a) No licensee, 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, 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 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 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 or permittee may not permit disorderly activity or activity that is unlawful under Oregon state law on the licensed premises or in areas adjacent to or outside the licensed premises under the control of the licensee.

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

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

(c) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

STATUTES/OTHER IMPLEMENTED: ORS 475B.070, 475B.090, 475B.100, 475B.110, 475B.185, 475B.270, 475B.275

AMEND: 845-025-8560

RULE TITLE: Inspections

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

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 475B or these rules; or

(b) Compliance transactions in order to determine whether a licensee or permittee is complying with ORS 475B 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.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.110

STATUTES/OTHER IMPLEMENTED: ORS 475B.285, 475B.635

AMEND: 845-025-8590

RULE TITLE: Suspension, Cancellation, Civil Penalties, Sanction Schedule

NOTICE FILED DATE: 10/26/2017

RULE SUMMARY: The 2017 Oregon Legislature adopted several bills during the 2017 legislative session. In response, the Commission voted to initiate rulemaking at the July 2017 Commission meeting to amend Division 25 Recreational Marijuana rules. Specifically, House Bill 2198, Senate Bill 56, 1015 & 1057 each require significant changes to Division 25 of Chapter 845. Further, the Commission has continued to learn lessons about the emerging recreational marijuana market. In response, staff has made technical amendments in response to market realities. This rulemaking package looks to adopt the legislative changes and the changes made by the Commission in response to lessons learned.

RULE TEXT:

- (1) The Commission may suspend or revoke:
 - (a) A license issued under ORS 475B.010 to 475B.395 or 475B.560.
 - (b) A marijuana workers permit issued under ORS 475B.215.
 - (c) A research certificate issued under ORS 475B.235.
 - (d) An industrial hemp certificate issued under OAR 845-025-2700.
- (2) Civil Penalties.
 - (a) The Commission may impose a civil penalty under ORS 475B.295. Civil penalties will be calculated by multiplying:
 - (A) The number of days in a suspension, if suspension could be or is being imposed, by \$165 for licensees or certificate holders; or
 - (B) The number of days in a suspension, if suspension could be or is being imposed, by \$25 for permittees.
 - (b) The Commission may impose a civil penalty under ORS 475B.655 of no more than \$500 each day the violation occurs.
- (3) The Commission uses the following violation categories for licensees licensed under ORS 475B.010 to 475B.395:
 - (a) Category I — Violations that make licensee ineligible for a license;
 - (b) Category II — Violations that create a present threat to public health or safety;
 - (c) Category II (b) — Violations for sales to a minor;
 - (d) Category III — Violations that create a potential threat to public health or safety;
 - (e) Category IV — Violations that create a climate conducive to abuses associated with the sale or manufacture of marijuana items;

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

(4) Violation sanctions.

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

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

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

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

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

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

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

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

(B) Repeated failure to comply with laws.

(C) Failure to use age verification equipment purchased as an offset to a previous penalty.

(D) Efforts by licensee or permittee to conceal a violation.

(E) Intentionally committing a violation.

(F) A violation involving more than one consumer or employee.

(G) A violation involving a juvenile.

(H) A violation resulting in injury or death.

(I) A violation that occurred at a licensed premises that has been granted a security waiver.

(J) Three or more violations within a two-year-period, regardless of the category, where the number of the proposed or final violations indicate a disregard for the law or failure to control the premises.

(5) A licensee may not avoid the sanction for a violation or the application of the provision for successive violations by changing the corporate structure for example, by adding or dropping a partner or converting to another form of legal entity when the individuals who own, operate, or control the business are substantially similar.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.210, 475B.295, 475B.560, 475B.635

Exhibit 1, OAR 845-025-8590

Oregon Liquor Control Commission - Recreational Marijuana Sanctions

| Category | 1 Violation in a 2- year period | 2 Violations in a 2- year period | 3 Violations in a 2-year period | 4 Violations in a 2-year period | 5 Violations in a 2-year period | 6 Violations in a 2-year period |
|----------|---|--|--|--|--|--|
| I | Revoke | | | | | |
| II | 30 days | Revoke | | | | |
| II(b) | 10 days or \$1650 | 10 days | 30 days | Revoke | | |
| III | 10 days or \$1650 | 30 days or \$4,950 | 30 days | Revoke | | |
| IV | 7 days or \$1,155 | 10 days or \$1,650 | 20 days or \$3,300 | 30 days | Revoke | |
| V | 3 days or \$495 | 7 days or \$1,155 | 10 days or \$1,650 | 20 days or \$3,300 | 30 days | Revoke |

Categories for Most Common Violations

Category Violation

- Conviction of a felony (licensee)
- Operating other than the license permits
- Intentional false statement to the Commission
- Intentional destruction or concealment of evidence
- I Intentional failure to pay taxes to Department of Revenue
- Permitted noisy, disorderly or unlawful activity that results in death or serious physical injury, or that involves unlawful use or attempted use of a deadly weapon against another person, or that results in a sexual offense which is a Class A felony, such as first degree rape, sodomy, or unlawful sexual penetration

Failure to notify prior to complete change of ownership/allowed interest in licensed business without prior Commission approval
Operated licensed business while suspended

Category

Violation

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

Category

Violation

- II(b)** Sale to a minor (unintentional)

Category Violation

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

Category Violation

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

Category Violation

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