PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 333

OREGON HEALTH AUTHORITY

PUBLIC HEALTH DIVISION

FILING CAPTION: Updates to Medical Marijuana Act from the 2017 Legislative Session (SB 1057 & HB 2198)

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RULES:

333-007-0315, 333-007-0440, 333-007-0450, 333-007-0500, 333-008-0010, 333-008-0020, 333-008-0021, 333-008-0025, 333-008-0033, 333-008-0080, 333-008-0085, 333-008-0090, 333-008-0110, 333-008-0520, 333-008-0530, 333-008-0540, 333-008-0550, 333-008-0560, 333-008-0630, 333-008-0635, 333-008-0640, 333-008-0720, 333-008-0740, 333-008-1010, 333-008-1020, 333-008-1030, 333-008-1040, 333-008-1070, 333-008-1110, 333-008-1200, 333-008-1230, 333-008-1248, 333-008-1252, 333-008-1620, 333-008-1630, 333-008-1690, 333-008-1740, 333-008-1760, 333-008-1830, 333-008-1835, 333-008-2180, 333-008-2210, 333-008-3000, 333-008-3010, 333-064-0110

AMEND: 333-007-0315

RULE TITLE: Ordering Tests

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding language that would indicate if a registrant is subject to tracking marijuana in the OLCC's Cannabis Tracking System (CTS) and would identify if a test is being requested on a remediated marijuana item.

RULE TEXT:

(1) A registrant or licensee must provide a laboratory, prior to laboratory taking samples, with at a minimum, the following information:

(a) The registrant or licensee's registrant or license number.

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

(c) If a registrant, whether the registrant is subject to tracking in CTS, under OAR chapter 333, division 8.

(d) Type of marijuana item.

(e) Harvest lot number that is associated with the batch numbers, if applicable.

(f) Process lot number that is associated with the batch numbers, if applicable.

(g) Batch numbers to be sampled.

(h) Total mass or volume of each batch to be sampled.

(i) For cannabinoid products, the unit of sale.

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

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

(l) Whether the test or tests being requested are quality control or research and development tests.

(m) Whether a batch is being re-sampled because of a failed test, the date the failed test result was received by the registrant or licensee and laboratory identification number of the laboratory that conducted the initial test.

(n) Whether the marijuana item has a certified control study.

(o) Whether the marijuana item was remediated, if remediation is permitted under OAR 333-007-0450.

(2) If the registrant or licensee informs a laboratory that a marijuana item is being re-sampled after a failed test or has a certified control study, the registrant or licensee must provide the laboratory with documentation of the failed test or certified control study as applicable.

(3) It is the responsibility of the registrant or the licensee to order the tests necessary to comply with these rules.

(4) A registrant or licensee may only order a compliance test for a marijuana item that the registrant or licensee has produced or processed, as applicable, except a wholesaler who may order a compliance test.

(5) A registrant or licensee may not order more than one compliance test for the same marijuana item.

STATUTORY/OTHER AUTHORITY: ORS 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.555

AMEND: 333-007-0440

RULE TITLE: Control Study

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Removing reference to past dates. Clarify that any testing performed as part of a control study is considered a compliance test.

RULE TEXT:

(1) A laboratory may perform a control study on a process lot of cannabinoid concentrates, extracts or products for a processor or processing site if the processor or processing site informs the laboratory, in writing:

(a) That sampling and testing is for the purposes of a control study; and

(b) For cannabinoid products, the expected THC range for the product.

(2) Sample increments taken for purposes of a control study may not be combined.

(3) Sample increments from a cannabinoid concentrate or extract must be tested for:

(a) Pesticides in accordance with OAR 333-007-0400.

(b) Solvents in accordance with OAR 333-007-0410.

(c) THC concentration in accordance with OAR 333-007-0430 if the concentrate or extract is intended to be transferred or sold directly to a consumer or patient.

(4) Sample increments from a cannabinoid product must be tested for THC concentration in accordance with OAR 333-007-0430, as calculated pursuant to OAR 333-064-0100.

(5) During a control study a batch passes:

(a) Pesticide testing if each sample increment is below the action limit established in OAR 333-007-0400.

(b) Solvent testing if each sample increment is below the action limit established in OAR 333-007-0410; and

(c) THC concentration testing if:

(A) The amount of THC, as calculated pursuant to OAR 333-064-0100, between sample increments taken from the batch does not exceed 30 percent RSD; and

(B) The amount or percentage of THC as calculated pursuant to OAR 333-064-0100 for any sample increment does not exceed the maximum concentration limit permitted in a package by more than 10 percent as specified in OAR 333-007-0200 to 333-007-0220, as applicable.

(6) A laboratory must identify on a form prescribed by the Authority if a batch undergoing a control study has passed for any of the following, and must send the form at the client's request to the Authority or the Commission:

(a) Pesticides, if applicable.

(b) Solvents, if applicable.

(c) THC concentration as calculated pursuant to OAR 333-064-0100, if applicable.

(7) A control study fails if:

(a) Any sample increment exceeds an action limit in OAR 333-007-0400 (Pesticides) or 333-007-0410 (Solvents).

(A) A sample increment that exceeds an action limit may not be reanalyzed and retested under OAR 333-007-0450(1) unless the laboratory determines that the result is due to laboratory error and the laboratory error is reported to the Authority or the Commission.

(B) A batch that has a sample increment fail for exceeding an action limit in OAR 333-007-0400 or 333-007-0410 may not be remediated under OAR 333-007-0450(5)(a) or (7)(c) for purposes of passing the control study.

(C) A batch that has a sample increment fail for exceeding an action limit in OAR 333-007-0400 or 333-007-0410 may be remediated for purposes of selling or transferring the cannabinoid concentrate,

extract or product, if permitted under OAR 333-007-0450, but sample increments from that batch may not be resubmitted for a control study.

(b) The amount of THC in a cannabinoid concentrate, extract or product, as calculated pursuant to OAR 333-064-0100, between sample increments taken from the batch exceeds 30 percent RSD.

(c) The amount or percentage of THC as calculated pursuant to OAR 333-064-0100, exceeds the maximum concentration limit permitted in a package by more than 10 percent as specified in OAR 333-007-0200 to 333-007- 0220, as applicable.

(A) A batch that has a sample increment fail under subsections (b) or (c) of this section may not be re-mixed or re-packaged under OAR 333-007-0450(8)(a) or (b) for purposes of passing the control study.

(B) A batch that has a sample increment fail under subsections (b) or (c) of this section may be re-mixed or re-packaged for purposes of selling or transferring the cannabinoid concentrate, extract or product as permitted under OAR 333-007-0450(8)(a) or (b), but sample increments from that batch may not be resubmitted for a control study.

(8) A process lot sampled and tested for purposes of a control study may be sold or transferred if the sample increments pass all the required tests.

(9) If a cannabinoid concentrate, extract or product successfully passes a control study and the control study has been certified by the Authority or the Commission, as applicable, the following applies to sampling and testing of future batches for one year:

(a) For cannabinoid concentrates and extracts, sample increments may be collected and combined into a primary sample and a field duplicate sample as described in OAR 333-007-0360, Exhibit B, Table 7, OAR 333-064-0100, ORELAP-SOP-002 Rev. 3.1.

(b) For cannabinoid products, at a minimum, one unit of sale must be collected, at random, for the primary sample, and one unit of sale must be collected at random for the field duplicate sample.

(c) Both the primary sample and the field duplicate sample must be prepared and analyzed individually.

(10) The certification of a control study is invalidated:

(a) If a processor or processing site makes any changes:

(A) To the standard operating procedures for that product.

(B) In the type of ingredient in the product.

(b) If a cannabinoid concentrate, extract or product fails a THC test under OAR 333-007-0430(3)(a).

(11) For purposes of subsection (10)(a) of this rule it is not considered a change to standard operating procedures or a change in the type of ingredient if the processor or processing site is using:

(a) Different strains of usable marijuana in batches.

(b) An ingredient with a different level of purity as long as the purity of the ingredient complies with the Authority's or the Commission's processing rules.

(c) Different flavors or colors in batches, as long as the different flavors or colors do not have an effect on the potency of the product.

(12) A processor or processing site does not qualify for reduced sampling and testing under a control study until either the Authority or Commission:

(a) Reviews documentation associated with the control study;

(b) Certifies the control study; and

(c) Notifies the laboratory and the processor that the control study is considered certified.

(13) If a processor or processing site does not have a certified control study it must have the cannabinoid concentrate, extract or product sampled in accordance with OAR 333-007-0360, Exhibit B, Tables 5 and 6 and the sample increments prepared and analyzed separately.

(14) Any testing performed as part of a control study is considered a compliance test.

STATUTORY/OTHER AUTHORITY: ORS 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.555

AMEND: 333-007-0450

RULE TITLE: Failed Test Samples

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding language stating that a registrant must provide notice of their intent to remediate a failed marijuana item if allowed and that a marijuana item cannot be changed into another product type during remediation.

RULE TEXT:

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

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

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

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

(A) A request for reanalysis of a sample;

(B) The testing results of the reanalysis;

(C) A request for retesting; and

(D) The results of retesting.

(2) If a sample fails a test or a reanalysis under section (1) of this rule the batch:

(a) May be remediated or sterilized in accordance with this rule; or

(b) If it is not or cannot be remediated or sterilized under this rule, must be destroyed in a manner specified by the Authority or the Commission.

(3) If a registrant is permitted to remediate under this rule, the registrant must provide notice to the Authority of the registrant's intent to remediate.

(4) Except as otherwise permitted under this rule, a cannabinoid concentrate or extract that is permitted to undergo remediation cannot be further processed into a cannabinoid product during the remediation process.

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

(6) Failed microbiological contaminant testing.

(a) If a sample from a batch of usable marijuana fails microbiological contaminant testing the batch may be used to make a cannabinoid concentrate or extract if the processing method effectively sterilizes the batch, such as a method using a hydrocarbon based solvent or a CO2 closed loop system.

(b) If a sample from a batch of a cannabinoid concentrate or extract fails microbiological contaminant testing the batch may be further processed if the processing method effectively sterilizes the batch, such as a method using a hydrocarbon based solvent or a CO2 closed loop system.

(c) A batch that is sterilized in accordance with subsection (a) or (b) of this section must be sampled and tested in accordance with these rules and must be tested if not otherwise required for that product, for microbiological contaminants, solvents and pesticides.

(d) A batch that fails microbiological contaminant testing after undergoing a sterilization process in accordance with subsection (a) or (b) of this section must be destroyed in a manner specified by the Authority or the Commission.

(7) Failed solvent testing.

(a) If a sample from a batch fails solvent testing the batch may be remediated using procedures that would reduce the concentration of solvents to less than the action level.

(b) A batch that is remediated in accordance with subsection (a) of this section must be re-sampled and re-tested in accordance with these rules and must be tested if not otherwise required for that product under these rules, for solvents and pesticides.

(c) A batch that fails solvent testing that is not remediated or that if remediated fails testing must be destroyed in a manner specified by the Authority or the Commission.

(8) Failed water activity testing.

(a) If a sample from a batch of usable marijuana fails for water activity the batch from which the sample was taken may:

(A) Be used to make a cannabinoid concentrate or extract; or

(B) Continue to dry or cure.

(b) A batch that undergoes additional drying or curing as described in paragraph (a)(B) of this section must be sampled and tested in accordance with these rules.

(9) Failed pesticide testing.

(a) If a sample from a batch of usable marijuana fails pesticide testing the batch may not be remediated and must be destroyed as ordered by the Authority or the Commission, except as permitted under subsection (c) of this section. A batch may not be destroyed without obtaining permission from the Authority or the Commission.

(b) The Authority must report to the Oregon Department of Agriculture all test results that show that a sample of usable marijuana failed a pesticide test.

(c) If a sample from a batch of usable marijuana fails pesticide testing but only for the analytes piperonyl butoxide or pyrethrins, and the Oregon Department of Agriculture determines that the products used were listed on the Department's Guidelist for Pesticides and Cannabis and the product was applied in accordance with the label, the Authority or the Commission may permit the producer or grower to remediate the usable marijuana using procedures that would reduce the concentration of pesticides to less than the action level. A batch of usable marijuana that is permitted to be remediated must be re-sampled and re-tested for pesticides in accordance with these rules.

(d) If a processor or a processing site is only processing with usable marijuana that has passed pesticide testing under OAR 333-007-0320 and a sample from a batch of a cannabinoid concentrate or extract fails pesticide testing the batch may be remediated using procedures that would reduce the concentration of pesticides to less than the action level.

(e) A batch that is remediated in accordance with subsection (d) of this section must be re-sampled and re-tested in accordance with these rules. A batch that is remediated but after being re-sampled and re-tested fails pesticide testing must be destroyed as ordered by the Authority or the Commission.

(10) Failed potency testing.

(a) A marijuana item that fails potency testing under OAR 333-007-0430(2)(b) or (3)(b) may be repackaged in a manner that enables the item to meet the concentration limit standards in OAR 333-007-0210 and 333-007-0220, as applicable. A marijuana item that is repackaged in accordance with this subsection must be re-sampled and re-tested in accordance with these rules.

(b) A marijuana item that fails potency testing under OAR 333-007-0430(2)(a) or (3)(a) may be re-mixed in an effort to meet the standards in OAR 333-007-0430(2)(a) or (3)(a). A marijuana item that is re-mixed must be re-sampled and re-tested in accordance with these rules.

(11) If a sample fails a test after undergoing remediation or sterilization as permitted under this rule the batch must be destroyed in a manner approved by the Authority or the Commission.

(12) A registrant must inform a laboratory prior to samples being taken that the batch has failed a test and is being retested after undergoing remediation or sterilization.

(13) A registrant must, as applicable:

(a) Have detailed procedures for sterilization processes to remove microbiological contaminants and for reducing the concentration of solvents.

(b) Document all sampling, testing, sterilization, remediation and destruction that are a result of failing a test under these rules.

(14) If a batch fails a test under these rules a registrant:

(a) Must store and segregate the batch in a secure area and label the batch clearly to indicate it has failed a test and the label must include a test batch number.

(b) May not remove the batch from the registered premises without permission from the Authority.

STATUTORY/OTHER AUTHORITY: ORS 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.555

AMEND: 333-007-0500

RULE TITLE: Quality Control and Research and Development Testing

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Clarifying that cured or uncured marijuana cannot be submitted for a quality control or R&D pesticide test.

RULE TEXT:

(1) A registrant or a licensee may request that a laboratory conduct testing for the purpose of assuring quality control or for research and development, except as provided in section (2) of this rule.

(2) A grower or producer may not request that a laboratory conduct pesticide testing on marijuana for the purpose of quality control or for research and development. A pesticide test on marijuana is considered by the Authority and the Commission to be a compliance test.

(3) A registrant or licensee that submits a marijuana item for quality control or research and development testing is not subject to OAR 333-007-0320 to 333-007-0470.

(4) A laboratory result from a quality control or research and development test cannot be used as a compliance test result and a marijuana item that has only undergone a quality control or research and development test may not be transferred or sold, unless the marijuana item is not required to have a compliance test before being transferred or sold.

(5) Registrants and licensees must maintain and retain all quality control and research and development test results for at least two years and provide copies of such results upon request to the Authority or the Commission.

STATUTORY/OTHER AUTHORITY: ORS 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.555

AMEND: 333-008-0010

RULE TITLE: Definitions

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: New definition for "cannabis tracking system" and "flowering".

Adding new language regarding plant limits for immature plants that are 24 inches or more in height. (HB 2198) Adding the definition of Residence - "Residence" means the real property inhabited by a patient for a majority of a calendar year or, if a patient maintains multiple residences, real property inhabited by a patient for the greatest percentage of time within a calendar year.

RULE TEXT:

For the purposes of OAR chapter 333, division 8 the following definitions apply unless otherwise indicated:

(1) "Advertising" means publicizing the trade name of a PRMG, registered processing site or dispensary together with words or symbols referring to marijuana or publicizing the brand name of marijuana or a medical cannabinoid product, concentrate or extract in any medium.

(2) "Applicant" means, as applicable to the registration being applied for:

(a) An individual applying for a registry identification card under ORS 475B.415.

(b) An individual applying for a grow site registration under ORS 475B.420.

(c) A person applying for a marijuana processing site registration under ORS 475B.435.

(d) A person applying for a medical marijuana dispensary registration under ORS 475B.450.

(3) "Attending physician" means a Doctor of Medicine (MD) or Doctor of Osteopathy (DO), licensed under ORS chapter 677, who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(4) "Attending physician statement" or "APS" means the form, prescribed by the Authority and signed by an attending physician, that states the individual has been diagnosed with a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the individual's debilitating medical condition.

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

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

(7) "CBD" means cannabidiol.

(8) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.

(9) "Cannabinoid concentrate" means a substance obtained by separating cannabinoids from marijuana by:

(a) A mechanical extraction process;

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

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

(d) Any other process authorized in these rules.

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

(11) "Cannabinoid extract" means a substance obtained by separating cannabinoids from marijuana by:

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

(b) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure.

(12) "Cannabis Tracking System" or "CTS" means the Oregon Liquor Control Commission's system for tracking the transfer of marijuana items and other information as authorized by ORS 475B.150.

(13) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:

(a) The use of comically exaggerated features;

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

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

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

(15) "Common ownership" means any commonality between individuals or legal entities named as applicants or persons with a financial interest in a registration or a business proposed to be registered.

(16) "Conviction" means an adjudication of guilt upon a verdict or finding entered in a criminal proceeding in a court of competent jurisdiction.

(17) "Database" means the electronic system established pursuant to ORS 475B.458, in which the Authority stores the information PRMGs, registered processing sites and dispensaries are required to submit under these rules.

(18) "Debilitating medical condition" means:

(a) Cancer, glaucoma, a degenerative or pervasive neurological condition, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or a side effect related to the treatment of those medical conditions;

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

(D) Seizures, including but not limited to seizures caused by epilepsy; or

(E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis;

(c) Post-traumatic stress disorder; or

(d) Any other medical condition or side effect related to the treatment of a medical condition adopted by the Authority by rule or approved by the Authority pursuant to a petition filed under OAR 333-008-0090.

(19) "Delivery" has the meaning given that term in ORS 475B.410.

(20)(a) "Designated primary caregiver" means an individual who:

(A) Is 18 years of age or older;

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

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

(b) "Designated primary caregiver" does not include a person's attending physician.

(21) "Direct interest" means an interest that is held in the name of the individual.

(22) "Domicile" means the place an individual intends as his or her fixed place of abode or habitation where he or she intends to remain and to which, if absent, the individual intends to return.

(23) "Elementary school" means a learning institution containing any combination of grades Kindergarten through 8.

(24) "Employee":

(a) Means any individual, including an alien, employed for remuneration or under a contract of hire, written or oral, express or implied, by an employer.

(b) Does not mean an individual who volunteers or donates services performed for no remuneration or without expectation or contemplation of remuneration as adequate consideration for the services performed for a religious or charitable institution or a governmental entity.

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

(26) "Food stamps" means the Supplemental Nutrition Assistance Program as defined and governed by ORS 411.806 through 411.845.

(27) "Grandfathered grow site" means a grow site registered by the Authority that has been approved by the Authority under OAR 333-008-0520 that can have up to:

(a) 24 mature marijuana plants and 48 immature marijuana plants that are 24 inches or more in height if the location is within city limits and zoned residential; or

(b) 96 mature marijuana plants and 192 immature marijuana plants that are 24 inches or more in height if the location is within city limits but not zoned residential or not within city limits.

(28) "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.

(29) "Grow site registration card" means a card issued by the Authority that identifies the address of a marijuana grow site and the PRMG.

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

(31) "Indirect interest" means:

(a) An interest that is owned by a business entity that is owned, in whole or in part and either directly or indirectly, through one or more other intermediate business entities, by the individual; or

(b) An interest held in the name of another but the benefits of ownership of which, the individual is entitled to receive.

(32) "Individual who has a financial interest" in a business entity that owns a processing site or dispensary means:

(a) If the business entity is a corporation:

(A) Stockholders: Any individual who owns, directly or indirectly, 10 percent or more of the outstanding stock of such corporation.

(B) Directors: Any director of the corporation who receives compensation for acting in that capacity or who owns, directly or indirectly, 5 percent or more of the outstanding stock of such corporation.

(C) Officers: Any officer of the corporation who receives compensation for acting in that capacity or who owns, directly or indirectly, 5 percent or more of the outstanding stock of such corporation.

(b) If the business entity is a trust:

(A) Trustees: Any individual who is a trustee of the trust and who receives compensation for acting in that capacity and any individual who owns, directly or indirectly, 10 percent or more of the ownership interests of a business entity that is a trustee of the trust and that receives compensation for acting in that capacity.

(B) Beneficiaries: Any individual who is entitled to receive, directly or indirectly, income or benefit from the trust.

(c) If the business entity is a partnership:

(A) General Partners: Any individual who is a general partner of the partnership and who receives compensation for acting in that capacity or who owns 5 percent or more of the ownership interests of the partnership and any individual who owns, directly or indirectly, 10 percent or more of the ownership interests of a business entity that is a general partner of the partnership and that receives compensation for acting in that capacity or owns 5 percent or more of the ownership interests of the partnership.

(B) Limited Partners: Any individual who is a limited partner of the partnership and who owns 10 percent or more of the ownership interests of the partnership and any individual who owns, directly or indirectly, 10 percent or more of the ownership interests of a business entity that is a limited partner of the partnership and that owns 10 percent or more the ownership interests of the partnership.

(d) If the business entity is a joint venture: Any individual who is entitled to receive, directly or indirectly, income or benefit from the joint venture.

(e) If the business entity is a limited liability company:

(A) Managers: Any individual who is a manager of the limited liability company and who receives compensation for acting in that capacity or who owns 5 percent or more of the ownership interests of the limited liability company and any individual who owns, directly or indirectly, 10 percent or more of the ownership interests of a business entity that is a manager of the limited liability company and that receives compensation for acting in that capacity or owns 5 percent or more of the ownership interests of the limited liability company.

(B) Members: Any individual who is a member of the limited liability company and who owns 10 percent or more of the ownership interests of the limited liability company and any individual who owns, directly or indirectly, 10 percent or more of the ownership interests of a business entity that is a member of

the limited liability company and that owns 10 percent or more of the ownership interests of the limited liability company.

(f) Immediate family members: Any person, 18 years of age or older, involved in a marijuana processing site or dispensary, in any capacity, who is a member of the immediate family of any individual who otherwise has a financial interest in the business entity that owns the marijuana processing site or dispensary. A person is a member of the immediate family of the individual if the person receives more than 50 percent of his or her financial support from that individual.

(g) Landlord: Any individual who is a landlord of a processing site or dispensary and who is entitled to receive 40 percent or more of the proceeds from the marijuana processing site or dispensary as a part of lease payments or rent, any individual who owns, directly or indirectly, 10 percent or more of the ownership interests of a business entity that is a landlord of a processing site or dispensary and that is entitled to receive 40 percent or more of the proceeds from the marijuana processing site or dispensary as part of lease payments or rent, and any individual who the Authority finds, based on reasonably reliable information, exerts influence over the operation of the marijuana processing site or dispensary through a landlord-tenant relationship and receives a portion of the proceeds from that marijuana processing site or dispensary.

(h) Other forms of business organization: If the form of business entity is not expressly addressed in subsections (a) to (g) of this section, the Authority will, in determining individuals who have a financial interest in the business entity, apply the portions of this definition applicable to the business entity that are most similar to the subject business entity, interpreting the terminology and concepts of this definition in the context of the subject business entity as necessary or appropriate.

(33) "Indoor production" for purposes of OAR 333-008-0580 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.

(34) "Limited access area" means:

(a) For a dispensary a building, room, or other contiguous area on a dispensary premises where a marijuana item is present but does not include the area where marijuana items are transferred to a patient or designated primary caregiver.

(b) For a processing site a building, room, or other contiguous area on a processing site premises where a marijuana item is present.

(35)(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.

(36) "Marijuana item" means marijuana, cannabinoid concentrates, cannabinoid extracts, medical cannabinoid products, and immature marijuana plants.

(37) "Marijuana processing site" or "processing site" means a marijuana processing site registered under ORS 475B.435 or a site for which an applicant has submitted an application for registration under ORS 475B.435.

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

(39)(a) "Medical cannabinoid product" means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or dried leaves or flowers of marijuana.

(b) "Medical 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.

(40) "Medical marijuana dispensary" means a medical marijuana dispensary registered under ORS 475B.450 or a site for which an applicant has submitted an application for registration under ORS 475B.450.

(41) "Medical use of marijuana" means the production, processing, possession, delivery, or administration of marijuana, or use of paraphernalia used to administer marijuana to mitigate the symptoms or effects of a debilitating medical condition.

(42) "Minor" means an individual under the age of 18.

(43) "Oregon Health Plan (OHP)" means the medical assistance program administered by the Authority under ORS chapter 414.

(44) "OMMP" means the section within the Authority that administers the provisions of ORS 475B.400 to 475B.525, the applicable provisions of 475B.550 to 475B.590, 475B.600 to 475B.655, and the rules in OAR chapter 333, divisions 7 and 8.

(45) "Outdoor production" for purposes of OAR 333-008-0580 means producing marijuana:

(a) In an expanse of open or cleared ground open to the air; 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.

(46) "Parent or legal guardian" means the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age.

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

(48) "Person designated to produce marijuana by a registry identification cardholder" or "person designated to produce marijuana by a patient" mean a person designated to produce marijuana by a patient under ORS 475B.420 who produces marijuana for that patient at an address:

(a) Other than the address where the patient resides; or

(b) Where more than 12 mature marijuana plants are produced.

(49) "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 themself as a person responsible for the marijuana grow site, who has been registered as a PRMG by the Authority under OAR 333-008-0033.

(50) "Personal agreement" means a document, as described in ORS 475B.425 signed and dated by a patient, assigning a patient's right to possess seeds, immature marijuana plants and usable marijuana to a PRMG.

(51) "Point of sale" means a specific location within a point of sale area at which the transfer of a marijuana item occurs.

(52) "Point of sale area" means a secure area where a registered dispensary transfers a marijuana item to a patient or caregiver.

(53) "Premises" means a location registered by the Authority as a processing site or dispensary under these rules and includes all areas at the location that are used in the business operated at the location,

including offices, kitchens, rest rooms and storerooms, including all public and private areas where individuals are permitted to be present.

(54) "Primary responsibility" as that term is used in relation to an attending physician means that the physician:

(a) Provides primary health care to the patient; or

(b) Provides medical specialty care and treatment to the patient as recognized by the American Board of Medical Specialties; or

(c) Is a consultant who has been asked to examine and treat the patient by the patient's primary care physician licensed under ORS chapter 677, the patient's physician assistant licensed under ORS chapter 677, or the patient's nurse practitioner licensed under ORS chapter 678; and

(d) Has reviewed a patient's medical records at the patient's request and has conducted a thorough physical examination of the patient, has provided or planned follow-up care, and has documented these activities in the patient's medical record.

(55) "Process" means the compounding or conversion of marijuana into medical cannabinoid products, cannabinoid concentrates or cannabinoid extracts.

(56) "Production" or "growing" means:

(a) Planting, cultivating, growing, trimming or harvesting marijuana; or

(b) Drying marijuana leaves or flowers.

(57) "Registry identification card" means a document issued by the Authority under ORS 475B.415 that identifies a person authorized to engage in the medical use of marijuana, and, if the person has a designated primary caregiver under ORS 475B.418, the person's designated primary caregiver.

(58) "Registry identification cardholder" means a person to whom a registry identification card has been issued under ORS 475B.415(5)(a) and has the same meaning as patient.

(59) "Remuneration" means compensation resulting from the employer-employee relationship, including wages, salaries, incentive pay, sick pay, compensatory pay, bonuses, commissions, stand-by pay, and tips.

(60) "Replacement card" means a new card issued in the event that:

(a) A patient's registry identification card, a designated primary caregiver's or a PRMG's identification card, or grow site registration card is lost or stolen; or

(b) A patient's designation of primary caregiver, PRMG or grow site has changed.

(61) "Residence" means the real property inhabited by a patient for a majority of a calendar year or, if a patient maintains multiple residences, real property inhabited by a patient for the greatest percentage of time within a calendar year.

(62) "Resident" means an individual who has primary domicile within this state.

(63) "Safe" means:

(a) A metal receptacle with a locking mechanism capable of storing all usable marijuana at a registered premises that:

(A) Is rendered immobile by being securely anchored to a permanent structure of the building; or

(B) Weighs more than 750 pounds.

(b) A vault; or

(c) A refrigerator or freezer capable of being locked for storing edibles or other finished products that require cold storage that:

(A) Is rendered immobile by being securely anchored to a permanent structure of the building; or

(B) Weighs more than 750 pounds; and

(C) If it has a glass that makes up part or all of the door or exterior walls, the glass is rated unbreakable.

(64) "Secondary school" means a learning institution containing any combination of grades 9 through 12 and includes those institutions that provide junior high schools which include 9th grade.

(65) "Secure area" means a room:

(a) With doors that are kept locked and closed at all times except when the doors are in use;

(b) Where access is only permitted as authorized in these rules; and

(c) Not visible from outside the room or within public view.

(66) "Supplemental Security Income (SSI)" means the monthly benefit assistance program administered by the federal government for persons who are age 65 or older, or blind, or disabled and who have limited income and financial resources.

(67) "These rules" means OAR 333-008-0010 to 333-008-0750.

(68) "THC" means tetrahydrocannabinol.

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

(b) "Usable marijuana" does not include:

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

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

(70) "Vault" means an enclosed area 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.

(71) "Written documentation" means a statement signed and dated by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records, maintained in accordance with standard medical record practices.

(72) "Zoned for residential use" means the only primary use allowed outright in the designated zone is residential.

STATUTORY/OTHER AUTHORITY: ORS 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.400 – 475B.525

AMEND: 333-008-0020

RULE TITLE: New Registry Identification Card Application Process

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adds new language outlining the acceptable forms of an address that may be submitted for a grow site.

RULE TEXT:

(1) To apply for a registry identification card an individual must submit the following:

(a) An application form, prescribed by the Authority, signed and dated by the applicant.

(b) A legible copy of the individual's valid government issued photographic identification that includes the applicant's last name, first name, and date of birth.

(c) An APS or written documentation that may consist of relevant portions of the applicant's medical record, signed by the applicant's attending physician within 90 days of the date of receipt by the Authority, which describes the applicant's debilitating medical condition and states that the use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition.

(d) Proof of residency in accordance with OAR 333-008-0022.

(e) If applicable, a completed and notarized "Declaration of Person Responsible for Minor" form for a person under 18 years of age, signed and dated by the minor's parent or legal guardian.

(f) An application fee as specified in OAR 333-008-0021.

(g) If applicable, documentation required in OAR 333-008-0021 to qualify for a reduced fee.

(2) If the applicant is designating a primary caregiver, the applicant must complete the caregiver portion of the application and submit a legible copy of the designated primary caregiver's valid government issued photographic identification that includes the caregiver's last name, first name, and date of birth. The applicant may also designate an organization that provides hospice, palliative or home health care services, or a residential facility as defined in ORS 443.400, under ORS 475B.419, as an additional caregiver.

(3) If an applicant intends to produce marijuana for themself or designate another person to produce marijuana for him or her, the applicant or the individual designated to be the PRMG must complete the grow site registration portion of the application and submit:

(a) A legible copy of the designated PRMG's valid government issued photographic identification that includes the last name, first name, and date of birth.

(b) The grow site address. If a grow site has a United States Postal Service (USPS) physical address, that address must be used in the application. If there is no USPS physical address a grow site address location may also be established by providing either:

(A) A tax lot number, city or county and zip code, and an assessor's map number with a map attached, showing the exact location of the marijuana grow site; or

(B) The exact location of the marijuana grow site using one or more of the following, along with an assessor's map number and map showing the exact location of the marijuana grow site, including city or county and zip code:

(i) Longitude and latitude coordinates;

(ii) Township coordinates; or

(iii) Global positioning system coordinates.

(c) If the grow site is within city limits, documentation that shows the zoning designation for the grow site address.

(d) Except for a patient producing marijuana for themself at the patient's residence, the grow site registration fee as specified in OAR 333-008-0021(4), unless the Authority has established an online payment system for grow site registration in which case the fee must be paid online in accordance with instructions from the Authority.

(4) If the Authority establishes an online payment system for payment of a grow site registration fee the Authority must notify the person designated on the application as the PRMG with instructions for how to pay the fee online and the deadline by which the fee must be paid.

(5) Applications must be mailed to the address listed in section (6) of this rule or hand-delivered to the OMMP dropbox at 800 N.E. Oregon St., Portland, Oregon 97232, unless the Authority has established an electronic application process at which time applications and accompanying documentation must be submitted electronically.

(6) The application forms referenced in this rule may be downloaded at www.healthoregon.org/ommp or obtained by contacting OMMP at PO Box 14450, Portland, OR 97293-0450 or by calling 971-673-1234.

(7) Acceptable forms of current government issued photographic identification include but are not limited to:

(a) Driver's license;

(b) State identification card;

(c) Passport; or

(d) Military identification card.

STATUTORY/OTHER AUTHORITY: ORS 475B.415, 475B.419, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.415

AMEND: 333-008-0021

RULE TITLE: Patient and PRMG New and Renewal Fees

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding a new fee type for using the Cannabis Tracking System per SB 1057

RULE TEXT:

333-008-0021

(1) All fees referenced in this rule are non-refundable.

(2) New and Renewal Application Fee. A patient must pay a $200 application fee unless the applicant qualifies for a reduced fee under section (3) of this rule.

(3) Reduced Fees.

(a) An applicant receiving SSI benefits: $20. In order to qualify for the reduced fee the applicant must submit at the time of application a copy of a current monthly SSI benefit statement showing dates of coverage.

(b) An applicant enrolled in OHP: $50. In order to qualify for the reduced fee the applicant must submit a copy of the applicant's current eligibility statement or card.

(c) An applicant receiving food stamp benefits through the Oregon SNAP: $60. In order to qualify for the reduced fee the applicant must submit at the time of application current proof of his or her food stamp benefits.

(d) An applicant who has served in the Armed Forces of the United States: $20. In order to qualify for the reduced fee the applicant must provide proof of having served in the Armed Forces, such as but not limited to, submitting a Veteran's Administration form DD-214.

(4) Grow Site Registration Fee: $200.

(5) CTS User Fee: $480.

(6) Replacement Card Fees. If a patient, designated primary caregiver or PRMG needs to obtain a replacement card the fee is $100. If the patient qualifies for a reduced application fee of $20, the fee to receive any of the replacement cards is $20.

(7) All fees must be paid at the time a new or renewal application is submitted, or when an application to add or change a PRMG is submitted under OAR 333-008-0047 and may be paid in the form of bank check, money order, or personal check, unless the Authority has established an online payment system in which case payments must be made online. The Authority does not accept responsibility for payments that are lost in the mail or stolen in transit.

(8) The Authority shall notify an applicant who submits a reduced application fee if the applicant is not eligible for the reduced fee and will allow the applicant 14 calendar days from the date of notice to pay the correct application fee or submit current valid proof of eligibility for a reduced fee.

STATUTORY/OTHER AUTHORITY: ORS 475B.415, 475B.420, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.415

AMEND: 333-008-0025

RULE TITLE: Person Responsible for a Marijuana Grow Site Criteria; Grow Site Registration Application Review Process

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding new language regarding plant limits for immature plants that are 24 inches or more in height. (HB 2198)

RULE TEXT:

(1) In order to be a PRMG an individual must:

(a) Be 21 years of age or older.

(b) Not have been convicted of a Class A or Class B felony under ORS 475.752 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II:

(A) Within the previous two years; or

(B) More than once.

(2) In addition to the application review required in OAR 333-008-0023 the Authority must:

(a) Conduct a criminal background check on any PRMG.

(b) Verify the PRMG's age.

(c) Verify the zoning of the grow site address if the grow site is within city limits.

(d) Determine the number of plants that are permitted at the grow site address.

(3) Unless the Authority has received a request for a grandfathered grow site address under OAR 333-008-0500, and except as provided in section (4) of this rule the grow site plant limits are as follows:

(a) A maximum of 12 mature marijuana plants and 24 immature marijuana plants that are 24 inches or more in height if the grow site location is within city limits and zoned residential; or

(b) A maximum of 48 mature marijuana plants and 96 immature marijuana plants that are 24 inches or more in height if the grow site location is within city limits but not zoned residential or outside city limits.

(4) Effective August 2, 2017, a grow site located at a patient's residence where the patient or the patient's designated primary caregiver produces marijuana may not have more than 12 mature marijuana plants and 24 immature marijuana plants. The marijuana plant numbers include any plants permitted under ORS 475B.245.

(5) The Authority must notify a patient if a PRMG or a grow site address is ineligible for registration and the patient will be allowed 14 calendar days to identify another PRMG or grow site address in accordance with OAR 333-008-0047.

STATUTORY/OTHER AUTHORITY: ORS 475B.420, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.420

AMEND: 333-008-0033

RULE TITLE: Approval of New or Renewal PRMG and Grow Site Application; Change of PRMG

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding new language from SB 1057 regarding a registrant not being able to renew a registration if an election to either stay medical or go to OLCC is not made by the deadline.

RULE TEXT:

(1) The Authority must register a PRMG and a grow site address listed on an application, except as provided in section (7) of this rule, if:

(a) The PRMG:

(A) Meets the age requirements;

(B) Passes the criminal background check;

(C) Has not violated a provision of ORS 475B.400 to 475B.525, ORS 475B.580, ORS 475B.650, OAR chapter 333, division 7, these rules, or an ordinance adopted pursuant to ORS 475B.500; and

(D) Pays the applicable fee.

(b) The grow site address does not exceed the plant limits in ORS 475B.428(3) or (4).

(2) If the Authority registers a marijuana grow site it will issue an identification card and a grow site registration card that contains at least the following information:

(a) The PRMG's name, address, date of birth, and identification card number.

(b) The effective date, date of issuance, and expiration date of the identification card.

(c) The grow site address.

(d) The patient's registry identification card number.

(3) A PRMG, except for a patient growing only for themself at the patient's residence who is not transferring usable marijuana, seeds or immature plants to a registered processing site or dispensary, must create an online account with the Authority through which the individual must at a minimum submit the information required in OAR 333-008-0630.

(4) A PRMG is responsible for knowing how many immature and mature marijuana plants are legally permitted at the grow site address.

(5) The Authority shall also notify a patient if the PRMG and grow site address has been approved.

(6) The Authority may only register one grow site per patient, and may only register grow sites in Oregon.

(7) If a grow site fails to make an election under Oregon Laws 2017, chapter 183, section 41(2) by January 1, 2018, or fails to begin tracking in CTS on or before July 1, 2018, as provided in Oregon

Laws 2017, chapter 183, section 41(1)(d) and (3), the Authority may not renew the registration of the grow site.

STATUTORY/OTHER AUTHORITY: ORS 475B.420, 475B.525, OL 2017, Ch. 183, Sec. 40-41

STATUTES/OTHER IMPLEMENTED: ORS 475B.420, OL 2017, Ch. 183, Sec. 40-41

AMEND: 333-008-0080

RULE TITLE: Permissible Amounts of Medical Marijuana for Patients and Caregivers

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding immature plant limits per HB 2198

RULE TEXT:

(1) A patient or the patient's designated primary caregiver may jointly possess up to six mature marijuana plants, 12 immature marijuana plants, and 24 ounces of usable marijuana.

(2) A patient or the patient's designated primary caregiver may only possess cannabinoid products, concentrates or extracts in the amounts described in ORS 475B.245.

(3) A patient and designated primary caregiver must have, in his or her possession, his or her registry identification card or OMMP identification card when transporting marijuana.

(4) A patient must have, in his or her possession, his or her registry identification card when using marijuana in a location other than the residence of the cardholder.

STATUTORY/OTHER AUTHORITY: ORS 475B.430

STATUTES/OTHER IMPLEMENTED: ORS 475B.430

ADOPT: 333-008-0085

RULE TITLE: Designated Primary Caregivers

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Per HB 2198, rule allows caregivers to assist patients with production of marijuana or processing of marijuana into concentrates or products.

RULE TEXT:

(1) A designated primary caregiver may assist his or her patient with any matter related to the medical use of marijuana, including:

(a) The production of marijuana at the address provided by the registry identification cardholder to the Oregon Health Authority pursuant to ORS 475B.415(2)(f); and

(b) The processing of marijuana into cannabinoid concentrates or medical cannabinoid products.

(2) If a designated primary caregiver is primarily responsible for the production of marijuana for the patient, the caregiver must also be designated as the patient's PRMG.

(3) A designated primary caregiver may not:

(a) Process marijuana extracts for a patient unless the caregiver is registered as a processing site under ORS 475B.435.

(b) Transfer cannabinoid concentrates or cannabinoid products to a dispensary or a medical marijuana processor, except as permitted under Oregon Laws 2016, chapter 23, section 18.

STATUTORY/OTHER AUTHORITY: ORS 475B.525

STATUTES/OTHER IMPLEMENTED: OL 2017, Ch. 613, Sec. 10, OL 2016, Ch. 23, Sec. 18

AMEND: 333-008-0090

RULE TITLE: Addition of Qualifying Diseases or Medical Conditions

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Replacing the Advisory Committee on Medical Marijuana with the Oregon Cannabis Commission.

RULE TEXT:

(1) For the purposes of this rule, the following definitions apply:

(a) DSM means the latest published edition of Diagnostic and Statistical Manual of Mental Disorders.

(b) ICD means the most recent revision of the International Classification of Diseases published by the United Nations-sponsored World Health Organization that provides codes, up to six characters long, to classify diseases and a variety of signs, symptoms, abnormal findings, complaints, social circumstances, and external causes of injury or disease.

(c) Peer-reviewed published scientific study means that a study has been cited by the Cochrane Review, the Institute of Medicine, or PubMed Central.

(d) Petitioner means an individual who has filed a petition in accordance with ORS 475B.517 and this rule.

(e) State Public Health Officer (SPHO) means the individual appointed by the Director of the Authority in accordance with ORS 431.045, or his or her designee.

(2) The Authority shall accept a written petition from any person requesting that a particular disease or condition be included among the diseases and conditions that qualify as a debilitating medical condition under ORS 475B.410.

(a) A petition may only request a single disease or condition be added as a debilitating medical condition. A separate petition must be submitted for each disease or condition proposed to be added as a debilitating medical condition.

(b) A petition must be submitted by mail using a form prescribed by the Authority and must include, along with the form, the following in an electronic format (e.g. compact disc (CD) or thumb drive):

(A) A specific description of the disease or condition proposed to be added and its characteristics, including the applicable ICD code or the specific diagnosis as described in the DSM;

(B) A general explanation of how or why the petitioner believes marijuana would mitigate the symptoms or effects of the disease or condition that is the subject of the petition; and

(C) At least one peer-reviewed published scientific study showing the efficacy in humans for use of medical marijuana for the disease or condition that is the subject of the petition.

(c) A petitioner may also include with the information required to be submitted in subsection (2)(b) of this rule letters of support from physicians or other licensed health care professionals knowledgeable about the disease or condition proposed to be added, and any other information the petitioner believes the SPHO should review in considering the petition.

(d) If a petitioner submits a petition to add the same or a substantially equivalent disease or condition that was the subject of a petition that was denied by the SPHO within the last five years from the date a new petition is submitted, a petitioner must submit at least one peer-reviewed published scientific study that was published since the date the SPHO denied the previous petition for the same or substantially equivalent disease or condition.

(e) A petition may not contain individually identifiable health information as that is defined in ORS 433.443 unless any individual identified in relation to health information submits an Authorization for

Use and Disclosure of Information on a form prescribed by the Authority. A petition that contains individually identifiable health information that is submitted without the required authorization must be returned to the petitioner as incomplete.

(f) A petition that does not contain all the information required by section (2) of this rule shall be returned to the petitioner as incomplete. A petition returned as incomplete is not considered a denial for purposes of subsection (2)(d) of this rule.

(3) If the petitioner has submitted a petition with all the information required in section (2) of this rule, the SPHO must:

(a) Assign a petition number to the petition;

(b) Notify the petitioner by certified mail that the petition has been accepted;

(c) Post a notice, a copy of the petition and materials submitted by the petitioner on the Authority's website announcing that the petition has been accepted and is under consideration, and solicit information from individuals or organizations concerning experts in cannabis therapeutics and scientific studies, including but not limited to peer-reviewed published scientific studies;

(d) Notify the Oregon Cannabis Commission (OCC)by electronic mail that the petition is under consideration, and request from the OCC recommendations regarding relevant experts and information pertinent to the petition;

(e) Conduct an investigation that may, as the SPHO determines necessary, include:

(A) Consulting with one or more experts in cannabis therapeutics and one or more experts on the disease or condition that is the subject of the petition;

(B) Requesting a literature review and a summary of peer-reviewed published scientific studies related to the use of marijuana for the disease or condition that is the subject of the petition, from neutral persons knowledgeable about conducting such reviews; and

(C) Gathering any other information the SPHO believes relevant to making a decision on the petition.

(f) Hold a public hearing at a time and place determined by the SPHO. At the public hearing the petitioner shall have the opportunity to address the SPHO in person or by telephone. Written comments shall be accepted by the SPHO for one week following the close of the public hearing.

(4) Following the investigation identified in subsection (3)(e) of this rule and the close of the public comment period specified in subsection (3)(f) of this rule, the SPHO must issue a Notice of Intent to either approve or deny the petition.

(a) The SPHO must issue a Notice of Intent to Approve the petition if, based on the evidence presented to and considered by the SPHO, the SPHO finds that:

(A) Marijuana is efficacious for the disease or condition that is the subject of the petition or marijuana may mitigate the symptoms or effects of the disease or condition that is the subject of the petition; and

(B) Any risk of physical or mental harm from using marijuana for the disease or condition that is the subject of the petition is outweighed by the physical or mental benefit of using marijuana for that disease or condition.

(b) The SPHO must issue a Notice of Intent to Deny the petition if the SPHO determines that the evidence presented to and considered by the SPHO does not meet the standards established in subsection (4)(a) of this rule.

(c) The Notice of Intent must be in writing and must describe all evidence and information upon which the decision of the SPHO is based, including the identity and credentials of all experts relied upon.

(d) If the Authority issues a Notice of Intent to Deny the petitioner is entitled to a contested case hearing as provided under ORS chapter 183. The petitioner has 30 days to request a hearing.

(5) At a contested case hearing, the petitioner has the burden of proving the decision of the SPHO was without a reasonable basis in fact.

(6) The SPHO must issue a final order within 180 days of receipt of a complete petition.

(7) A petitioner may withdraw his or her petition without prejudice at any time prior to the public hearing specified in subsection (3)(f) of this rule. A petition withdrawn after the public hearing specified in subsection (3)(f) of this rule shall be deemed denied for purposes of this rule.

STATUTORY/OTHER AUTHORITY: ORS 475B.517, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.517

AMEND: 333-008-0110

RULE TITLE: Oregon Cannabis Commission

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Replacing the Advisory Committee on Medical Marijuana with the Oregon Cannabis Commission.

RULE TEXT:

(1) In addition to any other duty prescribed by law, the Oregon Cannabis Commission (OCC) shall:

(a) Provide advice to the Authority with respect to the administration of ORS 475B.400 to 475B.525, including rules and fees adopted and proposed for adoption under ORS 475B.400 to 475B.525;

(b) Provide advice to the Oregon Liquor Control Commission with respect to the administration of ORS 475B.010 to 475B.395, insofar as those statutes pertain to patients and designated primary caregivers, as those terms are defined in ORS 475B.410;

(c) Develop a long-term strategic plan for ensuring that cannabis will remain a therapeutic option for persons with debilitating medical conditions as defined in ORS 475B.410;

(d) Develop a long-term strategic plan for ensuring that cannabis will remain affordable for persons with debilitating medical conditions as defined in ORS 475B.410; and

(e) Monitor and study federal laws, regulations and policies regarding marijuana.

(2) The Authority will provide staff support to the OCC by assisting with the scheduling of meetings, recording of minutes, and dissemination of meeting-related materials.

STATUTORY/OTHER AUTHORITY: OL 2017, Ch. 613, Sec. 1-6

STATUTES/OTHER IMPLEMENTED: ORS 475.300 - 475.346, OL 2017, Ch. 613, Sec. 1-6

AMEND: 333-008-0520

RULE TITLE: Approval of Petition for Grandfathered Grow Site

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding immature plant limits per HB 2198

RULE TEXT:

(1) The Authority will grant a petition for a grandfathered grow site if, based on the information in the petition and the Authority's review of the petition:

(a) The grow site address is currently registered with the Authority;

(b) The petition includes all PRMGs currently growing at the grow site address;

(c) With the exception of any PRMG whose designation was revoked under OAR 333-008-0510(2), the PRMGs listed in the petition are qualified to be a PRMG;

(d) All qualified PRMGs listed in the petition were registered at the grow site address on December 31, 2014, and were all continuously registered there at the time the petition was submitted; and

(e) The number of patients registered at the grow site address would not result in the grow site address exceeding:

(A) 24 mature marijuana plants and 48 immature marijuana plants that are 24 inches or more in height if the location is within city limits and zoned residential; or

(B) 96 mature marijuana plants and 192 immature marijuana plants that are 24 inches or more in height if the location is within city limits but not zoned residential or not within city limits.

(2) The actual grow site address plant limit is based on the number of patients registered at the grow site address on December 31, 2014, assuming six mature plants per patient and 12 immature marijuana plants that are 24 inches or more in height.

(3) If a grow site address is approved under this rule the Authority may not register any additional PRMG at that address unless the grandfathered grow site approval has been terminated.

(4) Effective August 2, 2017, a grow site located at a patient's residence where the patient or the patient's designated primary caregiver produces marijuana may no longer be a grandfathered grow site, may not be approved as a grandfathered grow site, and the grow site may not be used to produce more than 12 mature marijuana plants and 24 immature marijuana plants.

STATUTORY/OTHER AUTHORITY: ORS 475B.525, OL 2017, Ch. 613, Sec. 11

STATUTES/OTHER IMPLEMENTED: ORS 475B.428

AMEND: 333-008-0530

RULE TITLE: Denial of Petition for Grandfathered Grow Site

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding immature plant limits per HB 2198

RULE TEXT:

(1) The Authority must deny a petition for a grandfathered grow site if based on the information in the petition and the Authority's review of the petition:

(a) The grow site address is not currently registered with the Authority;

(b) The petition does not include all PRMGs currently producing marijuana at the grow site address;

(c) None of the PRMGs listed in the petition are qualified or the number of PRMGs eligible to produce marijuana at the grow site address would result in the grow site address exceeding the maximum plant limits, depending on the location of the grow site address;

(d) Not all of the qualified PRMGs listed in the petition were registered at the grow site address on December 31, 2014, or were not all continuously registered there at the time the petition was submitted; or

(e) The number of patients registered at the grow site address exceed the plant limits in ORS 475B.428(3)(b) or 475B.428(4)(b).

(2) An individual or group of individuals whose petition is denied may resubmit a petition at any time.

(3) If a petition is denied the maximum plant limits at the grow site address for which the petition was filed are:

(a) 12 mature marijuana plants and 24 immature marijuana plants that are 24 inches or more in height if the location is within city limits and zoned residential; or

(b) 48 mature marijuana plants and 96 immature marijuana plants that are 24 inches or more in height if the location is within city limits but not zoned residential or not within city limits.

STATUTORY/OTHER AUTHORITY: ORS 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.428

AMEND: 333-008-0540

RULE TITLE: Requirements for Grandfathered Grow Sites; Termination of PRMG Designation; Suspension or Revocation of PRMG Registration

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding immature plant limits per HB 2198. Clarifying that a patient growing at his or her residence may not have a grandfathered grow site.

RULE TEXT:

(1) A grandfathered grow site may only have the number of plants authorized by the Authority, based on the number of patients designating the address as a grow site on December 31, 2014. A PRMG

producing marijuana at a grandfathered grow site may replace an existing patient with a new patient unless the person's designation has been terminated under ORS 475B.428(6).

(2) If the Authority suspends or revokes the registration of a PRMG that is producing marijuana at a grandfathered grow site the PRMG may not continue to grow at that address or any other grow site address that has more than:

(a) 12 mature marijuana plants and 24 immature marijuana plants that are 24 inches or more in height if the location is within city limits and zoned residential; or

(b) 48 mature marijuana plants and 96 immature marijuana plants that are 24 inches or more in height if the location is within city limits but not zoned residential or not within city limits.

(3) If a patient terminates the designation of a PRMG that person may not be designated to produce marijuana by another patient at the grandfathered grow site address and may not produce marijuana at any other grow site address that is authorized to have more than 48 mature marijuana plants and 96 immature marijuana plants that are 24 inches or more in height.

(4) Approval of a grandfathered grow site is terminated once the number of mature marijuana plants, based on number of PRMGs who have been authorized to produce medical marijuana at the grow site address and the number of patients each person is producing for is less than:

(a) 12 mature marijuana plants and 24 immature marijuana plants that are 24 inches or more in height if the location is within city limits and zoned residential; or

(b) 48 mature marijuana plants and 96 immature marijuana plants that are 24 inches or more in height if the location is within city limits but not zoned residential or not within city limits.

STATUTORY/OTHER AUTHORITY: ORS 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.428

AMEND: 333-008-0550

RULE TITLE: General Person Responsible for a Marijuana Grow Site Requirements

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding immature plant limits per HB 2198. Removing reference to past dates. Adding reference to CTS. Clarifying that an ODA certified scale must be used when reporting into CTS. Added a PRMG must have water rights for irrigation or nursery use or proof from the Water

Resources Department that the use does not require a water right. Added a PRMG must comply with land use and zoning requirements pertaining to the production of marijuana.

RULE TEXT:

(1) A PRMG may not grow marijuana for more than four patients at any one time.

(2) A PRMG must display a marijuana grow site registration card at the marijuana grow site at all times for each patient for whom marijuana is being produced.

(3) All seeds, immature marijuana plants, mature marijuana plants and usable marijuana associated with the production of marijuana for a patient by a PRMG are the property of the patient and must be provided to the patient upon request, unless the patient has assigned a portion of the right to possess the seeds, immature plants and usable marijuana to the PRMG in accordance with ORS 475B.425.

(4) All marijuana produced for a patient must be provided to the patient or designated primary caregiver when the PRMG ceases producing marijuana for the patient, unless the patient has assigned a portion of the right to possess the seeds, immature plants and usable marijuana to the PRMG in accordance with ORS 475B.425.

(5) All usable marijuana associated with the production of marijuana for a patient must be transferred to a marijuana processing site upon the patient's request.

(6) All seeds, immature marijuana plants and usable marijuana associated with the production of marijuana for a patient must be transferred to a medical marijuana dispensary upon the patient's request.

(7) If a patient terminates the designation of a PRMG that PRMG may not be designated to produce marijuana by another patient unless the grow site address is authorized to have no more than 48 mature marijuana plants and 96 immature marijuana plants that are 24 inches or more in height.

(8) A PRMG must return the grow site registration card to the Authority when the person's designation has been terminated by a patient or the person ceases producing marijuana for themself or another patient.

(9) Except for a patient growing only for themself at the patient's residence and not transferring usable marijuana, seeds or immature plants to a registered processing site or dispensary, or a PRMG that produces marijuana at a grow site that is subject to CTS tracking, a PRMG must create an online account with the Authority through which the individual must at a minimum submit the information required in OAR 333-008-0630.

(10) A PRMG must comply with the advertising restrictions in OAR 333-008-2070 and must remove any sign, display or advertisement if the Authority determines the PRMG has violated OAR 333-008-2070.

(11) A PRMG who transfers or sells usable marijuana to a registered processing site or sells or transfers seeds, immature plants or usable marijuana to a registered dispensary must maintain and use a weighing device that is licensed by the Oregon Department of Agriculture (ODA). Licensed weighing devices must be used by a PRMG whenever marijuana items are:

(a) Transferred from the PRMG to a registered processing site or dispensary and the transfer is by weight;

(b) Packaged for transfer by weight to a registered processing site or dispensary;

(c) Weighed for purposes of documenting information required in OAR 333-008-0630 for transfers to registered processing sites or dispensaries; or

(d) Weighed for purposes of reporting information required in OAR 333-008-0630 or for the purposes of reporting information into CTS under OAR 333-008-0635.

(12) PRMGs at a grow site may collectively use one weighing device licensed by ODA. If there is no weighing device licensed by ODA at a grow site all PRMGs registered at the grow site will be in violation of this rule.

(13) A PRMG may only use pesticides in accordance with ORS chapter 634 and OAR chapter 603, division 57.

(14) The Authority may investigate any violation of this rule based on:

(a) A failed pesticide test;

(b) Information provided by any other state agency;

(c) A grow site inspection; or

(d) The receipt of a complaint alleging unlawful pesticide use.

(15) If the Authority determines that a violation of section (13) of this rule has occurred, it may provide information obtained by the Authority to the Oregon Department of Agriculture in accordance with ORS 475B.460(5).

(16) A PRMG must comply with laws pertaining to water use as administered by the Oregon Water Resources Department and shall maintain records as necessary to demonstrate compliance. The PRMG shall provide evidence of a legal source of water to the Oregon Water Resources Department and Oregon Health Authority upon request.

(17) A PRMG must comply with applicable land use and zoning requirements related to the production of marijuana.

STATUTORY/OTHER AUTHORITY: ORS 475B.420 - 475B.428, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.420 - 475B.428

AMEND: 333-008-0560

RULE TITLE: Grow Site Plant Limits

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding immature plant limits per HB 2198. Removed the presumption of a PRMG growing the maximum plant limit per patient.

RULE TEXT:

(1) A PRMG may not produce more than six mature marijuana plants and 12 immature marijuana plants that are 24 inches or more in height per patient.

(2) Unless a petition has been granted under OAR 333-008-0520 or except as authorized under Oregon Laws 2016, chapter 83, section 2, a grow site address may not have more than:

(a) 12 mature marijuana plants and 24 immature marijuana plants that are 24 inches or more in height if the location is within city limits and zoned residential; or

(b) 48 mature marijuana plants and 96 immature marijuana plants that are 24 inches or more in height if the location is within city limits but not zoned residential or not within city limits.

STATUTORY/OTHER AUTHORITY: ORS 475B.428, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.428

AMEND: 333-008-0630

RULE TITLE: PRMG Documentation Requirements

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Removing reference to past dates. Adding reference to CTS. Adding ability for a grow site to transfer in aggregate up to 20 pounds of usable marijuana to a Commission licensed processing site or licensed wholesaler annually. Clarifying for a PRMG that has applied to be licensed with the Commission that they must continue to report using the Authority's monthly tracking until approved or denied.

RULE TEXT:

(1) The reporting requirements in this rule do not apply to:

(a) A patient growing only for themself at the patient's residence, unless the patient is transferring usable marijuana to a registered processing site or dispensary; or

(b) A PRMG that produces marijuana at a grow site that is subject to the CTS tracking requirements in Oregon Laws 2017, chapter 183, sections 40-41, as provided in OAR 333-008-0635.

(2) No later than the 10th day of each month, a PRMG, who is not a person designated to produce marijuana by a patient, as that is defined in OAR 333-008-0010, must submit the following information to the Authority:

(a) The number of immature and mature marijuana plants and amount of usable marijuana transferred to each patient for whom the PRMG is producing marijuana;

(b) The amount of usable marijuana transferred to each registered marijuana processing site through an agreement with the patient; and

(c) The number of seeds or immature plants and the amount of usable marijuana transferred to each registered dispensary through an agreement with the patient.

(3) No later than the 10th day of each month, a person designated to produce marijuana by a patient as that term is defined in OAR 333-008-0010, must submit the following information to the Authority:

(a) The number of mature marijuana plants and immature marijuana plants, the amount of marijuana leaves and flowers being dried, and the amount of usable marijuana, in the person's possession;

(b) The number of mature marijuana plants and immature marijuana plants, and the amount of usable marijuana transferred to each patient for whom the person produces marijuana, or that patient's designated primary caregiver during the previous month;

(c) The amount of usable marijuana transferred to each marijuana processing site during the previous month; and

(d) The number of immature marijuana plants, and the amount of usable marijuana transferred to each medical marijuana dispensary during the previous month.

(4) The information required to be submitted under this rule must be submitted electronically in a manner prescribed by the Authority.

(5) In addition to submitting the information as required in section (3) of this rule a person designated to produce marijuana by a patient must keep a record of the information described in section (3) of this rule for two years after the date on which the person submits the information to the Authority.

(6) A person designated to produce marijuana by a patient, as that term is defined in OAR 333-008-0010, may delegate his or her duty to report information under section (3) of this rule to another person designated to produce marijuana by a patient if the marijuana grow site addresses are the same.

(a) The person to whom the duty is delegated must submit a notice, on a form prescribed by the Authority, of the delegation.

(b) A delegation under this section does not relieve a person designated to produce marijuana by a patient, who delegates the duty to report, from complying with any of these rules, except for the duty to report.

(c) If a person to whom the reporting duty has been delegated fails to report in accordance with section (3) of this rule the Authority may suspend or revoke the registration of the person to whom the reporting duty was delegated.

(d) If the person to whom the reporting duty has been delegated fails to report in accordance with section (3) of this rule for any person designated to produce marijuana by a patient the delegation is void and the person who delegated the reporting duty must report the information to the Authority within 10 business days of being informed by the Authority of the failure to report.

(7) A PRMG who has applied for licensure with the Commission under Oregon Laws 2017, chapter 183, section 41(1)(c), and whose application has not yet been considered incomplete, proposed for denial or granted, must continue to report under this rule until the Commission acts on the application.

STATUTORY/OTHER AUTHORITY: 475B.423, 475B.525, ORS 475B.420

STATUTES/OTHER IMPLEMENTED: ORS 475B.420, 475B.423

ADOPT: 333-008-0635

RULE TITLE: PRMG CTS Tracking

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adopt new rule per SB 1057 requiring all grow sites and PRMGs to use the CTS tracking system, unless you are a patient growing for yourself at a grow site with 12 or less plants; Provides the timeline for a PRMG to begin to report into CTS through the Authority; states a PRMG must comply with all Commission rules around CTS and cooperate with inspections or investigations conducted with the Commission.

RULE TEXT:

(1) A grow site location and PRMG's producing marijuana at a grow site location that is subject to tracking under Oregon Laws 2017, chapter 183, sections 40-41, must track the transfer, propagation and production of marijuana in CTS in accordance with OAR chapter 845, division 25 and pay the required CTS fee in OAR 333-008-0021 in accordance with instructions from the Authority, except as provided in section (3) of this rule.

(2) A grow site located at an address where there are no patients growing marijuana, even if there are 12 or fewer mature marijuana plants or 24 or fewer immature marijuana plants is subject to CTS tracking.

(3) This rule does not apply to a marijuana grow site located at an address where a patient grows marijuana and no more than 12 mature marijuana plants and 24 immature marijuana plants are grown at the address.

(4) All PRMGs growing marijuana at a grow site location that is subject to CTS tracking must begin tracking on or before July 1, 2018, unless a license application was submitted to the Commission for the grow site address on or before January 1, 2018, and the Commission has not yet acted on the application, in which case the PRMG's must continue to comply with OAR 333-008-0630 until the Commission acts on the application.

(5) To comply with this rule each PRMG at a grow site location that is subject to CTS tracking must comply with any instructions and deadlines provided by the Authority or the Commission, including but not limited to:

(a) Paying the required CTS user fee;

(b) Setting up and activating a CTS user account;

(c) Successfully completing all required CTS training; and

(d) Ordering Unique Identification Tags and tagging all plants and inventory.

(6) If the Commission considers the grow site application incomplete or proposes to deny a grow site's application for a producer license all PRMG's registered at the grow site must pay the CTS user fee and begin CTS tracking within 30 days of the date the Commission mailed notification of the incomplete application or mailed the notice of proposed denial of the application.

(7) A PRMG must comply with any applicable CTS rules in OAR chapter 845, division 25 and cooperate with any inspection or investigation conducted by the Commission under Oregon laws 2017, chapter 183, section 40(6).

(8) A PRMG producing marijuana at a grow site location that is subject to CTS tracking may not transfer a marijuana item on or after July 1, 2018, unless the PRMG has an active CTS user account, has UID tags, has tagged all plants and inventory and is capable of entering required information into CTS.

(9) If any PRMG at a grow site location that is subject to CTS tracking under this rule is not complying with this rule, the Authority may revoke the registration of the grow site and the registration of all PRMGs registered at that grow site location.

STATUTORY/OTHER AUTHORITY: OL 2017, Ch. 183, Sec. 40-41

STATUTES/OTHER IMPLEMENTED: OL 2017, Ch. 183, Sec. 40-41

REPEAL: 333-008-0640

RULE TITLE: PRMG Security Requirements

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Repealing due to HB 2198. All authorization to require a marijuana grow site to use any type of a security system or physical barrier has been removed from the Authority and Commission.

RULE TEXT:

A PRMG must effectively prevent public access and obscure from public view all areas where marijuana is being produced.

STATUTORY/OTHER AUTHORITY: ORS 475B.525

STATUTES/OTHER IMPLEMENTED: 475B.525

AMEND: 333-008-0720

RULE TITLE: OMMP Monitoring, Investigation, and Enforcement: Violations

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding language to clarify violations related to grow site inspections.

RULE TEXT:

In addition to failure to comply with any applicable provision of ORS 475B.400 to 475B.525, 475B.555, 475B.605, 475B.615, OAR chapter 333, division 7 or these rules, it is a violation:

(1) For a PRMG to transfer seeds, immature plants or usable marijuana to a registered processing site or dispensary without a valid patient authorization or personal agreement.

(2) To fail to cooperate with the Authority during an inspection or investigation. Failure to cooperate includes but is not limited to:

(a) Failure to provide directions to a grow site.

(b) Refusal to grant access to any and all portions of the registered grow site that the Authority has reason to believe are used in the production, harvesting, curing, storing, or packaging of marijuana.

(c) Failure to meet Authority staff within a reasonable period of time at the registered grow site after being notified of an on-site inspection.

(d) Failure to provide confirmation, upon request by the Authority, of the presence or absence of hazards or dangerous conditions at a grow site.

(e) Failure to provide to the Authority, upon request, information concerning compliance with these rules.

(3) To fail to pay a civil penalty.

(4) To submit false or misleading information to the Authority or the Commission.

(5) To provide marijuana to a patient, designated primary caregiver, employee, or other person to have the marijuana tested for pesticides on behalf of the PRMG without disclosing to the laboratory the PRMG's OMMP number.

STATUTORY/OTHER AUTHORITY: ORS 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.525

AMEND: 333-008-0740

RULE TITLE: OMMP Monitoring, Investigation, and Enforcement: Civil Penalties

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding reference to the civil penalty matrix

RULE TEXT:

In addition to any other liability or penalty provided by law, the Authority may impose for each violation of a provision of ORS 475B.400 to 475B.525, 475B.555, 475B.605, 475B.615, or for each violation of these rules, a civil penalty that does not exceed $500 for each day that the violation occurs, in accordance with the civil penalty matrix in OAR 333-008-2210.

STATUTORY/OTHER AUTHORITY: ORS 475B.495, 475B.525, 475B.585, 475B.655

STATUTES/OTHER IMPLEMENTED: ORS 431A.010, 475B.495, 475B.585, 475B.655

AMEND: 333-008-1010

RULE TITLE: Medical Marijuana Dispensaries: Definitions

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding the definition of Residence - "Residence" means real property in which an individual lives or resides.

RULE TEXT:

For the purposes of OAR 333-008-1000 through 333-008-2200 the following definitions apply:

(1) "Dispensary representative" means an owner, director, officer, PRD, manager, employee, agent or other representative of a registered medical marijuana dispensary, to the extent that the person acts in a representative capacity.

(2) "Dispensary registrant" means:

(a) An individual who owns a registered medical marijuana dispensary or, if a business entity owns the registered medical marijuana dispensary, each individual who has a financial interest in the registered medical marijuana dispensary; and

(b) Any PRD.

(3) "Person responsible for a medical marijuana dispensary" or "PRD" means an individual who is directly involved in the day-to-day operations of a dispensary and is identified as a PRD on an application.

(4) "Primary PRD" means a PRD designated by the owner of the dispensary as the primary point of contact for the Authority and who is authorized to receive any and all communications and legal notices from the Authority.

(5) "Residence" means real property in which an individual lives or resides.

(6) "These rules" means OAR 333-008-1000 to 333-008-1248 and 333-008-2000 to 333-008-2200.

STATUTORY/OTHER AUTHORITY: ORS 475B.450, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.450

AMEND: 333-008-1020

RULE TITLE: Medical Marijuana Dispensaries: Application for Medical Marijuana Dispensary Registration

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Updating references to statutes

RULE TEXT:

(1) To register a medical marijuana dispensary a person must:

(a) Submit an initial application on a form prescribed by the Authority that includes but is not limited to:

(A) The name of the individual who owns the dispensary or, if a business entity owns the dispensary, the name of each individual who has a financial interest in the dispensary;

(B) The name of the individual or individuals responsible for the dispensary, if different from the name of the individual who owns the dispensary, with one of the individuals responsible for the dispensary identified as the primary PRD;

(C) The physical and mailing address of the medical marijuana dispensary; and

(b) Application and registration fee.

(2) An initial application for the registration of a dispensary must be submitted electronically via the Authority's website, www.healthoregon.org/ommp.

(3) If an initial application is submitted along with the required fees the Authority will notify the applicant in writing that the application has been received and that within 30 calendar days of the date the written notice is mailed or sent electronically the following information must be received by the Authority:

(a) For each individual named in the application:

(A) A legible copy of the individual's valid government issued photographic identification that includes last name, first name and date of birth;

(B) Information, fingerprints and fees required for a criminal background check in accordance with OAR 333-008-2020; and

(C) An Individual History Form and any information identified in the form that is required to be submitted;

(b) A written statement from an authorized official of the local government that the proposed location of the dispensary is not located in an area that is zoned for residential use as that term is defined in OAR 333-008-0010;

(c) Proof that the business is registered or has filed an application to register as a business with the Oregon Office of the Secretary of State, including proof of registration for any DBA (doing business as) registration;

(d) Documentation, in a format prescribed by the Authority that the proposed location of the dispensary is not within 1,000 feet of:

(A) The real property comprising a public or private elementary or secondary school, except as provided in Oregon Laws 2017, chapter 613, section 22 or

(B) A registered dispensary.

(e) A scaled site plan of the parcel on which the premises proposed for registration is located, including:

(A) Cardinal directional references;

(B) Bordering streets and the names of the streets;

(C) Identification of the building or buildings in which the proposed dispensary is to be located;

(D) The dimensions of the proposed premises of the dispensary;

(E) Identification of other buildings or property owned by or under the control of the applicant on the same parcel or tax lot as the premises proposed for registration that will be used in the business; and

(F) Identification of any residences on the parcel or tax lot.

(f) A scaled floor plan of all enclosed areas of the premises at the proposed location that will be used in the business with the overall dimensions of the dispensary and the dimensions of interior rooms and spaces, a description of the intended uses of all spaces and clear identification and location of:

(A) Walls;

(B) Partitions;

(C) Counters;

(D) Windows;

(E) Safes;

(F) All areas of ingress and egress;

(G) All limited access areas;

(H) Secure rooms; and

(I) Designated limited access areas or designated areas required under OAR 333-008-1110(12); and

(g) Documentation that shows the applicant has lawful possession of the proposed location of the dispensary.

(4) The documentation required in section (3) of this rule may be submitted electronically to the Authority or may be mailed to the Oregon Medical Marijuana Program, Oregon Health Authority, PO Box 14116, Portland, OR 97293.

(a) If documentation is mailed it must be received by the Authority within 30 calendar days of the date the Authority mailed the notice to the applicant that the initial application was received or the application will be considered incomplete.

(b) If documentation is submitted electronically it must be received by the Authority by 5 p.m. Pacific Time within 30 calendar days of the date the Authority mailed the notice to the applicant that the initial application was received or the application will be considered incomplete.

(5) Application and registration fees must be paid online at the time of application.

(6) Criminal background check fees must be paid by check or money order and must be mailed to the Oregon Medical Marijuana Program, PO Box 14116, Portland, OR 97293, and must be received by the Authority in accordance with provisions in section (4) of this rule.

(7) If the Authority does not receive a complete application, including all documentation required in sections (1) and (3) of this rule, and all required fees within the time frames established in this rule, the application will be declared incomplete.

(8) If an applicant provides the documentation required in section (3) of this rule the Authority will review the information to determine if it is sufficient.

(a) If the documentation required under section (3) of this rule is not complete or is insufficient the Authority must notify the applicant in writing and the applicant will have 10 calendar days from the date such written notice is mailed or sent electronically by the Authority to provide the additional documentation.

(b) If the applicant does not provide the additional documentation within 10 calendar days or if any responsive documents are incomplete, insufficient or otherwise do not demonstrate compliance with ORS 475B.450 and these rules the application will be declared incomplete.

(9) A person who wishes to register more than one location must submit a separate application, registration fees, and all documentation described in sections (1) and (3) of this rule for each location.

(10) An application that is declared incomplete is treated by the Authority as if it was never received.

STATUTORY/OTHER AUTHORITY: ORS 475B.450, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.450

AMEND: 333-008-1030

RULE TITLE: Dispensary Fees

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding a new fee type for using the Cannabis Tracking System per SB 1057 and removing reference to past dates.

RULE TEXT:

(1) The initial fees for the registration of a dispensary are:

(a) A non-refundable application fee of $500; and

(b) A $3,500 registration fee.

(2) The annual renewal fees for the registration of a dispensary are:

(a) A $500 non-refundable renewal fee; and

(b) A $3,500 registration fee.

(3) The criminal background check fee is $35 per individual.

(4) CTS user fee: $480.

(5) The Authority must return the registration fee if:

(a) An application is incomplete; or

(b) An applicant withdraws an application.

(6) The Authority may return the registration fee if an application is denied.

(7) The Authority may not refund a registration fee if the Authority has issued the applicant a 60-day letter under OAR 333-008-1040(6) and the applicant subsequently withdraws the application or the applicant does not comply with the 60-day deadline or an extension deadline under OAR 333-0080-1040(7) or (8).

STATUTORY/OTHER AUTHORITY: ORS 475B.450, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.450

AMEND: 333-008-1040

RULE TITLE: Medical Marijuana Dispensaries: Dispensary Application Review

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Updating references to statutes

RULE TEXT:

(1) Applications will be reviewed in the order they are received by the Authority. An application is considered received as of the date and time that payment of application and registration fees is authorized by the entity that issued the credit or debit card used to pay the fees.

(2) Once the Authority has determined that an application is complete it will review an application to the extent necessary to determine compliance with ORS 475B.450 and these rules.

(3) The Authority may, in its discretion, prior to acting on an application:

(a) Contact any individual listed on the application and request additional documentation or information;

(b) Inspect the premises of the proposed dispensary; or

(c) Verify any information submitted by the applicant.

(4) Prior to making a decision whether to approve or deny an application the Authority must:

(a) Review the criminal background check results for each individual named on the application;

(b) Determine whether the proposed location of the dispensary is the same location as a registered grow site under OAR 333-008-0025;

(c) Review documentation submitted by the applicant to determine, based on the information provided by the applicant, whether the proposed location of the dispensary is located within 1,000 feet of:

(A) The real property comprising a public or private elementary or secondary school, except as provided in Oregon Laws 2017, chapter 613, section 22; or

(B) Another registered dispensary;

(d) Verify that the applicant is registered as a business with the Office of the Secretary of State; and

(e) Verify that the proposed location of the dispensary is not:

(A) Located in an area that is zoned for residential use; or

(B) In a city or county that has adopted an ordinance under ORS 475B.800 or section 133 chapter 614, Oregon Laws 2015, prohibiting dispensaries.

(5) If during the review process the Authority determines that the application or supporting documentation contains intentionally false or misleading information the Authority may declare the application incomplete or issue a notice of denial under OAR 333-008-1060.

(6) The Authority will notify the applicant in writing that the applicant has 60 calendar days from the date of the written notice to submit a Readiness Form, prescribed by the Authority, indicating that the applicant is prepared for an inspection and is in compliance with these rules if:

(a) There is no basis for denial under OAR 333-008-1060;

(b) The proposed dispensary is in compliance with ORS 475B.450(3)(a) through (e);

(c) Each individual named in the application passes the criminal background check; and

(d) Each individual named as a PRD in the application meets age requirements.

(7) If the Authority does not receive the Readiness Form in accordance with section (6) of this rule the applicant's application will be declared incomplete, unless an extension has been granted under section (8) of this rule.

(8) An applicant may request one extension of the 60-day deadline in section (6) of this rule if the applicant can demonstrate to the Authority that the deadline cannot be met for reasons outside of the applicant's control, such as but not limited to the applicant's inability to obtain local government building permits.

(a) A request for an extension must be in writing, must be received within 60 calendar days of the notice described in section (6) of this rule and must explain and provide documentation that shows the applicant cannot, for reasons outside of the applicant's control, meet the 60-day deadline, and must specify when the applicant believes it can submit the Readiness Form.

(b) A request for an extension tolls the 60-day deadline.

(c) The Authority will review the request and provide, in writing to the applicant, its decision and the reason for the decision.

(d) If an extension is granted the Authority must inform the applicant of the new deadline for submission of the Readiness Form, but in any case an extension may not exceed 60 calendar days.

STATUTORY/OTHER AUTHORITY: ORS 475B.450, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.450

AMEND: 333-008-1070

RULE TITLE: Expiration and Renewal of Dispensary Registration

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding reference to new fee type for using the Cannabis Tracking System per SB 1057. Adding new statutory language from SB 1057 regarding not being able to renew a registration if an election to either stay medical or go to OLCC is not made by the deadline.

RULE TEXT:

(1) A dispensary's registration expires one year following the date of application approval.

(2) A dispensary registrant must submit not more than 90 but at least 30 calendar days before the registration expires:

(a) A renewal application on a form prescribed by the Authority;

(b) Renewal and CTS user fees;

(c) For each individual named in the renewal application:

(A) A legible copy of the individual's valid government issued photographic identification that includes last name, first name and date of birth;

(B) Information, fingerprints and fees required for a criminal background check in accordance with OAR 333-008-2020;

(C) An Individual History Form and any information identified in the form that is required to be submitted; and

(d) Current proof of business registration with the Secretary of State, including all DBA (doing business as) registrations.

(3) A dispensary registrant who files a completed renewal application, fees and all the information required in section (2) of this rule with the Authority prior to the expiration date of the registration may continue to operate, even after the registration expiration date, pending a decision on the renewal application by the Authority.

(4) A dispensary registrant that does not submit timely renewal application, fees, and all the information required under section (2) of this rule may be denied or subject to the imposition of civil penalties.

(5) The Authority may notify a dispensary registrant who, prior to the registration's expiration, submits an incomplete application and may give the registrant 10 calendar days to submit the missing information. The Authority may deny the renewal application of a registrant who fails to comply with this section.

(6) Renewals will be processed in accordance with OAR 333-008-1040 to 333-008-1060, as applicable.

(7) A renewal applicant may be required to submit a Readiness Form, as described in OAR 333-008-1040 and may be subject to inspection prior to the Authority acting on a renewal application.

(8) For purposes of this rule a renewal application is considered complete when the Authority receives the completed application form, fees and information required in section (2) of this rule.

(9) The Authority may not renew the registration of a dispensary if the registrant has not complied with the election requirements in Oregon Laws 2017, chapter 183, section 41(1) on or before January 1, 2018.

STATUTORY/OTHER AUTHORITY: ORS 475B.450, 475B.525, OL 2017, Ch. 183, Sec. 41

STATUTES/OTHER IMPLEMENTED: ORS 475B.450, OL 2017, Ch. 183, Sec. 41

AMEND: 333-008-1110

RULE TITLE: Medical Marijuana Dispensaries: Locations of Medical Marijuana Dispensaries; Dispensary Premises Restrictions and Requirements

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Updating references to statutes

RULE TEXT:

(1) A dispensary may not be located:

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

(b) At the same address as a registered marijuana grow site;

(c) Within 1,000 feet of the real property comprising a public or private elementary or secondary school, except as provided in Oregon Laws 2017, chapter 613, section 22; or

(d) Within 1,000 feet of another medical marijuana dispensary.

(2) For purposes of implementing ORS 475B.450(3)(d), the Authority will consider a location to be a school if it has at least the following characteristics:

(a) Is a public or private elementary or secondary school as those terms are defined OAR 333-008-0010;

(b) There is a building or physical space where students gather together for education purposes on a regular basis;

(c) A curriculum is provided;

(d) Attendance is compulsory under ORS 339.020 or children are being taught as described in ORS 339.030(1)(a); and

(e) Individuals are present to teach or guide student education.

(3) For purposes of determining the distance between a dispensary and a school "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 an existing public or private elementary or secondary school to the closest point of the premises of a dispensary. If any portion of the premises of a proposed or registered dispensary is within 1,000 feet of a public or private elementary or secondary school it may not be registered.

(4) For purposes of determining the distance between a dispensary and another registered dispensary "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from the closest point anywhere on the premises of a registered dispensary to the closest point anywhere on the premises of a proposed dispensary. If any portion of the premises of a proposed dispensary is within 1,000 feet of a registered dispensary it may not be registered.

(5) In order to be registered a dispensary must operate at a particular location as specified in the application and may not be mobile.

(6) Minors on Premises. A dispensary registrant may not permit a minor to be present in any limited access or point of sale area of a registered dispensary.

(7) On Premises Consumption.

(a) A dispensary registrant may not permit the ingestion, inhalation or topical application of a marijuana item anywhere on the premises of the registered dispensary, except as described in subsection (b) of this section.

(b) An employee of a registered dispensary who is a patient may consume a marijuana item during his or her work shift on the premises of the registered dispensary as necessary for his or her medical condition, if the employee is:

(A) Alone and in a closed room where no dispensary marijuana items are present;

(B) Not visible to patients or caregivers on the premises of the registered dispensary to receive a transfer of a marijuana item; and

(C) Not visible to the public outside the dispensary.

(c) For purposes of this section consume does not include smoking, combusting, inhaling, vaporizing, or aerosolizing a marijuana item.

(8) General Public and Visitor Access. The general public is not permitted on the premises of a registered dispensary, except as permitted by OAR 333-008-1500 and in accordance with this rule.

(a) In addition to registrant representatives, the following visitors are permitted on the premises of a dispensary, including limited access areas, subject to the requirements in section (9) of this rule:

(A) Laboratory personnel, if the laboratory is accredited by the Authority;

(B) A contractor authorized by a registrant representative to be on the premises; or

(C) Individuals authorized to transfer marijuana items to a registered dispensary.

(b) A registered dispensary may permit up to seven invited guests 21 years of age and older, per week, on the premises of a registered dispensary, including limited access areas, subject to the requirements in section (9) of this rule.

(9) Visitor Escort, Log and Badges.

(a) Prior to entering the premises of a registered dispensary all visitors permitted by section (8) of this rule must be documented and issued a visitor identification badge from a registrant representative that must remain visible while on the premises. All visitors described in section (8) of this rule must be accompanied by a registrant representative at all times.

(b) A dispensary registrant must maintain a log of all visitor activity and the log must contain the first and last name and date of birth of every visitor, and the date they visited.

(10) Government Access. Nothing in this rule is intended to prevent or prohibit Authority employees or contractors, or other state or local government officials that have jurisdiction over some aspect of the premises or a dispensary registrant to be on the premises.

(a) A visitor badge is not required for government officials.

(b) A dispensary must log every government official that enters the premises but the dispensary may not request that the government official provide a date of birth for the log.

(11) Limited Access Areas.

(a) All limited access areas must be physically separated from any area where the general public is permitted, by a floor to ceiling wall that prevents physical access between the limited access area and an area that is open to the general public except through a door that is kept locked by a dispensary when the door is not immediately in use.

(b) An applicant or registered dispensary may request, in writing, an exception from the Authority from the requirement to have a floor to ceiling wall. The request must include the reason the exception is being sought, pictures of the area in question, and a description of an alternative barrier that accomplishes the goal of providing a significant physical barrier between the general public and any marijuana items on the premises of the dispensary.

(12) A dispensary must have:

(a) A designated limited access area or areas where transfers of marijuana items are received and such an area may not be accessible to patients or designated primary caregivers on the premises to receive the transfer of a marijuana item or the general public; and

(b) A designated area within the premises where patients and designated primary caregivers and other visitors enter the dispensary and are checked in.

(13) The areas described in section (12) of this rule must be clearly marked on the scaled floor plan required in OAR 333-008-1020.

(14) Point of Sale Areas.

(a) All point of sale areas must be physically separated from any area where the general public is permitted by a floor to ceiling wall that prevents physical access between a point of sale area and an area that is open to the general public except through a door that is kept locked by a dispensary when the door is not immediately in use.

(b) An applicant or registrant may request, in writing, an exception from the Authority from the requirement under subsection (a) of this section to have a floor to ceiling wall. The request must include the reason the exception is being sought, pictures of the area in question, and a description of an alternative barrier that accomplishes the goal of providing a significant physical barrier between the general public and any marijuana items on the premises of the dispensary.

(c) All areas where marijuana items are available for transfer to a patient or designated primary caregiver must be supervised by a dispensary representative at all times when a patient or designated primary caregiver is present.

(d) A dispensary may not transfer a marijuana item to a patient or designated primary caregiver through a drive-through window.

(15) A dispensary may not sublet or share with any other business any portion of the dispensary premises, except a registered processing site under common ownership.

(16) If a dispensary premises is located in a building or structure that includes residential, industrial, agricultural or other commercial uses, occupancies or tenant space, the dispensary premises and any other use, occupancy or tenant space must be completely separate with no communication of space or means of ingress or egress between the dispensary premises and any other use, occupancy or tenant space, except as follows:

(a) A dispensary may share a premises with a registered marijuana processing site that is under common ownership, in accordance with section (17) of this rule and OAR 333-008-2080.

(b) A dispensary is permitted to have a door from the dispensary premises that opens into a common space shared by other commercial uses, occupants, tenants or the public, but that is not exclusively under the control or possession of a single other commercial use, occupancy or tenancy, in accordance with section (17) of this rule.

(17) If a dispensary premises is located in a building or structure that includes residential, industrial, agricultural or other commercial uses, occupancies or tenant space and under section (16) of this rule ingress or egress is permitted, every means of ingress and egress must be:

(a) Through a door that is locked at all times, when not in immediate use, by a commercial grade lock, and that does not permit access by the public.

(b) Posted with signage in accordance with OAR 333-008-1205, as applicable.

(c) Equipped with security and surveillance system coverage in accordance with OAR 333-008-2080 and 333-008-2100.

(18) Residential occupancy of a dispensary premises is prohibited.

STATUTORY/OTHER AUTHORITY: ORS 475B.450, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.450

AMEND: 333-008-1200

RULE TITLE: Medical Marijuana Dispensaries: Operation of Registered Dispensaries

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding language to clarify that a dispensary must report their transfers monthly if it is not yet subject to CTS.

RULE TEXT:

(1) Policies and Procedures. In order to obtain a registration and to retain registration a dispensary registrant must have written detailed policies and procedures and training for employees on the policies and procedures that, at a minimum, cover the following:

(a) Security;

(b) Transfers of marijuana items to and from the dispensary;

(c) Operation of a registered dispensary;

(d) Required record keeping;

(e) Testing requirements, including review of testing results prior to accepting transfers of marijuana items;

(f) Packaging and labeling requirements;

(g) Employee training;

(h) Compliance with these rules, including but not limited to violations and enforcement; and

(i) Roles and responsibilities for employees and PRDs in assisting the Authority during inspections or investigations.

(2) Employees. A registered dispensary may employ an individual between the ages of 18 and 20 if the individual is a patient. Otherwise, dispensary employees must be 21 years of age or older.

(3) Standardized Scales. In order to obtain a registration and to retain registration a dispensary registrant must own, maintain on the premises and use a weighing device that is licensed by the Oregon Department of Agriculture. Licensed weighing devices must be used by a registered dispensary whenever marijuana items are:

(a) Transferred to or from the dispensary and the transfer is by weight;

(b) Packaged for transfer by weight; or

(c) Weighed for purposes of documenting information required in:

(A) OAR 333-008-1230, 333-008-1245, and 333-008-1247.

(B) OAR 333-008-1248, if the dispensary is still required to report to the Authority and is not yet subject to CTS tracking.

(C) CTS.

(4) Inventory Tracking and Point of Sale System: In order to obtain a registration and to retain registration a registered dispensary must have an installed and fully operational integrated inventory tracking and point of sale system that can and does, at a minimum:

(a) Produce bar codes or similar unique identification numbers for each marijuana item lot transferred to a registered dispensary;

(b) Trace back or link each transfer of a marijuana item to a patient or caregiver to the marijuana item lot;

(c) Capture all information electronically that is required to be documented in OAR 333-008-1230 and 333-008-1245;

(d) Generate inventory, transaction, and transfer reports viewable in excel format; and

(e) Produce all the information required to be submitted to the Authority pursuant to OAR 333-0080-1248, if the dispensary is still required to report to the Authority and not yet subject to CTS tracking.

(5) Online Verification of Registration Status. A dispensary must verify an individual's registration status with the Authority when receiving or making the transfer of a marijuana item if the Authority has available an online system for such verification.

(6) Inventory On-Site. Marijuana items must be kept on-site at the dispensary. The Authority may take enforcement action against a dispensary registrant if during an inspection a dispensary registrant cannot account for its inventory or if the amount of usable marijuana at the registered dispensary is not within five percent of the documented inventory.

(7) Testing. A dispensary registrant may not accept a transfer of a marijuana item that has not been tested in accordance with OAR 333-007-0300 to 333-007-0500 or that has failed a test under OAR 333-007-0450.

(8) Packaging and Labeling. A dispensary may not accept a transfer of a marijuana item or transfer a marijuana item that does not comply with the labeling requirements in OAR 333-007-0010 to 333-007-0100, or that does not comply with the packaging requirements in OAR 845-025-7000 to 845-025-7020 and 845-025-7060.

(9) Oregon Department of Agriculture Licensure. A registered dispensary that sells or handles food, as that term is defined in ORS 616.695, or a cannabinoid concentrate, extract or product intended for human consumption as that term is defined in OAR 333-007-0020, must be licensed by the Oregon Department of Agriculture under ORS 616.706.

(10) Industrial Hemp Products.

(a) A dispensary may only accept the transfer of and may only transfer a product that contains THC or CBD that is derived from marijuana.

(b) Nothing in this section prohibits a dispensary from buying or selling hemp products not intended for human application, consumption, inhalation, ingestion, or absorption, such as hemp clothing.

(11) Tobacco and Nicotine. A dispensary may not offer or sell tobacco or nicotine products in any form including, but not limited to, loose tobacco, pipe tobacco, cigarettes as defined in ORS 323.010, cigarillos as that is defined in OAR 333-015-0030, liquid nicotine containers as that is defined in OAR 333-007-0305 or pre-filled nicotine inhalant delivery devices.

(12) For purposes of this rule "marijuana item lot" means a quantity of seeds, immature plants, usable marijuana, medical cannabinoid products, concentrates or extracts transferred to a registered dispensary at one time and that is from the same harvest lot or process lot as those terms are defined in OAR 333-007-0020.

STATUTORY/OTHER AUTHORITY: ORS 475B.450, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.450

AMEND: 333-008-1230

RULE TITLE: Medical Marijuana Dispensaries: Transfers to a Registered Dispensary

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Remove language allowing a dispensary to accept transfer of usable marijuana from an OLCC licensed producer per SB 1057.

RULE TEXT:

(1) Transfer of Usable Marijuana, Seeds and Immature Plants. A patient, caregiver, or PRMG may transfer usable marijuana, seeds and immature plants produced by a PRMG to a registered dispensary, subject to the requirements in this rule.

(a) A registered dispensary may only accept a transfer of usable marijuana, seeds or immature marijuana plants from a caregiver or PRMG if the individual transferring the usable marijuana, seeds or immature plants provides the original or a copy of a valid:

(A) Authorization to Transfer form prescribed by the Authority; or

(B) Personal agreement as that is defined in OAR 333-008-0010.

(b) Authorization to Transfer Forms. In order to be valid an Authorization to Transfer form must include at least:

(A) The patient's name, OMMP card number or receipt number and expiration date and contact information;

(B) The name and contact information of the individual who is authorized to transfer the usable marijuana, seeds or immature marijuana plants to the registered dispensary and that individual's OMMP card number and expiration date;

(C) The name and address of the registered dispensary that is authorized to receive the usable marijuana, seeds or immature marijuana plants; and

(D) The date the authorization expires, if earlier than the expiration date of the patient's OMMP card.

(c) Personal Agreements. In order to be valid a personal agreement must include at least:

(A) The patient's name, OMMP card number and expiration date and contact information;

(B) The name and contact information of the PRMG to whom the patient's property rights have been assigned and the producer's OMMP card number and expiration date, and the grow site address;

(C) The portion of the patient's rights to possess seeds, immature plants and usable marijuana that is being assigned to the producer.

(2) Transfer of medical cannabinoid products, concentrates, and extracts. A registered dispensary may only accept a transfer of a medical cannabinoid product, concentrate or extract from a registered medical marijuana processing site. The individual transferring the products, concentrates or extracts must provide the dispensary with a Processing Site Authorization to Transfer form prescribed by the Authority. In addition to retaining a copy of the Processing Site Authorization to Transfer form the dispensary must obtain a copy of the photo identification of the individual transferring the cannabinoid product, concentrate or extract as required in paragraph (3)(b)(B) of this rule.

(3) Transfer Records. At the time a marijuana item is transferred to a dispensary the dispensary registrant must:

(a) Document, on a form prescribed by the Authority, as applicable:

(A) The weight in metric units of all usable marijuana received by the registered dispensary;

(B) The number of seeds and immature plants received by the registered dispensary;

(C) The amount of a medical cannabinoid product, concentrate, or extract received by the registered dispensary, including, as applicable, the weight in metric units, or the number of units;

(D) The name of the marijuana item;

(E) The date the marijuana item was received;

(F) The harvest or process lot numbers, and batch numbers; and

(G) The amount paid by the registered dispensary.

(b) Obtain and maintain a copy of, as applicable:

(A) Documents required in section (1) of this rule including the date it was received;

(B) The photo identification of the individual transferring the marijuana item to the dispensary, if such a copy is not already on file;

(C) The OMMP card of the individual transferring usable marijuana, seeds or immature plants;

(D) The medical marijuana processing site registration; and

(E) Test results for marijuana items transferred to the dispensary.

(c) Review laboratory testing results and confirm that the:

(A) Test results are associated with the marijuana items being transferred; and

(B) Marijuana item has passed all required testing.

(4) Nothing in these rules requires a dispensary registrant to accept a transfer of a marijuana item.

(5) All documentation required in this rule must be maintained electronically in an integrated inventory tracking and point of sale system or the electronic data management system described in OAR 333-008-1247.

STATUTORY/OTHER AUTHORITY: ORS 475B.450, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.450

AMEND: 333-008-1248

RULE TITLE: Registered Dispensary Reporting to the Authority

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding reference to CTS. Clarifying for a dispensary that has applied to be licensed with the Commission that they must continue to report using the Authority's monthly tracking until approved or denied.

RULE TEXT:

(1) Unless a dispensary is subject to CTS tracking, a PRD must submit to the Authority electronically in a manner specified by the Authority, by the 10th of each month, the following information:

(a) The amount of usable marijuana transferred to and by the medical marijuana dispensary during the previous month.

(b) The amount and type of medical cannabinoid products transferred to and by the medical marijuana dispensary during the previous month. For purposes of this section "type" means:

(A) Cannabinoid edibles;

(B) Cannabinoid topicals;

(C) Cannabinoid tinctures;

(D) Cannabinoid capsules;

(E) Cannabinoid suppositories;

(F) Cannabinoid transdermal patches and

(G) Cannabinoid product other than products listed in paragraphs (A) to (F) of this subsection.

(c) The amount and type of cannabinoid concentrates transferred to and by the medical marijuana dispensary during the previous month. For purposes of this section "type" means:

(A) Cannabinoid concentrate in solid form; and

(B) Cannabinoid concentrate in liquid form.

(d) The amount and type of cannabinoid extracts transferred to and by the medical marijuana dispensary during the previous month. For purposes of this section "type" means:

(A) Cannabinoid extract in solid form; and

(B) Cannabinoid extract in liquid form.

(e) The quantity of immature marijuana plants transferred to and by the medical marijuana dispensary during the previous month.

(f) The quantity of seeds transferred to and by the medical marijuana dispensary during the previous month.

(2) Information submitted to the Authority under this rule must:

(a) List each type of marijuana item separately;

(b) Provide the total aggregate amount of a type of marijuana item transferred to a dispensary by each patient, designated primary caregiver, PRMG, processing site or Commission licensed producer during the previous month; and

(c) Provide the total aggregate amount of a type of marijuana item transferred by a dispensary to each patient or designated primary caregiver during the previous month.

(3) In addition to submitting the information as required by section (1) of this rule, a person responsible for a dispensary must keep a record of the information required to be reported under section (1) of this rule for two years after the date on which the person submitted the information to the Authority.

(4) A registered dispensary that has applied for licensure with the Commission under Oregon Laws 2017, chapter 183, section 41(1)(c), and whose application has not yet been considered incomplete,

proposed for denial or granted, must continue to report under this rule until the Commission acts on the application.

STATUTORY/OTHER AUTHORITY: ORS 475B.450, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.450

ADOPT: 333-008-1252

RULE TITLE: Dispensary CTS Tracking

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adopt new rule per SB 1057 requiring all dispensaries to use the CTS tracking system; Provides the timeline for a dispensary to begin to report into CTS through the Authority; states a dispensary must comply with all Commission rules around CTS and cooperate with inspections or investigations conducted with the Commission.

RULE TEXT:

(1) On or before July 1, 2018, all registered dispensaries must track the transfers of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts to and from the dispensary in CTS in accordance with OAR chapter 845, division 25 and pay the required CTS fee in OAR 333-008-1030 in accordance with instructions from the Authority, unless the dispensary filed an application with the Oregon Liquor Control Commission on or before January 1, 2018, and the Commission has not yet acted on the application.

(2) If the Commission denies a registered dispensary's application for a license the dispensary must pay the CTS user fee and begin CTS tracking within 30 days of the date the Commission mailed notification of the incomplete application or mailed the notice of proposed denial of the application.

(3) A dispensary must comply with any applicable CTS requirements in OAR chapter 845, division 25 and cooperate with any inspection or investigation conducted by the Commission under Oregon Laws 2017, chapter 183, section 40(6).

(4) To comply with this rule a registered dispensary must comply with any instructions and deadlines provided by the Authority or the Commission, including but not limited to:

(a) Paying the required CTS user fee;

(b) Setting up and activating a CTS user account;

(c) Successfully completing all required CTS training; and

(d) Ordering Unique Identification (UID) Tags and tagging all inventory.

(5) A registered dispensary may not accept or make any transfers of marijuana items on or after July 1, 2018, unless the dispensary has an active CTS user account, has UID tags, has tagged all inventory and is capable of entering required information into CTS.

STATUTORY/OTHER AUTHORITY: OL 2017, Ch. 183, Sec. 40-41

STATUTES/OTHER IMPLEMENTED: OL 2017, Ch. 183, Sec. 40-41

AMEND: 333-008-1620

RULE TITLE: Medical Marijuana Processors: Application for Medical Marijuana Processing Site Registration

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Removing reference to dates that have passed.

RULE TEXT:

(1) To register a medical marijuana processing site a person must:

(a) Submit an initial application on a form prescribed by the Authority that includes but is not limited to:

(A) The name of the individual who owns the processing site or, if a business entity owns the processing site, the name of each individual who has a financial interest in the processing site;

(B) The name of the individual or individuals responsible for the processing site, if different from the name of the individual who owns the processing site, with one of the individuals responsible for the processing site identified as the primary PRP;

(C) The physical and mailing address of the marijuana processing site; and

(b) Application and registration fees.

(c) An initial application for the registration of a processing site must be submitted electronically via the Authority's website, www.healthoregon.org/ommp.

(2) If an initial application is submitted along with the required fees the Authority will notify the applicant that the initial application has been received and that within 30 calendar days of the date the written notice is mailed or sent electronically the following information must be received by the Authority:

(a) For each individual named in the application:

(A) A legible copy of the individual's valid government issued photographic identification that includes last name, first name and date of birth;

(B) Information, fingerprints and fees required for a criminal background check in accordance with OAR 333-008-2020; and

(C) An Individual History Form and any information identified in the form that is required to be submitted.

(b) If the applicant intends to process extracts, proof from the local government that the proposed location of the processing site is not located in an area that is zoned for residential use;

(c) Proof that the business is registered or has filed an application to register as a business with the Oregon Office of the Secretary of State, including proof of registration of any DBA (doing business as) registration;

(d) A scaled site plan of the parcel or premises on which the premises proposed for registration, is located, including:

(A) Cardinal directional references;

(B) Bordering streets and the names of the streets;

(C) Identification of the building or buildings in which the proposed processing site is to be located;

(D) The dimensions of the proposed premises of the processing site;

(E) Identification of other buildings or property owned by or under the control of the applicant on the same parcel or tax lot as the premises proposed for registration that will be used in the business; and

(F) Identification of any residences on the parcel or tax lot.

(e) A scaled floor plan of all enclosed areas of the premises at the proposed location that will be used in the business with the overall dimensions of the dispensary and the dimensions of the interior rooms and spaces, a description of the intended uses of all spaces and clear identification and location of:

(A) Walls;

(B) Partitions;

(C) Counters;

(D) Windows;

(E) Safes;

(F) All areas of ingress and egress;

(G) All limited access areas;

(H) Secure rooms; and

(I) Designated limited access areas or designated areas required under OAR 333-008-1730(8);

(f) Documentation that shows the applicant has lawful possession of the proposed location of the processing site;

(g) 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 on a form prescribed by the Authority; and

(h) The proposed endorsements as described in OAR 333-008-1700.

(3) The information and documentation required in section (3) of this rule may be submitted electronically to the Authority or may be mailed to the Oregon Medical Marijuana Program, Oregon Health Authority, PO Box 14116, Portland, OR 97293.

(a) If documentation is mailed, it must be received by the Authority within 30 calendar days of the date the Authority mailed the notice to the applicant that the application was received or the application will be considered incomplete.

(b) If documentation is submitted electronically it must be received by the Authority within 30 calendar days of the date the Authority mailed the notice to the applicant that the application was received or the application will be considered incomplete.

(4) Application and registration fees must be paid online at the time of application.

(5) Criminal background check fees must be paid by check or money order and must be mailed to the Oregon Medical Marijuana Program, Oregon Health Authority, PO Box 14116, Portland, OR 97293 and must be received by the Authority in accordance with provisions in section (4) of this rule.

(6) If the Authority does not receive a complete application, all documentation required in sections (1) and (2) of this rule, and all required fees within the time frames established in this rule, the application will be declared incomplete.

(7) If the applicant provides the documentation required in section (2) of this rule, the Authority will review the information to determine if it is sufficient.

(a) If the documentation required under section (2) of this rule is not complete or is insufficient the Authority must notify the applicant in writing and the applicant will have 10 calendar days from the date such written notice is mailed or sent electronically by the Authority to provide the additional documentation.

(b) If the applicant does not provide the additional documentation within 10 calendar days or if any responsive documents are incomplete, insufficient or otherwise do not demonstrate compliance with ORS 475B.450 and these rules the application will be declared incomplete.

(8) A person who wishes to register more than one location must submit a separate application, registration fees, and all documentation described in sections (1) and (2) of this rule for each location.

(9) An application that is declared incomplete is treated by the Authority as if it was never received.

STATUTORY/OTHER AUTHORITY: ORS 475B.435

STATUTES/OTHER IMPLEMENTED: ORS 475B.435

AMEND: 333-008-1630

RULE TITLE: Processing Site Fees

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding a new fee type for using the Cannabis Tracking System per SB 1057 and removing reference to dates that have passed.

RULE TEXT:

(1) The initial fees for the registration of a processing site are:

(a) A non-refundable application fee of $500; and

(b) A $3,500 registration fee.

(2) The annual renewal fees for the registration of a processing site are:

(a) A $500 non-refundable renewal fee; and

(b) A $3,500 registration fee.

(3) The criminal background check fee is $35 per individual.

(4) CTS user fee: $480.

(5) The Authority must return the registration fee if:

(a) An application is incomplete; or

(b) An applicant withdraws an application.

(6) The Authority may return the registration fee if an application is denied.

(7) The Authority may not refund a registration fee if the Authority has issued the applicant a 60-day letter under OAR 333-008-1650(6) and the applicant subsequently withdraws the application or the applicant does not comply with the 60-day deadline or an extension deadline under OAR 333-0080-1650(7) or (8).

STATUTORY/OTHER AUTHORITY: ORS 475B.435

STATUTES/OTHER IMPLEMENTED: ORS 475B.435

AMEND: 333-008-1690

RULE TITLE: Expiration and Renewal of Registration for Processing Site

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding reference to new fee type for using the Cannabis Tracking System per SB 1057. Adding new language from SB 1057 regarding not being able to renew a registration if an election to either stay medical or go to OLCC is not made by the deadline.

RULE TEXT:

(1) A processing site's registration expires one year following the date of application approval.

(2) A processing site registrant must submit not more than 90 but at least 30 calendar days before the registration expires:

(a) A renewal application on a form prescribed by the Authority;

(b) Renewal and CTS user fees;

(c) For each individual named in the renewal application:

(A) A legible copy of the individual's valid government issued photographic identification that includes last name, first name and date of birth;

(B) Information, fingerprints and fees required for a criminal background check in accordance with OAR 333-008-2020; and

(C) An Individual History Form and any information identified in the form that is required to be submitted; and

(d) Current proof of business registration with the Secretary of State, including all DBA (doing business as) registrations.

(3) A processing site registrant who files a completed renewal application, fees, and all the information required in section (2) of this rule with the Authority prior to the expiration date of the registration may continue to operate, even after the registration expiration date, pending a decision on the renewal application by the Authority.

(4) A processing site registrant that does not submit a timely application, fees and all the information required in section (2) of this rule may be denied or subject to the imposition of civil penalties.

(5) The Authority may notify a processing site registrant who, prior to the registration's expiration, submits an incomplete application and may give the registrant 10 calendar days to submit the missing information. The Authority may deny the renewal application of a registrant who fails to comply with this section.

(6) Renewals will be processed in accordance with OAR 333-008-1650 to 333-008-1670, as applicable.

(7) A renewal applicant may be required to submit a Readiness Form, as described in OAR 333-008-1650(9) and may be subject to inspection prior to the Authority acting on a renewal application.

(8) For purposes of this rule, a renewal application is considered complete when the Authority receives the completed application form, fees and information required in section (2) of this rule.

(9) The Authority may not renew the registration of a processing site if the registrant has not complied with the election requirements in Oregon Laws 2017, chapter 183, section 41(1) on or before January 1, 2018.

STATUTORY/OTHER AUTHORITY: ORS 475B.435

STATUTES/OTHER IMPLEMENTED: ORS 475B.435

AMEND: 333-008-1740

RULE TITLE: Medical Marijuana Processors: Operation of Registered Processing Site

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding language to clarify that a processor must report their transfers monthly if it is not yet subject to CTS.

RULE TEXT:

(1) Policies and Procedures. In order to be registered and remain registered a processing site must create and maintain written, detailed standard policies and procedures that include but are not limited to:

(a) Instructions for making each medical cannabinoid product, concentrate or extract.

(b) The ingredients and the amount of each ingredient for each process lot.

(c) The process for making each product.

(d) The number of servings in a process lot.

(e) The intended amount of THC per serving and in a unit of sale of the product.

(f) The process for ensuring that the amount of THC is consistently distributed throughout each process lot.

(g) If processing a cannabinoid concentrate or extract:

(A) Conducting necessary safety checks prior to commencing processing; and

(B) Purging any solvent or other unwanted components from a cannabinoid concentrate or extract.

(h) Procedures for cleaning all equipment, counters and surfaces thoroughly.

(i) Proper handling and storage of any solvent, gas or other chemical used in processing or on the processing site premises in accordance with material safety data sheets and any other applicable laws.

(j) Proper disposal of any waste produced during processing in accordance with all applicable local, state and federal laws, rules and regulations.

(k) Quality control procedures designed to, at a minimum, ensure that the amount of THC is consistently distributed throughout each process lot and that potential product contamination is minimized.

(l) Appropriate use of any necessary safety or sanitary equipment.

(m) Emergency procedures to be followed in case of a fire, chemical spill or other emergency.

(n) Security.

(o) Transfers of marijuana items to and from the processing site.

(p) Testing.

(q) Packaging and labeling if the processor intends to or is packaging and labeling marijuana items after transfer to the processing site.

(r) Employee training.

(s) Compliance with these rules, including but not limited to violations and enforcement.

(t) Roles and responsibilities for employees and PRPs in assisting the Authority during inspections or investigations.

(2) Prohibitions. A registered processing site may not process or transfer a marijuana item:

(a) That by its shape, design or flavor is likely to appeal to minors, including but not limited to:

(A) Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or

(B) Products in the shape of an animal, vehicle, person or character.

(b) That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items.

(c) That contains dimethyl sulfoxide (DMSO).

(3) Employees. A registered processing site may employ an individual between the ages of 18 and 20 if the individual is a patient. Otherwise, processing site employees must be 21 years of age or older.

(4) Standardized Scales. In order to obtain a registration and to retain registration a processing site registrant must own, maintain on the premises and use a weighing device that is licensed by the Oregon Department of Agriculture. Licensed weighing devices must be used by a processing site whenever marijuana items are:

(a) Transferred to or from the processing site and the transfer is by weight;

(b) Packaged for transfer by weight; or

(c) Weighed for purposes of documenting information required in:

(A) OAR 333-008-1760, 333-008-1770, and 333-008-1820.

(B) OAR 333-008-1830, if the processing site is still required to report to the Authority and is not yet subject to CTS tracking.

(C) CTS.

(5) Inventory Tracking and Point of Sale System: A registered processing site must have an integrated inventory tracking and point of sale system that can and does, at a minimum:

(a) Produce bar codes or similar unique identification numbers for each lot of usable marijuana transferred to a registered processing site and for each lot of a medical cannabinoid product, concentrate or extract transferred to a registered dispensary;

(b) Capture all information required to be documented in OAR 333-008-1760 and 333-008-1770;

(c) Generate inventory, transaction, transport and transfer reports requested by the Authority viewable in PDF format; and

(d) Produce all the information required to be submitted to the Authority pursuant to OAR 333-0080-1830, if the processing site is still required to report to the Authority and is not yet subject to CTS tracking.

(6) Online Verification of Registration Status. A registered processing site must verify an individual's or processing site's registration status with the Authority when receiving a transfer of a marijuana item if the Authority has available an online system for such verification.

(7) Transfers from and to patients or designated primary caregivers.

(a) A registered marijuana processing site may transfer a medical cannabinoid product, concentrate or extract to a patient, or a patient's designated primary caregiver if the patient or the patient's

designated primary caregiver provides the marijuana processing site with the marijuana to be processed into the medical cannabinoid product, concentrate or extract and the marijuana processing site receives no compensation for the transfer of the marijuana.

(b) A registered processing site must document each transfer of marijuana by a patient or the patient's designated primary caregiver to the processing site in accordance with OAR 333-008-1760 and 333-008-1770.

(c) A registered processing site must document each transfer of a cannabinoid product, concentrate or extract to a patient or the patient's designated primary caregiver in accordance with OAR 333-008-1760 and 333-008-1770.

(d) A registered processing site may be compensated by the patient or the patient's designated primary caregiver for all costs associated with the processing of marijuana for the patient.

(8) Inventory On-Site. Marijuana items must be kept on-site at the registered processing site. The Authority may take enforcement action against a registered processing site if during an inspection a processing site cannot account for its inventory or if the amount of usable marijuana at the processing site is not within five percent of the documented inventory.

(9) Testing. On and after October 1, 2016, a registered processing site must comply with the applicable sampling and testing requirements in OAR 333-007-0300 to 333-007-0490 and may not:

(a) Accept a transfer of a marijuana item that has not been tested in accordance with OAR 333-007-0300 to 333-007-0490 or that has failed a test under OAR 333-007-0450 and the product, concentrate or extract cannot be remediated.

(b) Transfer a medical cannabinoid product, concentrate or extract that has not been tested in accordance with OAR 333-007-0300 to 333-007-0490 or that has failed a test under OAR 333-007-0450 and the product, concentrate or extract cannot be remediated.

(10) Packaging and Labeling. On and after October 1, 2016, a registered processing site must comply with the labeling requirements in OAR 333-007-0010 to 333-007-0100 and the packaging requirements in OAR 845-025-7000 to 845-025-7020 and 845-025-7060.

(11) Industrial Hemp Products. A processing site may only accept the transfer of and may only transfer a product that contains THC or CBD that is derived from marijuana.

(12) Sampling. A registered processing site may provide a sample of a medical cannabinoid product, concentrate or extract to a dispensary for the purpose of the dispensary determining whether to purchase the product, concentrate or extract but the product, concentrate or extract may not be

consumed on the processing site. Any sample provided to a dispensary must be recorded in the database.

(13) For purposes of this rule:

(a) "Lot of usable marijuana" means a quantity of usable marijuana transferred to a registered processing site from the same harvest lot as that term is defined in OAR 333-007-0020; and

(b) "Lot of medical cannabinoid products, concentrates or extracts" means a quantity of a medical cannabinoid product, concentrate or extract transferred to a registered dispensary at one time and that is from the same process lot as that term is defined in OAR 333-007-0020.

STATUTORY/OTHER AUTHORITY: ORS 475B.435, 475B.440

STATUTES/OTHER IMPLEMENTED: ORS 475B.435, 475B.440

AMEND: 333-008-1760

RULE TITLE: Medical Marijuana Processors: Transfers to a Registered Processing Site

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Remove language allowing a processor to accept transfer of usable marijuana from an OLCC licensed producer per SB 1057.

RULE TEXT:

(1) Transfers of Marijuana by a Patient or Designated Primary Caregiver to Process for Return to a Patient. A patient or designated primary caregiver may transfer marijuana to a registered processing site for no compensation for the purpose of the registered processing site processing the marijuana into a cannabinoid product, concentrate or extract and returning the product, concentrate or extract to the patient or designated primary caregiver.

(a) If a designated primary caregiver is transferring the marijuana, a registered processing site may only accept a transfer of marijuana under this section if the caregiver provides the original or a copy of a valid Authorization to Transfer form prescribed by the Authority.

(b) In order to be valid an Authorization to Transfer form must include at least:

(A) The patient's name, OMMP card number, OMMP receipt number if applicable and expiration date and contact information;

(B) The name and contact information of the individual who is authorized to transfer the usable marijuana to the registered processing site and that individual's OMMP card number and expiration date;

(C) The name and address of the registered processing site that is authorized to receive the usable marijuana; and

(D) The date the authorization expires, if earlier than the expiration date of the patient's OMMP card or receipt.

(2) Transfer of Usable Marijuana. A patient, caregiver, or PRMG may transfer usable marijuana to a registered processing site, for no consideration, subject to the requirements in this rule.

(a) A registered processing site may only accept a transfer of usable marijuana if the individual transferring the usable marijuana provides the original or a copy of a valid:

(A) Authorization to Transfer form prescribed by the Authority; or

(B) Personal agreement as that is defined in OAR 333-008-0010.

(b) Authorization to Transfer Forms. In order to be valid an Authorization to Transfer form must include at least:

(A) The patient's name, OMMP card number and expiration date and contact information;

(B) The name and contact information of the individual who is authorized to transfer the usable marijuana to the registered processing site and that individual's OMMP card number and expiration date;

(C) The name and address of the registered processing site that is authorized to receive the usable marijuana; and

(D) The date the authorization expires, if earlier than the expiration date of the patient's OMMP card.

(c) Personal Agreements. In order to be valid a personal agreement must include at least:

(A) The patient's name, OMMP card number and expiration date and contact information;

(B) The name and contact information of the PRMG to whom the patient's property rights have been assigned and the producer's OMMP card number and expiration date;

(C) The portion of the patient's rights to possess usable marijuana that is being assigned to the producer.

(3) Transfer of medical cannabinoid products, concentrates or extracts. A registered processing site may only accept a transfer of a medical cannabinoid product, concentrate or extract from another registered medical marijuana processing site.

(4) A registered processing site may only accept a transfer of a medical cannabinoid product, concentrate or extract from a registered processing site that provides a Processing Site Authorization to Transfer form, prescribed by the Authority. In addition the registered processing site must obtain a copy of the photo identification of the individual transferring the product, concentrate or extract as required in paragraph (5)(b)(B) of this rule.

(5) Transfer Records. At the time marijuana, usable marijuana or a medical cannabinoid product, concentrate or extract is transferred to a registered processing site a processing site representative must:

(a) Document, on a form prescribed by the Authority, as applicable:

(A) The weight in metric units of all usable marijuana received by the processing site;

(B) The amount of a medical cannabinoid product, concentrate or extract received by the processing site, including, as applicable, the weight in metric units, or the number of units;

(C) The name of the usable marijuana or medical cannabinoid product, concentrate or extract;

(D) The date the usable marijuana or medical cannabinoid product, concentrate or extract was received;

(E) The harvest or process lot numbers; and

(F) The amount paid by the registered processing site.

(b) Obtain and maintain a copy of, as applicable:

(A) Documents required in sections (1) through (3) of this rule including the date it was received;

(B) The photo identification of the individual transferring the usable marijuana or medical cannabinoid product, concentrate or extract to the registered processing site, if such a copy is not already on file;

(C) The OMMP card of the individual transferring usable marijuana;

(D) The medical marijuana processing site registration; and

(E) Test results for marijuana items transferred to the processing site unless the processing site plans to arrange for the testing of the marijuana item.

(6) Nothing in these rules requires a registered processing site to accept a transfer of a marijuana item.

(7) All documentation required in this rule must be maintained electronically in an integrated inventory tracking and point of sale system.

STATUTORY/OTHER AUTHORITY: ORS 475B.435, 475B.440

STATUTES/OTHER IMPLEMENTED: ORS 475B.435, 475B.440, 475B.443

AMEND: 333-008-1830

RULE TITLE: Medical Marijuana Dispensaries: Registered Marijuana Processing Site Required Reporting to the Authority

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding reference to CTS and language to clarify that a processor must report their transfers monthly if it is not yet subject to CTS.

RULE TEXT:

(1) Unless a processing site is subject to CTS tracking, the individual or individuals responsible for a marijuana processing site must submit to the Authority electronically, by the 10th of each month, the following information:

(a) The amount of usable marijuana transferred to the marijuana processing site during the previous month.

(b) The amount and type of a medical cannabinoid concentrate or extract transferred by another registered processing site during the previous month. For purposes of this section "type" means:

(A) Cannabinoid concentrate in solid form; and

(B) Cannabinoid concentrate in liquid form.

(c) The amount and type of medical cannabinoid products transferred by the marijuana processing site to a dispensary. For purposes of this section "type" means:

(A) Cannabinoid edibles;

(B) Cannabinoid topicals;

(C) Cannabinoid tinctures;

(D) Cannabinoid capsules;

(E) Cannabinoid suppositories;

(F) Cannabinoid transdermal patches; and

(G) Cannabinoid product other than products listed in paragraphs (A) to (F) of this subsection.

(d) The amount and type of cannabinoid concentrates transferred by the marijuana processing site during the previous month. For purposes of this section "type" means:

(A) Cannabinoid concentrate in solid form; and

(B) Cannabinoid concentrate in liquid form.

(e) The amount and type of cannabinoid extracts transferred by the marijuana processing site during the previous month. For purposes of this section "type" means:

(A) Cannabinoid extract in solid form; and

(B) Cannabinoid extract in liquid form.

(f) The amount and type of medical cannabinoid products transferred by the marijuana processing site to a patient or the patient's designated primary caregiver during the previous month. For purposes of this section "type" means:

(A) Cannabinoid edibles;

(B) Cannabinoid topicals;

(C) Cannabinoid tinctures;

(D) Cannabinoid capsules;

(E) Cannabinoid suppositories;

(F) Cannabinoid transdermal patches; and

(G) Cannabinoid product other than products listed in paragraphs (A) to (F) of this subsection.

(g) The amount and type of cannabinoid concentrates or extracts transferred by the marijuana processing site to a patient or the patient's designated primary caregiver during the previous month. For purposes of this section "type" means;

(A) Cannabinoid concentrate or extract in liquid form; and

(B) Cannabinoid concentrate or extract in solid form.

(2) Information submitted to the Authority under this rule must:

(a) List each type of marijuana item separately;

(b) Provide the total aggregate amount of a type of marijuana item transferred to a processing site by a patient, designated primary caregiver, PRMG, other registered processing site, or Commission licensed producer during the previous month; and

(c) Provide the total aggregate amount of a type of marijuana item transferred from a processing site to a registered dispensary, patient, designated primary caregiver, or other registered processing site during the previous month.

(3) In addition to submitting the information as required by section (1) of this rule, a person responsible for a processing site must keep a record of the information required to be submitted under section (1) of this rule for two years after the date on which the person submits the information to the Authority.

(4) A registered processing site that has applied for licensure with the Commission under Oregon Laws 2017, chapter 183, section 41(1)(c), and whose application has not yet been considered incomplete, proposed for denial or granted, must continue to report under this rule until the Commission acts on the application.

STATUTORY/OTHER AUTHORITY: ORS 475B.438

STATUTES/OTHER IMPLEMENTED: ORS 475B.438

ADOPT: 333-008-1835

RULE TITLE: Processing Site CTS Tracking

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adds the requirement for all processing sites to use the CTS tracking system; outlines the process to follow if the Commission denies an application and provides the timeline for a processing site to begin to report into CTS through the Authority; states a processing site must comply

with all Commission rules around CTS and cooperate with inspections or investigations conducted with the Commission per SB 1057

RULE TEXT:

(1) On or before July 1, 2018, all registered processing sites must track the transfers of marijuana, usable marijuana, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts to and from the processing site in CTS in accordance with OAR chapter 845, division 25 and pay the required CTS fee in OAR 333-008-1030, unless the processing site filed an application with the Oregon Liquor Control Commission on or before January 1, 2018, and the Commission has not yet acted on the application.

(2) If the Commission considers the application incomplete or proposes to deny the application for a license the processing site must pay the CTS user fee and begin CTS tracking within 30 days of the date the Commission mailed notification of the incomplete application or mailed the notice of proposed denial of the application.

(3) A processing site must comply with any applicable CTS rules in OAR chapter 845, division 25 and cooperate with any inspection or investigation conducted by the Commission under Oregon Laws 2017, chapter 183, section 40(6).

(4) To comply with this rule a registered processing site must comply with any instructions and deadlines provided by the Authority or the Commission, including but not limited to:

(a) Paying the required CTS user fee;

(b) Setting up and activating a CTS user account;

(c) Successfully completing all required CTS training; and

(d) Ordering Unique Identification (UID) Tags and tagging all inventory.

(5) A registered processing site may not accept or make any transfers of marijuana items on or after July 1, 2018, unless the processing site has an active CTS user account, has UID tags, has tagged all inventory and is capable of entering required information into CTS.

STATUTORY/OTHER AUTHORITY: OL 2017, Ch. 183, Sec. 40-41

STATUTES/OTHER IMPLEMENTED: OL 2017, Ch. 183, Sec. 40-41

AMEND: 333-008-2180

RULE TITLE: Violations

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding language stating it's a violation to fail to cooperate with an inspection by the Authority or OLCC.

RULE TEXT:

(1) It is a violation for an applicant for a registration, registrant or registrant representative to:

(a) Fail to cooperate with an inspection or investigation by the Authority or the Oregon Liquor Control Commission. Failure to cooperate includes but is not limited to:

(A) Refusal to grant access to any and all portions of the registered premises.

(B) Failure to provide to the Authority or the Commission, upon request, information concerning compliance with these rules.

(b) Submit false or misleading information to the Authority;

(c) If the registrant is a dispensary, transfer a marijuana item to an individual who is not a patient or a designated primary caregiver;

(d) If the registrant is a processing site, transfer a medical cannabinoid product, concentrate or extract to anyone who is not a registered processing site representative, a registered dispensary representative, a patient or a designated primary caregiver, as permitted under these rules;

(e) Accept the transfer of a marijuana item from an individual who is not registered with the Authority;

(f) Accept the transfer of a marijuana item that was produced or processed in another state;

(g) Possess a mature marijuana plant;

(h) Fail to submit a plan of correction in accordance with OAR 333-008-2190;

(i) Fail to comply with an emergency suspension order or final order of the Authority, including failing to pay a civil penalty;

(j) Fail to comply with ORS 475B.435 to 475B.443, 475B.450 to 475B.453, 475B.555, 475B.605, 475B.615, these rules, or OAR chapter 333, division 7;

(k) Alter or falsify a laboratory test report or result;

(l) Alter or falsify a receipt issued under OAR 333-008-0023 or 333-008-0040;

(m) Submit false or misleading information to the Commission for the purpose of pre-approval of packaging and labeling as required by OAR 333-007-0100;

(n) Submit false or misleading information to a laboratory for the purpose of compliance testing under OAR 333-007-0300 to 333-007-0500; and

(o) To provide marijuana to a patient, designated primary caregiver, employee, or other person to have the marijuana tested for pesticides on behalf of the processing site or dispensary without disclosing to the laboratory the processing site or dispensary registration number.

(2) It is a violation of ORS 475B.450 and these rules to operate a dispensary without being registered by the Authority.

(3) It is a violation of ORS 475B.435 and these rules to operate a processing site without being registered by the Authority unless an exemption applies.

STATUTORY/OTHER AUTHORITY: ORS 475B.435, 475B.450, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.435, 475B.450

AMEND: 333-008-2210

RULE TITLE: Penalty Matrix

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Adding language stating the penalty matrix applies to any violation in division 7 and 8.

RULE TEXT:

(1) The penalty matrix applies to any violations in OAR chapter 333, division 7 and 8.

(2) The Authority has established Category I, II, III and IV violations with Category I violations posing the highest risk to public health and safety, and category IV violations being generally technical in nature.

(3) The Authority 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 Authority may consider a proposed violation for which the Authority has not yet issued a final order.

(4) If the Authority finds one or more mitigating or aggravating circumstances, it may assess a lesser or greater sanction, up to and including revocation. The Authority may decrease or increase a sanction to prevent inequity or to take account of particular circumstances in the case.

(5) The Authority may consider the following mitigating circumstances when determining what sanction to impose:

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

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

(6) The Authority may consider the following aggravating circumstances when determining what sanction to impose:

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

(b) Repeated failure to comply with laws.

(c) Efforts by person or registrant to conceal a violation.

(d) Intentionally committing a violation.

(e) A violation involving more than one consumer or employee.

(f) A violation involving a transfer of a marijuana item to anyone other than a patient, designated primary caregiver, grower or registrant.

(g) A violation resulting in injury or death.

(h) 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.

(7) A registrant 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

AMEND: 333-008-3000

RULE TITLE: Medical Marijuana Records: Medical Marijuana Confidentiality

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Modify language to reference statutes.

RULE TEXT:

The Oregon Health Authority may only disclose identifying information concerning applicants or registrants in accordance with the following statutes, unless otherwise required by law:

(1) ORS 475B.458 (Database of information related to production, processing and dispensing).

(2) ORS 475B.460 (Database of information related to cardholders).

(3) ORS 475B.462 (Confidentiality of personally identifiable information).

(4) ORS 475B.464 (Disclosure of personally identifiable information upon revocation or suspension of registration).

(5) Oregon Laws 2016, chapter 83, section 19 and 22 (SB 1511).

(6) Oregon Laws 2017, chapter 476, section 6 (SB 56).

(7) Oregon Laws 2017, chapter 183, section 31 (SB 1057).

STATUTORY/OTHER AUTHORITY: ORS 475B.458 - 475B.464, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.458 - 475B.464, 475B.525

AMEND: 333-008-3010

RULE TITLE: Medical Marijuana Records: System to Allow Verification of Data at All Times By State and Local Law Enforcement

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Add clarifying language to the rule title that indicates this section applies to State and Local Law Enforcement.

RULE TEXT:

(1) The Authority shall establish an interactive method to allow authorized employees of state and local law enforcement agencies to use the Oregon State Police Law Enforcement Data System (LEDS) to query an OMMP data file in order to verify at any time whether a particular patient, designated primary caregiver, or grow site location is listed or registered with the Authority.

(2) LEDS access will only allow a yes or no answer to the query and the information obtained may not be used for any other purpose other than verification.

(3) The Authority may allow the release of reports related to verification if it is without identifying data.

(4) The Authority shall have staff available by phone to verify law enforcement agency employee questions during regular business hours in case the electronic verification system is down, and in the event the system is expected to be down for more than two business days, the Authority shall ensure program staff are available by phone for verification purposes.

STATUTORY/OTHER AUTHORITY: ORS 475B.460, 475B.525

STATUTES/OTHER IMPLEMENTED: ORS 475B.460

AMEND: 333-064-0110

RULE TITLE: Reporting Marijuana Test Results

NOTICE FILED DATE: 10/18/2017

RULE SUMMARY: Removing reference to dates that have passed. Adding language that states if a test is performed on a remediated marijuana item a statement is added to the test report. Adding language that makes reference to the Cannabis Tracking System.

RULE TEXT:

(1) For purposes of this rule the definitions in OAR 333-007-0310 apply unless the context indicates otherwise.

(2) A test report must clearly identify for the licensee or registrant:

(a) Whether a sample has exceeded an action limit for an analyte in Exhibit A, Tables 3 or 4, or has otherwise failed a test as described in OAR 333-007-0300 to 333-007-0500.

(b) A "detected" pesticide result as required in section (6) of this rule.

(c) The batch unique identification number required under OAR 333-007-0350 and the test batch number associated with the samples tested, as required by OAR 333-064-0100.

(d) Identification of the test as a compliance test or a quality control or research and development test.

(e) If applicable, a statement that the test was done on a sample from a remediated marijuana item.

(3) Within 24 hours of completion of the laboratory's data review and approval procedures a laboratory must report all failed tests for testing required under OAR 333-007-0300 to 333-007-0500 except for failed water activity, whether or not the lab is reanalyzing the sample under OAR 333-007-0450:

(a) Into the Commission's seed to sale tracking system if performing testing for a licensee or a registrant who is subject to CTS tracking under OAR chapter 333, division 8; and

(b) To the Authority electronically at www.healthoregon.org/ommp if performing testing for a registrant, along with a copy of the test order information required in OAR 333-007-0315, regardless of whether the laboratory is also reporting into CTS on behalf of a registrant that is subject to CTS tracking under OAR chapter 333, division 8.

(4) The laboratory must report all test results required under OAR 333-007-0300 to 333-007-0500 that have not been reported under section (3) of this rule into the Commission's seed to sale tracking system if performing testing for a licensee or a registrant who is subject to CTS tracking under OAR chapter 333, division 8.

(5) A laboratory must determine and include on each test report its limit of quantification (LOQ) and action level for each analyte listed in OAR 333-007-0400 Table 3 and 333-007-0410 Table 4.

(6) When reporting pesticide testing results the laboratory must include in the report any target compound that falls below the LOQ that has a signal to noise ratio of greater than 5:1 and meets identification criteria with a result of "detected." This additional reporting is not required if the laboratory's LOQ is less than or equal to one half of the action level in Table 3.

(7) A laboratory must include in a test report the results of all associated batch quality control samples, with the date of analysis of the quality control samples and the acceptance limits used to determine acceptability.

(a) Batch quality control samples are the method blank and laboratory control sample.

(b) The report must clearly show the association to the client samples in the report by listing the batch identification numbers.

(8) A laboratory that is reporting failed test results to the Commission or the Authority in accordance with section (3) of this rule must report the failed test at the same time or before reporting to the licensee or registrant.

(9) If requested by the Authority, a laboratory must report sampling and testing information to the Authority, in a manner prescribed by the Authority.

(10) Test results expire after one year.

STATUTORY/OTHER AUTHORITY: ORS 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.555