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RULES:

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AMEND: 845-025-1015

RULE TITLE: Definitions

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule sets the definitions for terms used in Division 25 and Division 26 rules.

RULE TEXT:

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

- (1) "Added substance" means any component or ingredient added to usable marijuana, cannabinoid concentrate or cannabinoid extract during or after processing that is present in the final cannabinoid product, including but not limited to flavors, non-marijuana derived terpenes, and any substances used to change the viscosity or consistency of the cannabinoid product.
- (2) "Adulterated" means to make a marijuana or hemp item impure by adding foreign or inferior ingredients or substances. A marijuana or hemp item may be considered to be adulterated if:
 - (a) In the Commission's judgment, it bears or contains any poisonous or deleterious substance in a quantity rendering the marijuana or hemp item injurious in a manner that may pose a risk to human health, including but not limited to tobacco or nicotine;
 - (b) It bears or contains any added poisonous or deleterious substance exceeding a safe tolerance if such tolerance has

been established;

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

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

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

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

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

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

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

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

(b) "Artificially derived cannabinoid" does not include:

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

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

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

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

(5) "Attractive to minors" means packaging, labeling and advertising that features:

(a) Cartoons;

(b) A design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;

(c) Symbols or celebrities that are commonly used to market products to minors;

(d) Images of minors; or

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

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

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

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

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

(a) A mechanical extraction process;

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

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

(d) Any other process identified by the Commission, in consultation with the Authority, by rule.

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

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

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

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

(c) Any other process identified by the Commission, in consultation with the authority, by rule.

(12) Cannabinoid Product

(a) Means: a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers;

(b) Includes:

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

(B) Any combination of usable marijuana, cannabinoid extracts and cannabinoid concentrates.

(c) Does not include:

(A) Usable marijuana by itself;

(B) A cannabinoid concentrate by itself;

(C) A cannabinoid extract by itself; or

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

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

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

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

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

(15) "Cannabis Tracking System" or "CTS" means the system for tracking the transfer of marijuana items and other information as authorized by ORS 475B.177.

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

(a) The use of comically exaggerated features;

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

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

(17) "Commission" means the Oregon Liquor and Cannabis Commission.

(18) "Commission-certified Hemp Grower" means a hemp grower certified by the Commission under OAR 845-025-2700 to deliver industrial hemp to processors or wholesalers.

(19) "Commission-certified Hemp Handler" means a hemp handler certified by the Commission under OAR 845-025-2705 to deliver industrial hemp or hemp items to processors, wholesalers, or retailers.

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

(21) "Common Ownership"

(a) Means any commonality between individuals or legal entities named as applicants or persons with a financial interest in a license or business proposed to be licensed that have a financial interest or management responsibilities for an additional license or licenses.

(b) Does not mean the leasing of the property to another licensee at a commercially reasonable rate if there is no other financial interest in the other licensed business.

(22) "Compliance transaction" means a single covert, on-site visit in which a Commission authorized representative poses as an authorized representative of a licensee or a consumer and attempts to purchase or purchases a marijuana item from a licensee, or attempts to sell or sells a marijuana item to a licensee.

- (23) "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.
- (24) "Container"
- (a) Means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed and any outer receptacle intended to display a marijuana item for ultimate sale to a consumer.
- (b) Does not mean:
- (A) Inner wrapping or lining;
- (B) An exit package; or
- (C) A shipping container used to transfer marijuana items or industrial commodities or products in bulk from one licensee or registrant to another.
- (25) "Contractor" means a person, other than a licensee representative, who temporarily visits the licensed premises to perform a service, maintenance or repair.
- (26) "CTS Administrator" means a CTS user who may add, edit or disable access for other CTS users.
- (27) "CTS User" means an individual with online access to CTS.
- (28) "Date of Harvest" means the day the last mature marijuana plant in the harvest lot was harvested.
- (29) "Delta-8-tetrahydrocannabinol" or "delta-8-THC" means (6aR, 10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 5957-75-5.
- (30) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 1972-08-3.
- (31) "Delta-9-tetrahydrocannabinolic acid" or "delta-9-THCA" means (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid, Chemical Abstracts Service Number 23978-85-0.
- (32) "Designated primary caregiver" has the meaning given that term in ORS 475B.791.
- (33) "Elementary school"
- (a) Means a learning institution containing any combination of grades kindergarten through 8.
- (b) Does not mean a learning institution that includes only pre-kindergarten, kindergarten, or a combination of pre-kindergarten and kindergarten.
- (34)(a) "Financial consideration" means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.
- (b) "Financial consideration" does not include marijuana, cannabinoid products or cannabinoid concentrates that are delivered within the scope of and in compliance with ORS 475B.301.
- (35) "Financial interest" means having an interest in an applicant, licensee, or laboratory licensee, such that the performance of the business causes, or is capable of causing, an individual, or a legal entity with which the individual is affiliated, to benefit or suffer financially.
- (a) Financial interest includes but is not limited to:
- (A) Receiving, as an employee or agent, out-of-the-ordinary compensation, either in the form of overcompensation or under compensation;
- (B) Lending money, real property or personal property to an applicant, licensee, or laboratory licensee for use in the business that constitutes a substantial portion of the business cost or is lent at a commercially unreasonable rate;
- (C) Giving money, real property or personal property to an applicant, licensee, or laboratory licensee for use in the business;
- (D) Being the spouse or domestic partner of an applicant, licensee, or laboratory licensee. For purposes of this subsection, "domestic partners" includes adults who share the same regular and permanent address and would be financially impacted by the success or failure of the business as well as adults who qualify for a "domestic partnership" as defined under ORS 106.310; or
- (E) Having an ownership interest as described in OAR 845-025-1045.
- (b) Financial interest does not include any investment that the investor does not control in nature, amount or timing.
- (36) "Flowering" means a marijuana plant that has formed a mass of pistils measuring greater than two centimeters wide

at its widest point.

(37) "Grow site" means a specific location registered by the Authority and used by the grower to produce marijuana for medical use by a specific patient under ORS 475B.810.

(38)(a) "Harvest" means the physical act of cutting or picking flowers or leaves from a marijuana plant or removing mature marijuana plants from the soil or other growing media.

(b) "Harvest" does not include pruning or removing waste material from a marijuana plant remaining in soil or other growing media.

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

(40) "Harvested industrial hemp"

(a) Means industrial hemp that has been harvested, including:

(A) Industrial hemp that has not been processed in any form; and

(B) Industrial hemp that has been minimally processed, for purposes of transfer or storage including chopping, separating, or drying.

(b) Does not mean:

(A) Usable hemp as defined in OAR 603-048-2310;

(B) An industrial hemp commodity or product as defined in OAR 603-048-0010;

(C) Living industrial hemp plants; or

(D) Industrial hemp seed:

(i) That is part of a crop, as that term is defined in ORS 571.269;

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

(iii) That is agricultural hemp seed;

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

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

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

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

(43) "Hemp item"

(a) Means:

(A) Usable hemp as defined in OAR 603-048-2310;

(B) Hemp stalk as defined in OAR 603-048-2310;

(C) A cannabinoid product as defined in OAR 603-048-2310; or

(D) A hemp concentrate or extract as defined in OAR 603-048-2310.

(b) Does not mean:

(A) Industrial hemp processed through retting or other processing such that it is suitable fiber for textiles, rope, paper, hempcrete, or other building or fiber materials;

(B) Industrial hemp seed processed such that it is incapable of germination and processed such that is suitable for human consumption; or

(C) Industrial hemp seed pressed or otherwise processed into oil.

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

(45) "Industrial hemp" has the meaning given that term in ORS 571.269.

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

(47) "Inhalable cannabinoid product" means a cannabinoid product or hemp cannabinoid product that is intended for human inhalation.

- (48) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.
- (49) "Intended for human consumption" means intended for a human to eat, drink, or otherwise put in the mouth but does not mean intended for human inhalation or human use.
- (50) "Intended for human use" means intended to be used by applying it to a person's skin or hair, inhalation or otherwise consuming the product except through the mouth.
- (51) "Inventory Tracking" means activities and documentation processes to track marijuana items from seed to sale, including establishing an accurate record from one marijuana item to another, in the cannabis tracking system.
- (52) "Invited guests" means family member and business associates of the licensee, not members of the general public.
- (53) "Laboratory" means a laboratory certified by the Authority under ORS 438.605 to 438.620 and authorized to sample or test marijuana items for purposes specified in these rules.
- (54) "Laboratory licensee" means a laboratory licensed under ORS 475B.560 and includes each applicant listed on an application that the Commission has approved and each person who is added to the license as described in OAR 845-025-1160(4).
- (55) "Licensee" means any person who holds a license issued under ORS 475B.070, 475B.090, 475B.100, or 475B.105 and includes each applicant listed on an application that the Commission has approved and each person who is added to the license as described in OAR 845-025-1160(4).
- (56) "Licensee of record" means a licensee listed on the license certificate as a license holder for a producer, processor, wholesaler, retailer, or laboratory license. There will be more than one licensee of record for the same license if:
- (a) The business is operated as a joint venture or other similar arrangement between two or more persons; or
 - (b) A person who qualifies as an applicant for the license has no direct or indirect ownership or control of any other licensee of record on the same license.
- (57) "Licensee representative" means an owner, director, officer, manager, employee, agent, or other representative of a licensee or laboratory licensee, to the extent that the person acts in a representative capacity.
- (58) "Limit of quantification" or "LOQ" means the minimum levels, concentrations, or quantities of a target variable, for example, an analyte that can be reported by a laboratory with a specified degree of confidence.
- (59) "Limited access area" means a building, room, or other contiguous area on a licensed premises where a marijuana item is present, but does not include a consumer sales area on a licensed retailer premises.
- (60) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae. "Marijuana" does not include:
- (a) Industrial hemp, as defined in ORS 571.269; or
 - (b) Prescription drugs, as that term is defined in ORS 689.005, including those containing one or more cannabinoids, that are approved by the United State Food and Drug Administration and dispensed by a pharmacy, as defined in ORS 689.005.
- (61) "Marijuana flowers" means the flowers of the plant genus Cannabis within the plant family Cannabaceae.
- (62) "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.
- (63) "Marijuana leaves" means the leaves of the plant genus Cannabis within the plant family Cannabaceae.
- (64) "Marijuana processor" means a person who processes marijuana items in this state.
- (65) "Marijuana producer" means a person who produces marijuana in this state.
- (66) "Marijuana retailer" means a person who sells marijuana items to a consumer in this state.
- (67) "Marijuana wholesaler" means a person who purchases marijuana items in this state for resale to a person other than a consumer.
- (68) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana plant.
- (69) "Medical grade cannabinoid product, cannabinoid concentrate or cannabinoid extract" means a cannabinoid product, cannabinoid concentrate or cannabinoid extract that has a concentration of tetrahydrocannabinol that is permitted under ORS 475B.625 for consumers who hold a valid registry identification card issued under ORS 475B.797.
- (70) "Micro-Wholesaler" means a marijuana wholesaler licensed by the Commission that only purchases or receives

seeds, immature marijuana plants or usable marijuana from a producer with a micro tier I or tier II canopy.

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

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

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

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

(73) "Non-profit Dispensary" means a medical marijuana dispensary registered under ORS 475B.858, owned by a nonprofit corporation organized under ORS chapter 65, and that is in compliance with the Authority's rules governing non-profit dispensaries in OAR 333, Division 8.

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

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

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

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

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

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

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

(81) "Premises" or "licensed premises" includes the following areas of a location licensed under sections ORS 475B.010 to 475B.545:

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

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

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

(82) "Primary Residence" means real property inhabited for the majority of a calendar year by an owner, renter or tenant, including manufactured homes and vehicles used as domiciles.

(83) "Principal Officer" includes the president, any vice president with responsibility over the operation of a licensed business, the secretary, the treasurer, or any other officer designated by the Commission.

(84) "Process lot" means:

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

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

(85) "Processes"

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

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

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

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

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

(87) "Produces"

- (a) "Produces" means the manufacture, planting, propagation, cultivation, growing or harvesting of marijuana.
- (b) "Produces" does not include:
- (A) The drying of marijuana by a marijuana processor, if the marijuana processor is not otherwise producing marijuana; or
- (B) The cultivation and growing of an immature marijuana plant by a marijuana wholesaler or marijuana retailer if the marijuana wholesaler or marijuana retailer purchased or otherwise received the plant from a licensed marijuana producer.
- (88) "Propagate" means to grow immature marijuana plants or to breed or produce seeds.
- (89) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in connection with public passenger transportation.
- (90) "Registry identification cardholder" has the meaning given that term in ORS 475B.791.
- (91) "Regulatory specialist" means a full-time employee of the Commission who is authorized to act as an agent of the Commission in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing chapter 471, ORS 474.005 to 474.095, 474.115, 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655, Commission rules and any other statutes the Commission considers related to regulating liquor or marijuana.
- (92) "Retailer" means a marijuana retailer licensed by the Commission.
- (93) "Safe" means:
- (a) A metal receptacle with a locking mechanism capable of storing all marijuana items on a licensed premises that:
- (A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or
- (B) Weighs more than 750 pounds.
- (b) A "vault"; or
- (c) A refrigerator or freezer capable of being locked for storing marijuana items that require cold storage that:
- (A) Is rendered immobile by being securely anchored to a permanent structure of an enclosed area; or
- (B) Weighs more than 750 pounds.
- (94) "Sampling laboratory" means a laboratory that only has an ORELAP accredited scope item for sampling under ORS 438.605 to 438.620 and is not accredited to perform cannabis testing.
- (95) "Secondary school" means a learning institution containing any combination of grades 9 through 12 and includes junior high schools that have 9th grade.
- (96) "Security plan" means a plan as described by OAR 845-025-1030, 845-025-1400 and 845-025-1405 that fully describes how an applicant will comply with applicable laws and rules regarding security.
- (97) "Shipping Container" means any container or wrapping used solely for the transport of a marijuana items in bulk to a marijuana licensee as permitted in these rules.
- (98) "These rules" means OAR 845-025-1000 to 845-025-8750.
- (99) "Tissue culture plantlet" or "plantlet" means plant cells or tissues introduced into a culture from nodal cutting and cultivated under sterile conditions. A tissue culture plantlet from a marijuana plant is an immature marijuana plant.
- (100) "Total delta-9-tetrahydrocannabinol" or "total delta-9-THC" means the sum of the concentration or mass of delta-9-THCA multiplied by 0.877 plus the concentration or mass of delta-9-THC.
- (101) "UID number" means the 24-digit number on the UID tag.
- (102) "UID tag" means a unique identification tag ordered and received from the Commission's designated vendor for CTS for the purpose of tracking marijuana items in CTS.
- (103)(a) "Usable Marijuana" means the dried leaves and flowers of marijuana.
- (b) "Usable Marijuana" includes pre-rolled marijuana as long as the pre-roll consists of only dried marijuana leaves and flowers, an unflavored rolling paper and a filter or tip.
- (c) "Usable marijuana" does not include:

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

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025

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

ADOPT: 845-025-1310

RULE TITLE: Artificially Derived Cannabinoids

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details artificially derived cannabinoids.

RULE TEXT:

(1) A licensee may transfer, sell, transport, purchase, possess, accept, return, or receive an artificially derived cannabinoid, including an artificially derived cannabinoid created by a refinement process using a reactive material such as bleaching clay, or a marijuana or hemp item that contains an artificially derived cannabinoid if:

(a) The artificially derived cannabinoid:

(A) Is not a controlled substance under OAR Chapter 855, Division 80;

(B) Was manufactured in a food establishment licensed by the ODA in compliance with the applicable provisions of OAR chapter 603, division 21, division 24, division 25, and division 28;

(C) Was manufactured by a processor or an ODA Hemp Handler;

(D) In the Commission's judgment, is not impairing or intoxicating; and

(E) Has been reported as a naturally-occurring component of the plant Cannabis family Cannabaceae in at least three peer-reviewed publications;

(b) The item is not intended for human inhalation; and

(c) The manufacturer of the artificially derived cannabinoid:

(A) Has made a "Generally Recognized as Safe" (GRAS) determination for the artificial cannabinoid and supplied a copy of that determination to the Commission;

(B) Has provided to the Commission a Food and Drug Administration (FDA) letter responding to a "Generally Recognized as Safe" (GRAS) notice for the artificially derived cannabinoid manufactured by the same method that the manufacturer uses, affirming that FDA has no questions about the notice; or

(C) Has provided to the Commission an FDA letter of acknowledgement with no objections in response to a New Dietary Ingredient notification for the artificially derived cannabinoid manufactured by the same method that the manufacturer uses.

(2) The Commission will notify the licensee of acceptance of documentation received under paragraph (1)(c)(A), (B) or

(C) of this rule and may apply additional labeling and concentration limit rules.

(3) Until July 1, 2023, a licensee may transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana or hemp item containing artificially derived cannabinoid cannabiniol (CBN) if:

(a) The item is not intended for human inhalation; and

(b) The artificially derived cannabinoid:

(A) Is not a controlled substance under OAR Chapter 855, Division 80;

(B) Was manufactured in a food establishment licensed by the ODA in compliance with the applicable provisions of OAR chapter 603, division 21, division 24, division 25, and division 28; and

(C) Was manufactured by a processor or an ODA Hemp Handler.

(4) Until July 1, 2022, a licensee may transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana or hemp item containing artificially derived cannabinoids if:

(a) The artificially derived cannabinoids were manufactured by a processor or received by a licensee from a Commission-certified hemp handler before January 1, 2022;

(b) The manufacturing process did not involve treating a marijuana item or hemp item with an additive or substance that increased the potency; and

(c) The item otherwise complies with these rules.

(5) A licensee may not transfer, sell, transport, purchase, possess, accept, return, or receive an artificially derived cannabinoid or a marijuana or hemp item that contains an artificially derived cannabinoid other than as provided in this rule.

(6) The Commission may reevaluate the regulation of artificially derived cannabinoids on an annual basis, including establishing purity standards.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.025

AMEND: 845-025-1330

RULE TITLE: Trade Samples

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details trade samples.

RULE TEXT:

(1) For purposes of this rule, "cannabinoid product line" means industrial hemp cannabinoid products as defined in 845-025-1015(43)(a)(C) or marijuana cannabinoid products that may differ in flavor, color, or total delta-9-THC concentration or total CBD concentration but may not differ in net quantity or any other characteristic.

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

(a) A producer may provide a sample of:

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

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

(b) A processor may provide a sample of:

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

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

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

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

(3) The trade samples provided under this section:

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

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

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

(d) Must be tested in accordance with OAR 333-007-0300 to 333-007-0500.

(4) Trade Sample limits.

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

(A) 5 grams per strain and no more than 6 strains of usable marijuana or usable hemp;

(B) 5 grams of cannabinoid or hemp concentrates or extracts; and

(C) 5 units of sale per cannabinoid product line and no more than 6 individual cannabinoid product lines.

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

(A) 5 grams per strain and no more than 6 strains of usable marijuana or usable hemp;

(B) 5 grams of cannabinoid or hemp concentrates or extracts; and

(C) 5 units of sale per cannabinoid product line and no more than 6 individual cannabinoid product lines.

(5) Any sample given to a licensee shall have a label containing the following in any legible font that is at least 1/16th of an inch in height based on the lower case "o":

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

(b) The product identity;

(c) The UID; and

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

(6) Reconciliation in CTS.

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

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

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

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

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

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.105

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.105

AMEND: 845-025-1335

RULE TITLE: Marijuana Promotional Events

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes marijuana promotional events.

RULE TEXT:

(1) Eligibility. ORS 475B.539 allows businesses licensed by the Commission under ORS 475B.010 to 475B.545 to transport marijuana items to and exhibit marijuana items at a trade show or similar event. This rule sets the qualifications and requirements for promotional events.

(2) Definitions.

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

(b) "Event organizer" means a person licensed under ORS 475B.010 to 475B.545 who submits a promotional event application and serves as the primary contact with the Commission.

(c) "Participating licensee" means a person licensed under ORS 475B.010 to 475B.545 who has been named as a participant in a promotional event application.

(d) "Promotional event" means an event or trade show at which marijuana items are displayed.

(3) Event Organizer.

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

(b) Event Organizers must:

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

(B) Update and maintain the application;

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

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

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

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

(4) Promotional events may not be held:

(a) At a location licensed under ORS 475B.010 to 475B.545 or 475B.560; or

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

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

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

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

(b) Marijuana items from the inventory of the participating licensee; and

(c) Hemp items from the inventory of the participating licensee if received, processed, and otherwise in compliance with these rules.

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

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

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

(c) Distribute any samples of marijuana items or hemp items; or

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

(8) Transportation and Possession.

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

(A) 24 ounces of usable marijuana;

(B) 4 mature marijuana plants;

(C) 10 immature marijuana plants;

- (D) 500 seeds, tracked by count in CTS;
- (E) 16 ounces of cannabinoid products in solid form; or
- (F) 72 ounces of cannabinoid products in liquid form.
- (b) All participating licensees must immediately return all marijuana items and hemp items to their licensed premises after the conclusion of the event.
- (9) Promotional event CTS requirements.
 - (a) All marijuana items or hemp items must be tracked and tagged pursuant to CTS rule requirements.
 - (b) Each marijuana item or hemp item is required to have the item's associated UID tag affixed to the item or package.
 - (c) All participating licensees must generate a printed transport manifest in CTS that accompanies all marijuana items or hemp items for the duration of the promotional event that contains the following information:
 - (A) The name, contact information of a licensee representative, licensed premises address and license number of the licensee transporting the marijuana items or hemp items;
 - (B) Product name and quantities (by weight or unit) of each marijuana item or hemp item contained in each transport, along with the UIDs for every item;
 - (C) The date of transport and approximate time of departure;
 - (D) Date and estimated time when the marijuana items or hemp items will be returned to the licensed premises at the conclusion of the promotional event; and
 - (E) Delivery vehicle make and model and license plate information.
 - (d) Failure to properly track marijuana items or hemp items as required in this subsection is a Category III violation. An intentional violation of this rule is a Category II violation.
- (10) Application Requirements.
 - (a) The Commission may refuse to process any application that is not made in writing at least 28 days before the date of the event in a form and manner prescribed by the Commission.
 - (b) The Commission may only accept one application per promotional event.
 - (c) The Commission may require additional forms, documents, or information as part of the application.
 - (d) The Commission may refuse to process any application that is not complete, not accompanied by the documents or disclosures required by the form or the Commission, or that does not allow the Commission sufficient time to investigate and process the application.
 - (e) The Commission may limit approval of any application to a single day or to any consecutive number of days, not to exceed sixteen consecutive days.
- (11) The application for a promotional event under this rule shall include:
 - (a) The names of all participating licensees;
 - (b) A description of the amount and types of marijuana items or hemp items proposed to be transported and displayed at the promotional event;
 - (c) A written control plan that the Commission determines:
 - (A) Adequately manages the event to prevent unlawful activity and violations; and
 - (B) Prevents any person under 21 years to be admitted to the areas where marijuana items are present at the event.
 - (d) The names of the licensee representatives onsite at the promotional event and if applicable, their worker permit numbers issued under OAR 845-025-5500;
 - (e) Identification of the premises or area proposed for the promotional event;
 - (f) Statement of the type of event to be licensed, type and extent of entertainment to be offered, expected patronage overall, minor control plan and proposed hours of operation; and
 - (g) A statement signed by every participating licensee indicating that the licensee agrees to follow the final approved control plan.
- (12) Denial. The Commission may deny any application for a promotional event that does not meet the requirements of this rule. The Commission may deny, cancel or restrict an application for a promotional event:
 - (a) For any reason for which the Commission may deny, cancel or restrict a regular license or if the Commission, in its

discretion, determines that promotional event presents a risk to public health and safety; or

(b) If any participating licensee has been found to have violated ORS 475B.010 to 475B.545 or any rules adopted there under in the past 24 months.

(13) When the Commission approves a written control plan required under this rule, the licensee(s) must follow that written plan. Failure to follow that written plan is a Category III violation. An intentional violation of this rule is a Category II violation.

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

(15) A licensee may not participate in a promotional event unless it has been approved by the Commission. Participation in an event where prior approval was required under this rule but was not approved by the Commission is a Category I violation.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, ORS 475B.539

STATUTES/OTHER IMPLEMENTED: ORS 475B.539

AMEND: 845-025-1440

RULE TITLE: Required Camera Coverage and Camera Placement

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details required camera coverage and placement.

RULE TEXT:

(1) A licensed premises must have camera coverage, as applicable, for:

(a) All points of ingress and egress to and from the licensed premises;

(b) All limited access areas as that term is defined in OAR 845-025-1015;

(c) All consumer sales areas;

(d) All points of ingress and egress to or from limited access areas;

(e) The surveillance room or surveillance area as defined in OAR 845-025-1460(1)(a) and (b);

(f) Any other area that the Commission believes presents a public safety risk based on the overall operation and characteristics of the licensed premises; and

(g) All areas where marijuana waste is required to be stored, destroyed or rendered unusable as required by OAR 845-025-7750.

(2) A licensee must ensure that cameras are placed so that they capture clear and certain images of any individual and activity occurring:

(a) Within 15 feet both inside and outside of all points of ingress and egress to and from the licensed premises; and

(b) In all locations within limited access areas, and consumer sales areas on the licensed premises.

(3) Failure to comply with subsection (1)(a) through (f) of this rule is a Category II violation. An intentional violation is a Category I violation.

(4) Failure to comply with subsection (1)(g), (2)(a) or (2)(b) of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.105

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.105

AMEND: 845-025-1450

RULE TITLE: Video Recording Requirements for Licensed Facilities

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes video recording requirements.

RULE TEXT:

(1) A licensee must have cameras that continuously record, 24 hours a day:

(a) In all areas where mature marijuana plants, immature marijuana plants, usable marijuana, cannabinoid concentrates, extracts, products or waste may be present on the licensed premises; and

(b) All points of ingress and egress to and from areas where mature marijuana plants, immature marijuana plants, usable marijuana, cannabinoid concentrates, extracts, products or waste may be present.

(2) A licensee must:

(a) In all areas where camera coverage is required, use cameras that record at a minimum resolution of 1280 x 720 px and record at 10 fps (frames per second);

(b) Use cameras that are capable of recording in all lighting conditions;

(c) Have and keep surveillance recordings for a minimum of 90 calendar days;

(d) Have and keep off-site backup recordings described in subsection (2)(k) of this rule for a minimum of 30 days;

(e) Maintain surveillance recordings in a format approved by the Commission that can be easily accessed for viewing and easily reproduced;

(f) Upon request of the Commission, keep surveillance recordings for periods exceeding the retention period specified in subsection (2)(c) of this rule;

(g) Have the date and time embedded on all surveillance recordings without significantly obscuring the picture;

(h) Archive video recordings in a format that ensures authentication of the recording as a legitimately-captured video and guarantees that no alterations of the recorded image has taken place;

(i) Make video surveillance records and recordings available immediately upon request to the Commission in a format specified by the Commission for the purpose of ensuring compliance with ORS Chapter 475B and these rules;

(j) Within 48 hours notify the Commission of any equipment failure or system outage lasting 30 minutes or more; and

(k) Back up the video surveillance recordings off-site and in real time for the surveillance room or surveillance area.

(3) Notwithstanding the requirements in section (1) of this rule a licensee or laboratory licensee may stop recording in areas where marijuana items are not present due to seasonal closures or prolonged periods of inactivity.

(a) At least 24 hours before stopping recording, a licensee or laboratory licensee must submit written notice to the Commission by email using a designated form as published by the Commission on its website and the notice must include:

(A) A copy of the licensee's plot plan or diagram as described in OAR 845-025-1030 showing which cameras will be deactivated, the total number of cameras that will be deactivated, and a description or list of areas or applicable labels of the deactivated cameras.

(B) The date and time recording will stop.

(C) An explanation for why recording will be stopped.

(D) The date and time recording will resume.

(b) A licensee or laboratory licensee:

(A) May not stop the recording or continuous real time back up of the recording for a surveillance area unless all other cameras on the licensed premises are shut down under this rule.

(B) Must resume all required recording no later than the date and time specified in the notice submitted under subsection (a) of this section.

(C) May not engage in any licensed privileges in any areas where recording was stopped under this section.

(4) Failure to comply with subsections (1)(a), (b) or (2)(e), (f), (g), (h), or (i) of this rule is a Category II violation.

(5) Failure to comply with subsection (2)(a), (b), (d), (j), or (k) is a Category III violation.

(6) Failure to comply with subsection (2)(c) of this rule is:

(a) A Category II violation if the licensee maintained surveillance recordings for 30 days or less.

(b) A Category III violation if the licensee maintained surveillance recordings for more than 30 days but less than 90 days.

(c) A Category I violation when the Commission has reasonable grounds to believe that licensee is engaging in diversion or inversion of marijuana and the licensee has not maintained surveillance recordings for all or part of the suspected time period.

(7) A licensee may not engage in any privileges of the license in an area that does not have camera coverage as described in OAR 845-025-1440 and 845-025-1450 or in an area where camera coverage has been stopped pursuant to section (3) of this rule, including but not limited to possessing, storing, cultivating, transporting, transferring, or receiving marijuana items.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.105

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.105

AMEND: 845-025-2020

RULE TITLE: Producer Privileges; Prohibitions

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details producer privileges and prohibitions.

RULE TEXT:

(1) A producer may:

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

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

(c) Produce kief as that term is defined in ORS 475B.096 and possess kief produced by the producer.

(A) A producer who produces kief is not a marijuana processor as defined in OAR 845-025-1015.

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

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

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

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

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

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

(E) Kief, as that term is defined in ORS 475B.096, manufactured by the producer, to the licensed premises of a marijuana processor, producer under common ownership, wholesaler, retailer, laboratory, or research certificate holder;

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

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

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

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

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

(e) Purchase and receive:

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

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

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

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

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

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

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

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

(f) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR

333-007-0300 to 333-007-0500.

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

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

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

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

(D) Accurately records the transaction in the CTS.

(2) A producer may not:

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

(A) Section (1) of this rule;

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.085, 475B.096

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.085, 475B.526, 475B.070, 475B.177, 475B.096

AMEND: 845-025-2040

RULE TITLE: Production Size Limitations

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details production size limitations.

RULE TEXT:

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

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

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

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

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

(2) General Requirements.

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

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

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

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

(3) Mature Canopy Size Limits.

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

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

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

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

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

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

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

(B) Micro tier II: 2,501 to 5,000 square feet.

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

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

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

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

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

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

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

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

(5) Canopy Area Measurements and Shapes.

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

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

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

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

(6) Production Tier Changes.

(a) A producer licensed under ORS 475B.070 for at least one year may request to increase its approved production tier at any time after the first license year, up to the maximum production tier allowed under this rule. A producer must make a request for an increase in writing, in a form and manner prescribed by the Commission.

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

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

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

(C) Has not been sanctioned by the Commission for violating a provision of ORS 475B.010 to 475B.545 or a rule adopted under ORS 475B.010 to 475B.545 during the past year.

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

(d) If the Commission determines a producer meets the requirements to increase its production tier at a time other than renewal, the producer must submit payment to the Commission for the difference in the fee paid by the producer at the prior renewal and the fee described in OAR 845-025-1160 for the increased tier size before the Commission will provide the producer with written approval.

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

(7) Producer Type Changes.

(a) A producer licensed under ORS 475B.070 for at least one year may request to change its approved producer type at any time after the first license year. A producer must make a request for the change of producer type in writing, in a form and manner prescribed by the Commission.

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

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

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

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

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

hearing under the procedures of ORS chapter 183.

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, ORS 475B.085

STATUTES/OTHER IMPLEMENTED: ORS 475B.085

AMEND: 845-025-2500

RULE TITLE: Registration to Produce Usable Marijuana for Patients

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes the registration to produce usable marijuana for patients.

RULE TEXT:

- (1) Eligibility. A licensed producer may produce a medically designated mature canopy in an amount equal to 10 percent of their production tier licensed under ORS 475B.075, as long as the producer provides at least seventy five percent of the annual yield of usable marijuana from their medically designated mature canopy to patients or a patient's designated primary caregivers for no consideration.
- (2) In order to produce a medically designated mature grow canopy, a licensed producer must:
 - (a) Register in a form and manner specified by the commission;
 - (b) Pay the fee specified in OAR 845-025-1060;
 - (c) Submit a control plan in a form prescribed by the Commission describing how the producer will:
 - (A) Identify the medically designated mature canopy and separate the medically designated mature canopy from the recreational canopy; and
 - (B) Segregate usable marijuana harvested from the medically designated mature canopy from the usable marijuana harvested from other plants.
- (3) Land-use Compatibility Statement.
 - (a) Licensed producers who have previously submitted a land use compatibility statement are not required to submit an additional land use compatibility statement when registering to produce usable marijuana for patients.
 - (b) Licensed producers who were exempt from submitting a land use compatibility statement under these rules at the time of licensure must submit a land use compatibility statement when registering to produce marijuana for patients if the producer's total canopy of mature medical and recreational plants exceeds 5000 square feet for outdoor producers and 1250 square feet for indoor producers.
- (4) Notwithstanding OAR 845-025-2020(2), a producer registered under this section may transfer or deliver:
 - (a) Usable marijuana to a registry identification cardholder or designated primary caregiver at the licensed premises of the producer or the residence of a registry identification cardholder or designated primary caregiver;
 - (b) Immature marijuana plants to a registry identification cardholder or designated primary caregiver at the licensed premises of the producer or the residence of a registry identification cardholder or designated primary caregiver; or
 - (c) Immature marijuana plants to a PRMG at the PRMG's grow site.
- (5) Prior to the transfer of marijuana items under this rule, a producer must obtain and retain, if not already on file, a copy of the patient's or designated primary caregiver's:
 - (a) Registry identification card if transferring to a registry identification cardholder;
 - (b) OMMP identification card if transferring to designated primary caregiver; or
 - (c) Marijuana grow site registration card if transferring to a PRMG.
- (6) A producer may not sell, deliver, or transfer any marijuana item under this rule to an individual who does not possess a valid card identified in section (5) of this rule.
- (7) A producer may maintain the records required under section (5) of this rule in electronic or physical form.
 - (a) For records maintained electronically, a producer shall maintain a backup system or sufficient data storage so that records are retained for no less than two years after the transfer of marijuana for which the records were last obtained or used.
 - (b) For physical records, a producer must ensure the records:
 - (A) Are legible and complete;
 - (B) Kept in a safe and secure location; and
 - (C) Are retained for no less than two years after the transfer of marijuana for which the records were last obtained or used.

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

- (a) The registry identification card number of the registry identification cardholder to whom the items are being transferred;
 - (b) The OMMP identification card number of the designated primary caregiver if transferring to a designated primary caregiver; or
 - (c) The marijuana grow site registration card number of the PRMG if transferring to a PRMG.
- (9) Denial. A registration request will be denied if the producer has not complied with this rule or if any information submitted by the producer is false or misleading. A notice of denial must be issued in accordance with ORS Chapter 183.

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

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

- (a) No more than 6 immature marijuana plants over 24 inches in height; or
- (b) No more than 36 immature marijuana plants under 24 inches in height.

(12) Violations.

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

(b) A violation of section (6) or (11) of this rule is a Category II violation. All other violations are Category III violations.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.136

AMEND: 845-025-2550

RULE TITLE: Requirements for Producing and Providing Marijuana for Patients

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes the requirements for producing and providing marijuana for patients.

RULE TEXT:

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

- (a) Comply with all seed-to-sale tracking requirements required in these rules;
- (b) Comply with testing rules in OAR 333-007-0300 to 333-007-0500 applicable to licensee testing of usable marijuana prior to transferring usable marijuana to a patient or the patient's designated primary caregiver and upon request by a patient, provide a patient with a copy of all testing results;
- (c) Comply with all applicable testing, labeling and packaging rules when transferring or selling usable marijuana to any licensee of the Commission;
- (d) In addition to subsection (a) of this section, use CTS to document the amount of usable marijuana transferred to each patient or designated primary caregiver, the date of the transfer, and the patient or designated primary caregiver's OMMP number;
- (e) Provide at least 75 percent of the annual yield of usable marijuana to patients or their designated primary caregivers; and
- (f) Generate a manifest in CTS and carry a physical copy of the manifest when delivering usable marijuana to a patient or designated primary caregiver. If a patient or designated primary caregiver is picking up the usable marijuana, the producer must generate a manifest in CTS but a physical copy is not required.

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

- (a) Transfer immature marijuana plants, seeds and tissue cultures from the producer's recreational plant stock to the area used for the production of marijuana for patients;
- (b) Provide a patient or a designated primary caregiver:
 - (A) No more than 24 ounces of usable marijuana per patient in any one transfer or in any 24 hour period;
 - (B) An aggregate amount of three pounds of usable marijuana per patient in a calendar year; or
 - (C) No more than 12 immature marijuana plants in one transfer or in any 24-hour period.
- (c) Provide a PRMG with immature marijuana plants;
- (d) Terminate their registration with prior notice to the commission; and
- (e) Upon termination, the producer must:
 - (A) Cease production in the medically designated canopy area; and
 - (B) Transfer any remaining usable marijuana yielded from the medically designated canopy to either a registry identification cardholder or designated primary caregiver, as allowed by these rules.

(3) May not:

- (a) Be compensated for producing or providing marijuana to a patient or the patient's designated primary caregiver;
 - (b) Transfer more than 25 percent of the total annual yield of usable marijuana from the producer's medically designated canopy to licensees of the Commission; or
 - (c) Transfer marijuana to a patient or designated primary caregiver other than as described in section (2) of this rule.
- (4) A violation of section (3) of this rule is a Category II violation. All other violations are Category III violations.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, ORS 475B.136

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, ORS 475B.136

AMEND: 845-025-2700

RULE TITLE: Industrial Hemp Grower Certificate Application; Denial; Revocation

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes the application, denial, and revocation of industrial hemp grower certificate applications.

RULE TEXT:

(1) Hemp growers may apply for an industrial hemp grower certificate to transfer industrial hemp to a processor licensed under ORS 475B.090 or a wholesaler licensed under ORS 475B.100.

(2) The application must:

(a) Include proof of licensure under ORS 571.281;

(b) Include the certificate and application fees specified in OAR 845-025-1060;

(c) Identify the licensed Oregon Department of Agriculture location from which the industrial hemp will be transferred from for transport to a Commission licensee; and

(d) Include any other information identified in the application form.

(3) Incomplete Applications.

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

(b) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Commission within 10 days of the date the incomplete notice was mailed to the applicant. The Commission shall give the applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(4) Denial.

(a) The Commission may deny any application under this rule if:

(A) The application does not meet the requirements of section (2) of this rule;

(B) The applicant submits false or misleading information; or

(C) The Commission has reasonable cause to believe that the applicant does not have a good record of compliance with ORS 475B.010 to 475B.545 or applicable rules adopted thereunder, or with ORS 571.260 to ORS 571.348 or applicable rules adopted thereunder prior to or after certification.

(b) If the Commission denies an application, it shall issue a notice of denial in accordance with ORS 183. The applicant has the right to a hearing in accordance with ORS 183.

(5) Revocation.

(a) The Commission shall revoke any industrial hemp grower certificate if the holder no longer holds a valid industrial hemp grower license issued under ORS 571.281.

(b) The Commission may revoke any industrial hemp grower certificate if:

(A) The holder violates a provision of ORS 475B.010 to 475B.545, ORS 475B.550 to 475B.590, 475B.600 to 475B.655 or Commission rules adopted thereunder;

(B) The holder violates a provision of ORS 571.260 to ORS 571.348 or a rule adopted thereunder; or

(C) The holder submits false or misleading information to the Commission.

(c) If the Commission revokes a certificate, the holder has a right to a hearing in accordance with ORS 183.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

AMEND: 845-025-2705

RULE TITLE: Industrial Hemp Handler Certificate Application; Denial; Revocation

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details the application, denial, and revocation of industrial hemp handler certificate.

RULE TEXT:

(1) Hemp handlers may apply for an industrial hemp certificate to transfer industrial hemp or hemp items to a processor licensed under ORS 475B.090, a wholesaler licensed under ORS 475B.100, or a retailer licensed under ORS 475B.105.

(2) The application must:

(a) Include proof of licensure under ORS 571.281;

(b) Include the certificate and application fees specified in OAR 845-025-1060;

(c) Identify the licensed Oregon Department of Agriculture location from which the industrial hemp or hemp items will be transferred from for transport to a Commission licensee; and

(d) Include any other information identified in the application form.

(3) Incomplete Applications.

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

(b) An applicant may submit a written request for reconsideration of a decision that an application is incomplete. Such a request must be received by the Commission within 10 days of the date the incomplete notice was mailed to the applicant. The Commission shall give the applicants the opportunity to be heard if an application is rejected. A hearing under this subsection is not subject to the requirements for contested case proceedings under ORS 183.310 to 183.550.

(4) Denial.

(a) The Commission may deny any application under this rule if:

(A) The application does not meet the requirements of section (2) of this rule;

(B) The applicant submits false or misleading information; or

(C) The Commission has reasonable cause to believe that the applicant does not have a good record of compliance with ORS 475B.010 to 475B.545 or applicable rules adopted thereunder, or with ORS 571.260 to ORS 571.348 or applicable rules adopted thereunder prior to or after certification.

(b) If the Commission denies an application, it shall issue a notice of denial in accordance with ORS 183. The applicant has the right to a hearing in accordance with ORS 183.

(5) Revocation.

(a) The Commission shall revoke any industrial hemp handler certificate if the holder no longer holds a valid industrial hemp handler license issued under ORS 571.281.

(b) The Commission may revoke any industrial hemp certificate if:

(A) The holder violates a provision of ORS 475B.010 to 475B.545, ORS 475B.550 to 475B.590, 475B.600 to 475B.655 or Commission rules adopted thereunder;

(B) The holder violates a provision of ORS 571.260 to ORS 571.348 or a rule adopted thereunder; or

(C) The holder submits false or misleading information to the Commission.

(c) If the Commission revokes a certificate, the holder has a right to a hearing in accordance with ORS 183.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

AMEND: 845-025-2750

RULE TITLE: Industrial Hemp Grower Certificate Privileges; Prohibitions

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details industrial hemp grower certificate privileges and prohibitions.

RULE TEXT:

- (1) A Commission-certified hemp grower may deliver industrial hemp to a processor or wholesaler that holds a license issued under ORS 475B.090 or 475B.100 in accordance with this rule.
- (2) If transferring, selling or transporting to a Commission licensee, a Commission-certified hemp grower may:
- (a) Transfer, sell, or transport harvested industrial hemp to a processor licensed under ORS 475B.090 that holds an industrial hemp endorsement; or
 - (b) Transfer, sell, or transport harvested industrial hemp to a wholesaler licensed under ORS 475B.100.
- (3) When transferring, selling, or transporting pursuant to section (2) of this rule, a Commission-certified hemp grower:
- (a) May only transfer, sell, or transport industrial hemp that:
 - (A) Has been tested in accordance with the Authority's rules for testing usable marijuana in OAR 333-007-0300 to 333-007-0500 and OAR 333, division 64;
 - (B) Has been tested for potency in accordance with OAR 333-007-0430, notwithstanding whether a test for potency would be required for usable marijuana; and
 - (C) Otherwise complies with the requirements for marijuana items under ORS 475B.010 to 475B.545, ORS 475B.550 to 475B.590, and 475B.600 to 475B.655 and Commission rules.
 - (b) May only transfer industrial hemp from the location identified in the application under OAR 845-025-2700(2)(c);
 - (c) Must:
 - (A) Hold a valid Industrial Hemp Grower Certificate issued by the Commission.
 - (B) Provide the licensee a copy of any test result conducted on the industrial hemp. Test results include, but are not limited to, any pre-harvest test result conducted under OAR 603-048-0600 and any results from research & development testing.
 - (C) Comply with CTS requirements in accordance with OAR 845-025-2775.
 - (D) Transport industrial hemp in compliance with the requirements for a licensee transporting marijuana items under OAR 845-025-7700(3)(a)-(2)(a), (2)(b)(A)-(C), (2)(b)(F)-(K), and (2)(d)(A)-(D); and
 - (d) May not transfer:
 - (A) Any industrial hemp that has failed the testing described in OAR 603-048-0600 to 603-048-0650;
 - (B) Any batch of harvested industrial hemp to a licensee that exceeds the THC limits specified in OAR 845-025-2760;
 - (C) Any living industrial hemp plants; or
 - (D) Industrial hemp seed.
 - (4) Failed potency testing; remediation.
 - (a) If a batch of industrial hemp tested under OAR 333-007-0430 exceeds the THC limits specified in OAR 845-025-2760 when a compliance test is conducted under OAR 333-007-0430, it fails potency testing for the purposes of these rules.
 - (b) If a batch of industrial hemp fails potency testing, the Commission-certified hemp grower must:
 - (A) Store and segregate the batch in a secure area until it is transferred or destroyed;
 - (B) Label the batch clearly to indicate it has failed a test and the label must include a test batch number; and
 - (C) Either:
 - (i) Transfer the batch of industrial hemp that failed potency testing to a Commission-certified hemp handler for the purposes of processing the industrial hemp into a hemp item that does not exceed the THC limits specified in OAR 845-025-2760; or
 - (ii) Destroy the batch of industrial hemp that failed potency testing in a manner specified by the Commission.
 - (c) A Commission-certified hemp grower may not transfer, sell, or transport industrial hemp that fails potency testing

other than as provided in these rules.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, ORS 571.336, 571.337

AMEND: 845-025-2755

RULE TITLE: Industrial Hemp Handler Certificate Privileges; Prohibitions

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details industrial hemp handler privileges and prohibitions.

RULE TEXT:

- (1) A Commission-certified hemp handler may deliver industrial hemp or hemp items to a processor, wholesaler, or retailer that holds a license issued under ORS 475B.090, 475B.100, or 475B.105 in accordance with this rule.
- (2) If transferring, selling or transporting to a Commission licensee, a Commission-certified hemp handler may only:
 - (a) Transfer, sell, or transport harvested industrial hemp or hemp items to a processor licensed under ORS 475B.090 that holds an industrial hemp endorsement;
 - (b) Transfer, sell, or transport harvested industrial hemp or hemp items to a wholesaler licensed under ORS 475B.100; or
 - (c) Transfer, sell, or transport hemp items to a retailer licensed under ORS 475B.105.
- (3) When transferring, selling, or transporting pursuant to section (2) of this rule a Commission-certified hemp handler:
 - (a) May only transfer, sell, or transport industrial hemp and hemp items that:
 - (A) Have been tested in accordance with the Authority's rules for testing the equivalent marijuana item in OAR 333-007-0300 to 333-007-0500 and OAR 333, division 64;
 - (B) Have been tested for THC and CBD concentration in accordance with OAR 333-007-0430, notwithstanding whether a test for potency would be required for the equivalent marijuana item; and
 - (C) Otherwise complies with the requirements for marijuana items under ORS 475B.010 to 475B.545, ORS 475B.550 to 475B.590, and 475B.600 to 475B.655 and Commission rules.
 - (b) May only transfer industrial hemp or hemp items from the location identified in the application under OAR 845-025-2705(2)(c).
 - (c) Must:
 - (A) Hold a valid Industrial Hemp Handler Certificate issued by the Commission.
 - (B) Provide the licensee a copy of any test result conducted on the industrial hemp or hemp items. Test results include, but are not limited to, any pre-harvest test result conducted under OAR 603-048-0600 and any results from research & development testing.
 - (C) Comply with CTS requirements in accordance with OAR 845-025-2775.
 - (D) Transport industrial hemp or hemp items in compliance with the requirements for a licensee transporting marijuana items under OAR 845-025-7700(2)(a), (2)(b)(A)-(C), (2)(b)(F)-(K), and (2)(d)(A)-(D).
 - (d) May not transfer to a licensee:
 - (A) Any industrial hemp that has failed the testing described in OAR 603-048-0600 to 603-048-0650;
 - (B) Any batch of harvested industrial hemp that exceeds the THC limits specified in OAR 845-025-2760;
 - (C) Any hemp item that exceeds the THC limits specified in OAR 845-025-2760;
 - (D) Any hemp item containing artificially derived cannabinoids except items the licensee may receive as allowed under OAR 845-025-1310.
 - (E) Any living industrial hemp plants;
 - (F) Industrial hemp seed; or
 - (G) On or after July 1, 2021, any inhalable cannabinoid product that a licensee is prohibited from receiving under OAR 845-025-8520.- (4) Failed potency testing; remediation.
 - (a) If a batch of industrial hemp or hemp items tested under OAR 333-007-0430 exceeds the THC limits specified in OAR 845-025-2760 when a compliance test is conducted under OAR 333-007-0430, it fails potency testing for the purposes of these rules.
 - (b) If a batch of industrial hemp or hemp items fails potency testing, the Commission-certified hemp handler must:

- (A) Store and segregate the batch in a secure area until it is transferred or destroyed;
- (B) Label the batch clearly to indicate it has failed a test and the label must include a test batch number; and
- (c) For each batch of industrial hemp or hemp items that fails potency testing, the Commission-certified hemp handler must:
 - (A) Process the batch into a hemp item that does not exceed the THC limits specified in OAR 845-025-2760;
 - (B) Transfer the batch to a Commission-certified hemp handler for the purposes of processing the industrial hemp into a hemp item that does not exceed the THC limits specified in OAR 845-025-2760; or
 - (C) Destroy the batch in a manner specified by the Commission.
- (d) A Commission-certified hemp handler may not transfer, sell, or transport:
 - (A) Any hemp item derived from a batch of industrial hemp or hemp items that failed potency testing except to a licensee or laboratory licensee as provided in these rules.
 - (B) Industrial hemp that fails potency testing other than as provided in these rules.
- (5) Equivalent marijuana items. For the purposes of this rule:
 - (a) Cannabinoid capsule as defined in OAR 603-048-2310 is equivalent to cannabinoid capsule as defined in OAR 333-007-0310.
 - (b) Cannabinoid product as defined in OAR 603-048-2310 is equivalent to cannabinoid product as defined in OAR 333-007-0310.
 - (c) Harvested industrial hemp is equivalent to usable marijuana as defined in OAR 333-007-0310.
 - (d) Hemp concentrate or extract as defined in OAR 603-048-2310 is equivalent to cannabinoid concentrate or extract as defined in OAR 333-007-0310.
 - (e) Hemp edible as defined in OAR 603-048-2310 is equivalent to cannabinoid edible as defined in OAR 333-007-0310.
 - (f) Hemp stalk as defined in OAR 603-048-2310 is equivalent to usable marijuana as defined in OAR 333-007-0310.
 - (g) Hemp tincture as defined in OAR 603-048-2310 is equivalent to cannabinoid tincture as defined in OAR 333-007-0310.
 - (h) Hemp topical as defined in OAR 603-048-2310 is equivalent to cannabinoid topical as defined in OAR 333-007-0310.
 - (i) Hemp transdermal patch as defined in OAR 603-048-2310 is equivalent to cannabinoid transdermal patch as defined in OAR 333-007-0310.
 - (j) Usable hemp as defined in OAR 603-048-2310 is equivalent to usable marijuana as defined in OAR 333-007-0310.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

AMEND: 845-025-2760

RULE TITLE: THC Concentration Limits for Industrial Hemp and Hemp Items

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details THC concentration in hemp items.

RULE TEXT:

(1) This rule applies to:

- (a) Commission-certified hemp growers and Commission-certified hemp handlers transferring industrial hemp or hemp items to licensees;
- (b) Licensees receiving industrial hemp or industrial hemp items from licensees, Commission-certified hemp growers, or Commission-certified hemp handlers; and
- (c) Retailers selling, transferring, or delivering hemp items to a consumer, patient, or primary caregiver in accordance with OAR 845-025-2800.

(2) For the purposes of this rule:

- (a) "Container" has the meaning given that term in OAR 845-025-7000.
- (b) "Serving" has the meaning given that term in OAR 845-025-7000.
- (3) Concentration, serving size, and container limits as shown in Table 1, incorporated by reference.
- (a) Harvested industrial hemp or a hemp item must be tested by a laboratory using a method with a LOQ capable of detecting whether a sample exceeds any applicable concentration, serving size, or container limit separately for delta-9-THC and for the total THC equivalent of delta-9-THCA.
- (b) Harvested industrial hemp may not exceed a concentration of one percent total THC.
- (c) A hemp item other than a hemp concentrate, extract, or topical as defined in OAR 603-048-2310 may not exceed a concentration of one percent total THC.
- (d) A hemp concentrate or extract as defined in OAR 603-048-2310 may not exceed a concentration of five percent total THC.
- (e) A hemp topical as defined in OAR 603-048-2310 may not exceed 0.3 percent total THC.
- (f) A hemp item other than usable hemp or a hemp concentrate, extract, topical, or tincture may not exceed 20 milligrams total THC in a container. A hemp concentrate, extract, or tincture may not exceed 100 milligrams total THC in a container.
- (g) A hemp item other than a hemp tincture that is intended for human consumption may not exceed two milligrams total THC per serving.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 571.337

STATUTES/OTHER IMPLEMENTED: ORS 571.336, 571.337

OAR 845-025-2760**Table 1**

| THC CONCENTRATION LIMITS FOR INDUSTRIAL HEMP AND HEMP ITEMS | | | |
|---|---|---|--|
| Category of Hemp or Hemp Item | Maximum Amount of Total Delta-9-THC Per Serving | Maximum Amount of Total Delta-9-THC per Container | Maximum Concentration of Total Delta-9-THC |
| Harvested Industrial Hemp | N/A | NA | 1% |
| Usable Hemp | N/A | NA | 1% |
| Hemp Concentrates or Extracts | N/A | 100 mg | 5% |
| Hemp Cannabinoid Product – Tincture | N/A | 100 mg | 1% |
| Hemp Cannabinoid Product – Topical | N/A | NA | 0.3% |
| Hemp Cannabinoid Products Other than Tinctures or Topicals | 2 mg | 20 mg | 1% |

AMEND: 845-025-2785

RULE TITLE: Licensee Industrial Hemp Privileges; Requirements

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details licensee industrial hemp privileges and requirements.

RULE TEXT:

- (1) A processor with an industrial hemp endorsement may transfer, sell, transport, purchase, possess, accept, return, or receive industrial hemp and hemp items in accordance with OAR 845-025-3215.
- (2) A wholesaler may transfer, sell, transport, purchase, possess, accept, return, or receive industrial hemp and hemp items in accordance with OAR 845-025-3500.
- (3) A retailer may:
 - (a) Transfer, sell, transport, purchase, possess, accept, return, or receive hemp items in accordance with OAR 845-025-2800.
 - (b) Sell, transfer, or deliver hemp items to a consumer, patient, or designated primary caregiver in accordance with all requirements for selling or transferring marijuana items.
- (4) A licensee may only receive industrial hemp and hemp items from a Commission-certified hemp grower or Commission-certified hemp handler if:
 - (a) The industrial hemp or hemp item does not exceed the THC limits specified in OAR 845-025-2760;
 - (b) The licensee receives a copy of any test result conducted on the industrial hemp or hemp item as a condition of receipt. Test results include, but are not limited to, any pre-harvest test result conducted under OAR 603-048-0600 and any results from quality control and research and development testing conducted under OAR 333-007-0500; and
 - (c) The licensee complies with any applicable requirements of ORS 571.281 to ORS 571.348 or any rules adopted thereunder.
- (5) A licensee may only deliver industrial hemp and hemp items if the industrial hemp and hemp items are:
 - (a) Delivered to a licensed marijuana retailer or wholesaler, or to a processor with an industrial hemp endorsement in compliance with all rules for delivering marijuana;
 - (b) Meet any applicable requirement for marijuana items set forth in ORS 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655 and rules adopted thereunder; and
 - (c) Were entered into and tracked by CTS prior to receipt.
- (6) Licensees must track industrial hemp or any hemp item using CTS in the same manner that they track marijuana items.
- (7) All requirements for marijuana items under ORS 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655 and any rules adopted thereunder apply to industrial hemp and hemp items received, delivered, or manufactured by a licensee or laboratory licensee unless specifically excluded by these rules.
- (8) A laboratory licensee must comply with all of the requirements of OAR 845-025-5045 when performing sampling or testing of industrial hemp or hemp items entered in CTS by a processor, wholesaler, retailer, Commission-certified hemp grower, or Commission-certified hemp handler in accordance with OAR 845-025-2775.
- (9) A licensee or laboratory licensee may not:
 - (a) Transfer, sell, transport, purchase, possess, accept, return, or receive any industrial hemp or hemp item other than as provided in this rule;
 - (b) Transfer, sell, transport, purchase, possess, accept, return, or receive any industrial hemp or hemp item that exceeds the THC limits specified in OAR 845-025-2760;
 - (c) Transfer, sell, transport, purchase, possess, accept, or receive hemp items that exceeded 0.3 percent total delta-9-THC when imported into the state;
 - (d) Purchase, possess, or receive any industrial hemp that has failed the testing described in OAR 603-048-0600 to 603-048-0650; or
 - (e) Plant, propagate, cultivate, grow or harvest industrial hemp within their licensed premises.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.090, ORS 475B.299, ORS 571.336, ORS 571.337

AMEND: 845-025-2800

RULE TITLE: Retailer Privileges; Prohibitions

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details retailer privileges and prohibitions.

RULE TEXT:

- (1) A retailer is authorized to sell, transfer or deliver a marijuana item or hemp item to a consumer.
- (2) A retailer may:
 - (a) Between the hours of 7:00 AM and 10:00 PM local time, sell marijuana items and hemp items from the licensed premises to a consumer 21 years of age or older;
 - (b) Sell, transfer or deliver:
 - (A) Marijuana items or hemp items to a consumer 21 years of age or older pursuant to a bona fide order as described in OAR 845-025-2880.
 - (B) Marijuana items or hemp items to a patient or designated primary caregiver between ages 18-21, so long as:
 - (i) The registry identification cardholder has a valid OMMP card; and
 - (ii) The retailer has a valid medical endorsement.
 - (C) Marijuana seeds to a producer.
 - (D) Marijuana waste to a producer, processor, wholesaler, or research certificate holder.
 - (E) Hemp waste to a wholesaler, processor with an industrial hemp endorsement, or research certificate holder.
 - (c) Accept or make returns, as long as the retailer:
 - (A) Only accepts or returns usable marijuana, marijuana items, hemp items, immature marijuana plants and seeds;
 - (B) Only accepts or returns eligible items listed in paragraph (A) of this subsection from either the original licensee that supplied the item or the customer or registry identification cardholder that purchased or was given the item;
 - (C) Accurately records the transaction in the CTS; and
 - (D) Does not resell any items returned by customers.
 - (d) Purchase, possess or receive:
 - (A) Usable marijuana, immature marijuana plants, seeds, and kief from a producer or from a research certificate holder;
 - (B) Cannabinoid concentrates from a micro tier producer with a concentrate endorsement issued under OAR 845-025-2025;
 - (C) Cannabinoid products, cannabinoid extracts and cannabinoid concentrates from a marijuana producer that were made using only marijuana produced by the producer;
 - (D) Cannabinoid concentrates, extracts, and products from a processor with an endorsement to manufacture the type of product received or from a research certificate holder;
 - (E) Any marijuana item, except for whole, non-living marijuana plants, from a wholesaler;
 - (F) Any marijuana item from a laboratory licensee;
 - (G) Trade samples as allowed by 845-025-1330;
 - (H) Marijuana items from a retailer under common ownership;
 - (I) Hemp items from a Commission-certified hemp handler, a wholesaler, a laboratory licensee, or a processor with an industrial hemp endorsement; and
 - (J) Hemp items from a retailer that is owned by the same or substantially the same persons. For purposes of this rule, substantially the same means that individuals named on the approved license or persons with a financial interest in the licensed businesses are identical.
 - (e) Refuse to sell marijuana items or hemp items to a consumer;
 - (f) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0500;
 - (g) Accept returned marijuana items or hemp items that the retailer sold to a consumer and provide a refund or exchange with a product of equal or lesser value as long as the product is not resold; and

- (h) Sell marijuana items for medical purposes, as long as the retailer follows the provisions set forth in 845-025-2900.
- (3) Hemp items sold, transferred, or delivered under section (2) of this rule must have been received from a Commission-certified hemp handler, a processor with an industrial hemp endorsement, a wholesaler, or a retailer under common ownership in accordance with these rules.
- (4) A retailer may not:
 - (a) Knowingly sell more than the following amounts to an individual at any one time or within one day:
 - (A) Two ounces of usable marijuana;
 - (B) 16 ounces of a cannabinoid product in solid form;
 - (C) 72 fluid ounces of a cannabinoid product in liquid form;
 - (D) Five grams of cannabinoid extracts or concentrates;
 - (E) Five grams of cannabinoid products intended for inhalation;
 - (F) Four immature marijuana plants; and
 - (G) 10 marijuana seeds.
 - (b) Knowingly provide more than the following amounts to registry identification cardholders or designated primary caregivers:
 - (A) 8 ounces of usable marijuana at any one time or within one day per patient; and
 - (B) No more than 32 ounces in one calendar month per patient.
 - (c) Transfer, sell, transport, purchase, possess, accept, return, or receive any hemp item that exceeds the THC limits specified in OAR 845-025-2760.
 - (d) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana or hemp item containing artificially derived cannabinoids except as allowed under OAR 845-025-1310 and in accordance with sections (2) and (3) of this rule.
 - (e) Provide free marijuana items to a recreational consumer.
 - (f) Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana extracts.
 - (g) Sell or give away any non-marijuana items, including hemp items, that are attractive to minors as defined by these rules.
 - (h) Discount a marijuana item if the retail sale of the marijuana is made in conjunction with the retail sale of any other items, including other marijuana items or hemp items.
 - (i) Sell a marijuana item at a nominal price for promotional purposes.
 - (j) Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day.
 - (k) Permit a licensed representative to handle an unpackaged marijuana item or hemp item without the use of protective gloves, tools or instruments that prevent the marijuana item from coming into contact with the licensed representative's skin.
 - (l) Sell or transfer a returned marijuana item or hemp item to another consumer.
 - (m) Sell, transfer, deliver, purchase, possess, accept, return or receive any marijuana item or hemp item other than as provided in this rule.
 - (n) Permit a consumer to open or alter a package containing a marijuana item or hemp item or otherwise remove a marijuana item or hemp item from packaging required by these rules within the licensed premises or in an area that the licensee controls.
 - (o) Permit a consumer to bring marijuana items or hemp items onto the licensed premises except for being returned for refund or exchange as allowed by this rule.
 - (p) Sell a marijuana item to an individual that exceeds the concentration limits in OAR 845-026-0210 and 845-026-0220.
 - (q) Sell any item not allowed under OAR 845-025-3220 or any of the following items:
 - (A) Pet or animal food, treats, or other pet or animal products containing hemp or marijuana;

(B) Injectable marijuana or hemp items; or

(C) Any other marijuana items not meant for human consumption or use.

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025, ORS 475B.105

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, ORS 475B.105

AMEND: 845-025-2880

RULE TITLE: Delivery of Marijuana Items by Retailer

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes the delivery of marijuana items.

RULE TEXT:

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

(2) Delivery Approval Process.

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

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

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

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

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

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

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

(3) Bona Fide Orders.

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

(b) The bona fide order must contain:

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

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

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

(4) Delivery Requirements.

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

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

(c) At the time of delivery the individual performing delivery must check the identification of the individual to whom delivery is being made in order to determine that it is the same individual who submitted the bona fide order. This includes ensuring that the individual:

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

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

(C) Signs a document indicating that the items were received.

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

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

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

(A) Comply with the packaging rules in OAR 845-025-7000 to 845-025-7190; and

- (B) Be placed in a larger delivery receptacle that has a label that reads: "Contains marijuana: Signature of person 21 years of age or older required for delivery".
- (g) A retailer may not carry or transport at any one time more than a total of \$10,000 in retail value worth of marijuana items designated for retail delivery.
- (h) All marijuana items must be kept in a lock-box securely affixed inside the delivery motor vehicle.
- (i) A manifest must be created for each delivery or series of deliveries and the individual doing the delivery may not make any unnecessary stops between deliveries or deviate substantially from the manifest route.
- (j) A licensee representative must be able to communicate with the marijuana retailer while making deliveries.
- (k) The delivery vehicle must be equipped with an active Global Positioning System.
- (5) Documentation Requirements. A marijuana retailer must document the following regarding deliveries:
- (a) The bona fide order and the date and time it was received by the retailer;
- (b) The date and time the marijuana items were delivered;
- (c) A description of the marijuana items that were delivered, including the weight or volume and price paid by the consumer;
- (d) Who delivered the marijuana items; and
- (e) The name of the individual or the patient or designated primary caregiver's OMMP card number to whom the delivery was made and the delivery address.
- (6) A retailer is only required to maintain the name of an individual to whom a delivery was made for one year.
- (7) Prohibitions.
- (a) A retailer may deliver marijuana items only to a location within:
- (A) The city in which the licensee is licensed, if a licensee is located within a city;
- (B) Unincorporated areas of the county in which the licensee is licensed, if a licensee is located in an unincorporated city or area within the county; or
- (C) The city limit of an adjacent city or unincorporated areas of an adjacent county that has adopted an ordinance allowing for interjurisdictional deliveries from adjacent cities or counties.
- (i) For a retailer located within a city, another city is considered adjacent if any part of the city limits are contiguous.
- (ii) For a retailer located within a city, a county is considered adjacent if any portion of the city limit of the city in which the retailer is located is contiguous with or contained within the county line.
- (iii) For a retailer located within an unincorporated area of a county, a city is considered adjacent if any part of the city limit is contiguous with or contained within the county line of the county in which the retailer is located.
- (iv) For a retailer located within an unincorporated area of a county, another county is considered adjacent if any part of the county lines are contiguous.
- (b) The delivery vehicle must not have any markings or signage that indicate the vehicle is transporting marijuana. The vehicle may have markings or signage that includes trade name or branding.
- (c) A retailer may not deliver marijuana items to a residence located on publicly-owned land.
- (8) Medical Delivery Exemption. Notwithstanding the delivery prohibitions in subsection (7)(a) of this rule, a retail licensee may deliver marijuana items to a patient or a patient's designated primary caregiver at an individual's residence in accordance with the other provisions of this rule, if the retailer follows the delivery approval process set forth in section (2) of this rule.
- (9) Sanction. A violation of any section of this rule that is not otherwise specified in OAR 845-025-8590 is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, ORS 475B.105, ORS 475B.206

STATUTES/OTHER IMPLEMENTED: ORS 475B.206

AMEND: 845-025-2900

RULE TITLE: Retail Sale of Marijuana for Medical Purposes

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details the retail sale of marijuana for medical purposes.

RULE TEXT:

- (1) In order to sell marijuana items for medical purposes, a marijuana retailer licensed under ORS 475B.110 must:
 - (a) Register in a form and manner specified by the commission; and
 - (b) Follow all requirements established by OAR 845-025-2800.
- (2) A marijuana retailer licensed under ORS 475B.110 who has registered with the commission to sell marijuana items for medical purposes, may:
 - (a) Sell medical grade cannabinoid product, cannabinoid concentrate or extract to registry identification cardholders and designated primary caregivers.
 - (b) Sell or provide usable marijuana and medical grade cannabinoid products, concentrates and extracts to registry identification cardholders and designated primary caregivers free of charge or at a discounted price.
 - (c) Notwithstanding the requirements of OAR 845-025-1230, 845-025-2800, 845-025-2820 and 845-025-8520, permit registry identification cardholders 18 years of age and older to be present on the licensed premises and purchase marijuana items.
- (3) A marijuana retailer who is registered with the commission to sell marijuana items for medical purposes must:
 - (a) Store and display medical grade cannabinoid products, concentrates and extracts in a manner that separates medical grade items from other marijuana items.
 - (b) Comply with the requirements of OAR 845-025-7000 to 845-025-7190 for labeling medical grade products.
 - (c) Prior to the sale or transfer of a marijuana item as described in section (2) of this rule, verify that the individual who is purchasing a marijuana item for medical purposes is currently registered with the Authority by viewing the individual's government issued photo identification and Authority issued registry identification card or designated primary care giver card, or a receipt issued by the Authority under OAR 333-008-0023 or 333-008-0040 and making sure the identities match and that the card is current or the receipt has not expired.
 - (d) Use CTS to record the receipt or card number of every registry identification cardholder and designated primary care giver who receives marijuana items as described in section (2) of this rule together with the date of the sale or transfer and amount sold or transferred.
- (4) A marijuana retailer who is registered with the commission to sell marijuana items for medical purposes may not sell or transfer a medical grade product to a registry identification cardholder or designated primary caregiver that exceeds the concentration limits in OAR 845-026-0220.
- (5) Violation of any provisions of this rule is a Category III violation.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.105

AMEND: 845-025-2910

RULE TITLE: Transfer of Medical Marijuana Dispensary Inventory

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details the transfer of medical marijuana dispensary inventory.

RULE TEXT:

(1) For purposes of this rule:

(a) "Medical marijuana dispensary" means a medical marijuana dispensary registered under ORS 475B.450.

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

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

(2) An applicant for a retail license under ORS 475B.110 that is also an owner of a medical marijuana dispensary may submit a transfer request to the Commission, on a form prescribed by the Commission, to transition from being registered with the Authority to being licensed by the Commission. The request must include, at a minimum, the following information:

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

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

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

(d) Identification of the primary PRD;

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

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

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

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

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

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

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

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

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

(6) If the information in the transfer request is verified by the Authority and the Commission approves a license application under ORS 475B.090, the Commission must notify the applicant of the amount and type of marijuana items permitted to be transferred.

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

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

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

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

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

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

(b) The Marijuana item is packaged in a child resistant container as required by 845-025-7020(3).

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

submitted incomplete information to the Commission.

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.167

AMEND: 845-025-3210

RULE TITLE: Marijuana Processors — Endorsements

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details endorsements for processors.

RULE TEXT:

- (1) A processor may only process and sell cannabinoid edible, topical, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity. Endorsements types are:
 - (a) Cannabinoid edible processor;
 - (b) Cannabinoid topical processor;
 - (c) Cannabinoid concentrate processor; and
 - (d) Cannabinoid extract processor.
- (2) Industrial Hemp processor. A processor may only process industrial hemp items if the processor licensee has received an industrial hemp processor endorsement.
- (3) A processor may only process a hemp item or marijuana item containing an artificially derived cannabinoid that is allowed under OAR 845-025-1310.
- (4) An applicant must request an endorsement upon submission of an initial application but may also request to add or remove an endorsement at any time following licensure.
- (5) To apply for an endorsement, an applicant or processor licensee must submit:
 - (a) A form prescribed by the Commission that identifies the proposed endorsements;
 - (b) A land use compatibility statement showing that any proposed processing endorsements are not prohibited uses; and
 - (c) If applicable, proof of compliance with OAR 845-025-3260(2)(b).
- (6) Only one application and license fee is required regardless of how many endorsements an applicant or licensee requests or at what time the request is made.
- (7) An individual processor licensee may hold multiple endorsements.
- (8) For the purposes of endorsements any cannabinoid product that is intended to be consumed or ingested orally or applied in the mouth is considered a cannabinoid edible.
- (9) If a processor is no longer going to process the product for which the processor is endorsed, the processor must notify the Commission in writing and provide the date on which the processing of that product will cease.
- (10) The Commission may deny a processor's request for an endorsement or revoke an existing endorsement if the processor cannot or does not meet the requirements in OAR 845-025-3200 to 845-025-3290 for the endorsement that is requested. If the Commission denies or revokes approval the processor has a right to a hearing under the procedures of ORS chapter 183.

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

STATUTES/OTHER IMPLEMENTED: ORS 475B.090, 475B.158, 571.336

AMEND: 845-025-3215

RULE TITLE: Processor Privileges; Prohibitions

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details processor privileges and prohibitions.

RULE TEXT:

(1) A processor may:

(a) Transfer, sell or transport:

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

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

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

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

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

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

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

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

(C) Kief from a producer;

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

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

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

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

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

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

(c) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0500.

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

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

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

(C) Accurately records the transaction in the CTS.

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

(a) Transfer, sell, or transport:

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

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

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

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

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

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

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

AMEND: 845-025-3255

RULE TITLE: Alternating Proprietors

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details alternating proprietors.

RULE TEXT:

(1) A cannabinoid edible or topical processor that applied for a license prior to January 1, 2019, may share a food establishment, as defined in ORS 616.695, with another cannabinoid edible or topical processor, or a cannabinoid concentrate processor who was licensed and authorized to share a food establishment under this rule prior to January 1, 2019, if:

(a) The schedule, with specific hours and days that each processor will use the food establishment, is prominently posted at the entrance to the food establishment and has been approved by the Commission:

(A) The schedule must be submitted to the Commission in writing and will be approved if it demonstrates that use of a shared food establishment by multiple processor licensees does not create an increased compliance risk.

(B) A processor licensee may only change the schedule with prior written approval from the Commission.

(b) In addition to the applicable requirements of OAR 845-025-1410, each licensee must designate a separate area to secure any marijuana, cannabinoid products, concentrates or extracts that a licensee stores at the food establishment. The designated area must only be accessible to the licensee. If a cannabinoid processor does not store marijuana, cannabinoid products, concentrates or extracts at the food establishment those items must be stored on a licensed premises.

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

(3) In order to qualify to share a food establishment under this rule:

(a) Concentrates manufactured under this rule must be used in the production of the processor's cannabinoid edibles or topicals; and

(b) Concentrates manufactured under this rule may not be transferred to another licensee.

(4) A processor is strictly liable for any violation found at a shared food establishment during that processor's scheduled time or within that processor's designated area in the food establishment.

(5) On and after January 1, 2019, a licensee who was approved to share a food establishment under this rule may not continue to share a food establishment if there are any changes of ownership.

(6) Violation of this rule is a Category II violation.

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

STATUTES/OTHER IMPLEMENTED: ORS 475B.090, 475B.158

AMEND: 845-025-3310

RULE TITLE: Transfer of Medical Marijuana Processing Site Inventory

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details the transfer of processed medical marijuana product inventory.

RULE TEXT:

(1) For purposes of this rule:

(a) "Marijuana processing site" means a marijuana processing site registered under ORS 475B.435.

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

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

(2) An applicant for a processor license under ORS 475B.090 that is also an owner of a registered marijuana processing site or a business that applied to register as a marijuana processing site prior to December 31, 2016 under ORS 475B.435, may submit a transfer request to the Commission, on a form prescribed by the Commission, to transfer inventory produced or obtained under Authority approval or registration.

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

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

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

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

(d) Identification of the primary PRP.

(e) The endorsements of the marijuana processing site.

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

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

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

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

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

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

(6) If the information in the transfer request is verified by the Authority and the Commission approves a license application under ORS 475B.090, the Commission must notify the applicant of the amount and type of marijuana items permitted to be transferred.

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

(b) For transfer requests that are received after January 31, 2017, the Commission may not permit the transfer of a marijuana item that was produced or acquired before December 31, 2016, unless the applicant is registered with the Authority as a processing site under ORS 475B.435 and the item was processed or acquired on or after the date the processing site was registered.

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

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

(7) Information regarding the usable marijuana, cannabinoid concentrates, extracts or products transferred must be

recorded in CTS within 10 calendar days of licensure.

(8) The licensee must notify the Commission once the usable marijuana, cannabinoid concentrates, extracts or products are entered into CTS and the Commission may inspect the premises to verify the information the licensee entered into CTS.

(9) Once the transfer of inventory under this section is complete the Commission must notify the Authority that the marijuana processing site is now a licensed premises and that the licensed premises may not be registered as a marijuana processing site address under ORS 475B.435.

(10) The Commission may deny a transfer request if:

(a) It cannot verify the information in the request or the applicant submitted incomplete information to the Commission; or

(b) The processor has not been granted an endorsement for the type of marijuana item requested for transfer.

(11) Any usable marijuana, cannabinoid concentrates, extracts or products transferred from a medical marijuana processing site to the licensed premises under this rule must be:

(a) Tested in accordance with OAR 845-025-5700 before being used or transferred; and

(b) Labeled and packaged in accordance with OAR 845-025-7000 to 845-025-7060 before being transferred to another licensee.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.167

ADOPT: 845-025-3320

RULE TITLE: Hemp Item Transfers to Unlicensed Persons

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details hemp item transfers to unlicensed persons.

RULE TEXT:

- (1) For the purpose of this rule, "unlicensed person" means a person that is not a producer, processor, retailer, wholesaler, or laboratory.
- (2) Eligibility. A processor with an industrial hemp endorsement may transfer hemp items to an unlicensed person subject to the following conditions:
 - (a) The hemp items are tested as described in ORS 475B.555 and otherwise meets the requirements for marijuana items under ORS 475B.010 to 475B.545, 475B.550 to 475B.590 and 475B.600 to 475B.655 and these rules; and
 - (b) The hemp items do not exceed 0.3 percent total delta-9-THC.
- (3) The processor must record all activity under this rule in CTS.
- (4) Transfer requirements. Prior to transferring any hemp items under this rule to a person that is not a processor, retailer or wholesaler the processor must:
 - (a) Generate a manifest in CTS.
 - (b) After generating a manifest in CTS, segregate all hemp items on the manifest and hold the hemp items on the licensed premises for at least three business days under camera coverage prior to removing the hemp items from the licensed premises.
 - (c) Carry a physical copy of the manifest during transportation, if delivering the hemp items to an unlicensed person. If the unlicensed person is picking up the cannabinoid products, extracts or concentrates from the processor, a physical manifest is not required to be printed but must be generated in CTS.
- (5) A processor may not make transfers under this rule to the licensed premises of a producer, processor, wholesaler, retailer, or laboratory.
- (6) Violations.
 - (a) Transferring a hemp item that exceeds one percent total delta-9-THC to a person who is not a licensee, laboratory licensee, or research certificate holder is a Category II violation.
 - (b) Transferring a hemp item that exceeds 0.3 percent total delta-9-THC but does not exceed one percent total delta-9-THC to a person who is not a licensee, laboratory licensee, or research certificate holder is a Category III violation.
 - (c) A violation of subsection (4)(b) is a Category III violation.
 - (d) All other violations of this rule are Category IV violations.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, ORS 571.337

STATUTES/OTHER IMPLEMENTED: ORS 571.337

AMEND: 845-025-3500

RULE TITLE: Wholesale License Privileges; Prohibitions

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details wholesale license privileges and prohibitions.

RULE TEXT:

(1) A wholesale licensee may:

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

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

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

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

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

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

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

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

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

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

(b) Purchase, possess or receive:

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

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

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

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

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

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

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

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

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

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

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

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

(d) Allow a laboratory licensee to obtain samples for purposes of performing testing as provided in these rules and OAR 333-007-0300 to 333-007-0500.

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

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

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

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

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

- (A) Trimming is performed on the wholesaler's licensed premises; or
 - (B) Trimming is performed at the producer's licensed premises and the wholesale licensee holds a "For Hire Trimming Privilege" as set forth in OAR 845-025-3505.
- (2) A wholesale licensee may not:
- (a) Sell, deliver, purchase, or receive any marijuana item, industrial hemp, or hemp item other than as provided in this rule.
 - (b) Transfer, sell, transport, purchase, possess, accept, return, or receive any industrial hemp or hemp item that exceeds the THC limits specified in OAR 845-025-2760.
 - (c) Transfer, sell, transport, purchase, possess, accept, return, or receive any marijuana or hemp item containing artificially derived cannabinoids except as allowed under OAR 845-025-1310 and in accordance with section (1) of this rule.
- (3) For purposes of this rule, "marijuana item" does not include a mature marijuana plant.

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

STATUTES/OTHER IMPLEMENTED: ORS 475B.100, 571.336

AMEND: 845-025-3505

RULE TITLE: Wholesaler For-Hire Trimming Privilege

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details wholesaler for hire trimming privilege.

RULE TEXT:

(1) Eligibility.

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

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

(2) Definitions.

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

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

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

(3) Application Requirements.

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

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

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

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

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

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

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

(4) Operations Requirements.

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

(b) The approved wholesaler and producer must:

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

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

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

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

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

(7) The Commission may deny or restrict an application for a for-hire trimmer privilege if any participating licensee has been found to have violated ORS 475B.010 to 475B.545 or any rules adopted there under in the past 24 months.

(8) When the Commission approves a control plan required under this rule, the licensee(s) must follow that written plan.

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

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

(11) The wholesaler and the producer are jointly liable for any violation of ORS 475B.010 to ORS 475B.390 or any rules adopted thereunder that occur on the producer's licensed premises while the wholesaler is present and exercising the for-hire trimmer privilege.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.100

AMEND: 845-025-3600

RULE TITLE: Wholesaling Marijuana for Medical Purposes

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details wholesaling marijuana for medical purposes.

RULE TEXT:

(1) In order to sell marijuana at wholesale for medical purposes a marijuana wholesaler licensed under ORS 475B.100 must register with the commission in a form and manner specified by the commission.

(2) A marijuana wholesaler licensed under ORS 475B.100 who has registered with the commission to wholesale marijuana items for medical purposes:

(a) May:

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

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.075, 475B.144

AMEND: 845-025-5045

RULE TITLE: Laboratory Tracking and Reporting

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details laboratory tracking and reporting.

RULE TEXT:

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

(2) A laboratory licensee conducting sampling or testing for licensees, medical marijuana grow sites subject to CTS tracking, medical marijuana processing sites, or medical marijuana dispensaries is responsible for tracking and entering the following information into CTS.

(a) Receipt of samples for testing, including:

(A) Size of the sample;

(B) Name of the licensee, grow site administrator, person responsible for the marijuana processing site, or person responsible for a medical marijuana dispensary from whom the sample was obtained;

(C) Date the sample was collected; and

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

(b) Tests performed on samples, including:

(A) Date testing was performed;

(B) What samples were tested for;

(C) Name of laboratory responsible for testing;

(D) Results of all testing performed; and

(E) An electronic copy of the report provided under OAR 333-064-0110 to the licensee, grow site administrator, processing site or dispensary.

(c) Disposition of any testing sample material.

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

(a) Receipt of samples for testing, including:

(A) Size of the sample;

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

(C) Date the sample was collected; and

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

(b) Tests performed on samples, including:

(A) Date testing was performed;

(B) What samples were tested for;

(C) Name of laboratory responsible for testing;

(D) Results of all testing performed; and

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

(c) Disposition of any testing sample material.

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

(5) A laboratory licensee must also comply with any recordkeeping requirements in OAR 333-007-0300 to 333-007-0490 and OAR 333, Division 64.

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

STATUTORY/OTHER AUTHORITY: ORS 475B.560

STATUTES/OTHER IMPLEMENTED: ORS 475B.560

AMEND: 845-025-5500

RULE TITLE: Marijuana Worker Permit

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details marijuana worker permits.

RULE TEXT:

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

(a) The delivery, possession, handling, production, propagation, processing, securing or selling of marijuana items at the premises for which the license has been issued;

(b) The recording of the delivery, possession, handling, production, propagation, processing, securing or selling of marijuana items at the premises for which the license has been issued;

(c) The verification of any document described in ORS 475B.216; or

(d) The direct supervision of a person described in subsections (a) to (c) of this section.

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.215, 475B.266

STATUTES/OTHER IMPLEMENTED: ORS 475B.215, 475B.266

AMEND: 845-025-5700

RULE TITLE: Licensee Testing Requirements

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes licensee testing requirements.

RULE TEXT:

(1) Licensees must comply with the Authority's testing rules in OAR 333-007-0300 to 333-007-0500 and OAR 333, division 64 prior to the sale or transfer of a marijuana item or industrial hemp or industrial hemp item, as specified in those rules.

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

STATUTORY/OTHER AUTHORITY: ORS 475B.550, 475B.555, 571.275

STATUTES/OTHER IMPLEMENTED: ORS 475B.550, 475B.555

AMEND: 845-025-5730

RULE TITLE: Wholesaler Coordination of Sampling and Testing

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details wholesaler coordination of sampling and testing.

RULE TEXT:

A wholesaler:

- (1) May accept a batch, as that term is defined in OAR 333-007-0310 from a producer or processor that:
 - (a) Has not been sampled or tested in accordance with OAR 333 Division 7, and OAR 333, Division 64 and may order tests and arrange for the sampling and testing of the batch in accordance with OAR 333 Division 7 and OAR 333, Division 64 as specified in those rules.
 - (b) Has been sampled but has not yet been tested in accordance with OAR 333-007-0300 to 333-007-0490 and OAR 333, Division 64.
- (2) Must secure, label, and store pre-tested marijuana items in accordance with OAR 845-025-5720.
- (3) May not transfer or sell a marijuana item unless that marijuana item:
 - (a) Has been sampled and tested in accordance with OAR 333-007-0300 to 333-007-0490 and OAR 333, Division 64.
 - (b) Has passed all the required tests in OAR 333-007-0300 to 333-007-0490.
- (4) Is jointly and severally responsible for ensuring compliance with OAR 333-007-0300 to 333-007-0490 and OAR 333, Division 64 with the licensee who produced or processed the marijuana item.

STATUTORY/OTHER AUTHORITY: ORS 475B.100, 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.100, 475B.555

AMEND: 845-025-5760

RULE TITLE: Audit, Compliance, and Random Testing

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details audit, compliance, and random testing.

RULE TEXT:

- (1) The Commission may require a licensee to submit samples identified by the Commission to a laboratory of the Commission's choosing to be tested in order to determine whether a licensee is in compliance with the cannabis testing rules found in Chapter 333, Division 7 of the Oregon Administrative Rules or any other rules of the Commission and may require additional testing that is not required by these rules.
- (2) A laboratory doing audit testing must comply with these rules, to the extent they are applicable, and if conducting testing not required by these rules, may only use Authority approved methods, unless otherwise authorized by the Commission.
- (3) The Commission may, at any time, require a licensee to permit the sampling of or submit a sample of a marijuana item, industrial hemp, or a hemp item to the Commission for testing. Such testing may include testing for:
 - (a) Any microbiological contaminant.
 - (b) Heavy metals.
 - (c) Other adulterants, pesticides, solvents, additives or contaminants that may pose a risk to public health and safety, or are prohibited by law.
- (4) A licensee shall submit all samples required for testing under this rule within a timeframe established by the Commission.

STATUTORY/OTHER AUTHORITY: ORS 475B.550, 475B.555, 571.275

STATUTES/OTHER IMPLEMENTED: ORS 475B.550, 475B.555, EO 19-09

AMEND: 845-025-5790

RULE TITLE: Marijuana Item Recalls

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details marijuana item recalls.

RULE TEXT:

(1) The Commission may require a licensee to recall any marijuana item, industrial hemp, or a hemp item that the licensee has sold or transferred upon a finding that circumstances exist that pose a risk to public health and safety. A recall may be based on, but it not limited to, evidence that:

(a) Pesticides were used in the production of marijuana or industrial hemp in violation of ORS 634 and OAR 603, Division 57;

(b) A marijuana item, industrial hemp, or a hemp item is contaminated or otherwise unfit for human use, consumption or application; or

(c) A marijuana item, including any marijuana, usable marijuana, cannabinoid concentrate or extract used in the processing of the marijuana item was not produced or processed by a licensee.

(2) If the Commission finds that a recall is required, the Commission must notify the public and licensees of the recall, may require a licensee to notify an individual to whom a marijuana item, industrial hemp, or a hemp item was sold and may require that the licensee destroy the recalled product.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 571.337, 571.275

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.030

AMEND: 845-025-7000

RULE TITLE: Packaging and Labeling — Definitions

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule sets the definitions for packaging and labeling rules.

RULE TEXT:

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

- (1) "Activation time" means the amount of time it is likely to take for an individual to begin to feel the effects of ingesting or inhaling a marijuana or hemp item.
- (2) "Added substances" means any component or ingredient added to usable marijuana, cannabinoid concentrate or cannabinoid extract during or after processing that is present in the final cannabinoid product including but not limited to added flavors, non-marijuana derived terpenes, and any substances used to change viscosity or consistency of the cannabinoid product.
- (3) "Attractive to minors" means packaging, receptacles, inhalant delivery devices, labeling and marketing that features:
 - (a) Cartoons;
 - (b) A design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;
 - (c) Symbols or celebrities that are commonly used to market products to minors;
 - (d) Images of minors; and
 - (e) Words that refer to products that are commonly associated with minors or marketed by minors.
- (4) "Authority" means the Oregon Health Authority.
- (5) "Cannabinoid" for the purposes of labeling means any of the chemical compounds that are the active constituents of marijuana or industrial hemp.
- (6) "Cannabinoid capsule" means a small, soluble pill, tablet, or container that contains liquid or powdered cannabinoid product, concentrate or extract and is intended for human ingestion.
- (7) "Cannabinoid concentrate or extract" means a substance obtained by separating cannabinoids from marijuana by a mechanical, chemical or other process. For the purposes of labeling, cannabinoid concentrate or extract also includes concentrates and extracts derived from industrial hemp.
- (8)(a) "Cannabinoid edible" means:
 - (A) Food or potable liquid into which a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana have been incorporated; or
 - (B) For purposes of labeling, includes any marijuana, cannabinoid concentrate, extract or cannabinoid product that is intended for human consumption or marketed in a manner that implies the item is for human consumption.
- (b) For purposes of labeling "cannabinoid edible" does not include a cannabinoid tincture or capsule.
- (9) "Cannabinoid product" means:
 - (a) A cannabinoid edible or any other product intended for human consumption or use, including a product intended to be applied to a person's skin or hair, that contains cannabinoids or the dried leaves or flowers of marijuana; or
 - (b) Usable marijuana, cannabinoid extracts and cannabinoid concentrates that have been combined with an added substance.
- (c) "Cannabinoid product" does not include:
 - (A) Usable marijuana by itself;
 - (B) A cannabinoid concentrate or extract by itself; or
 - (C) Industrial hemp, as defined in ORS 571.269.
- (10) "Cannabinoid tincture" means a liquid cannabinoid product packaged in a container of 4 fluid ounces or less that consists of either:
 - (a) A non-potable solution consisting of at least 25 percent non-denatured alcohol, in addition to cannabinoid

concentrate, extract or usable marijuana, and perhaps other ingredients intended for human consumption or ingestion, that is exempt from the Liquor Control Act under ORS 471.035; or

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

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

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

(a) The use of comically exaggerated features;

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

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

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

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

(15) "Commission" means the Oregon Liquor and Cannabis Commission.

(16) "Consumer," for the purposes of these rules, has the meaning given that term in ORS 475B.015 and does not include a patient or designated primary caregiver.

(17) "Container"

(a) Means a sealed, hard or soft-bodied receptacle in which a marijuana item is placed and any outer receptacle intended to display a marijuana item for ultimate sale to a consumer, patient, or designated primary caregiver.

(b) Does not mean:

(A) Inner wrapping or lining;

(B) An exit package; or

(C) A shipping container used to transfer marijuana items or industrial commodities or products in bulk from one licensee or registrant to another.

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

(19)(a) "Designated primary caregiver" means an individual:

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

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

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

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

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

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

(22) "Generic label"

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

(A) Only the information required by rule;

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

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

(b) Does not mean:

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

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

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

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

(25) "Hemp symbol" means the image, established by the Commission and made available to licensees, indicating the item contains industrial hemp.

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

(27) "Intended for human consumption" means intended for a human to eat, drink, or otherwise put in the mouth but does not mean intended for human inhalation.

(28) "Intended for human use" means intended to be used by applying it to a person's skin or hair, inhalation or otherwise consuming the product except through the mouth.

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

(30) "Licensee" has the meaning given that term in ORS 475B.015.

(31) "Major food allergen" means an ingredient that contains any of the foods or food groups listed in subsections (a) to (h) or an ingredient that contains protein derived from one of the foods listed in subsections (a) to (h):

(a) Milk;

(b) Egg;

(c) Fish;

(d) Crustacean shellfish;

(e) Tree nuts;

(f) Wheat;

(g) Peanuts; and

(h) Soybeans.

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

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.269.

(33) "Marijuana item" means marijuana, usable marijuana, a cannabinoid product, or a cannabinoid concentrate or extract.

(34) "Medical grade cannabinoid product, cannabinoid concentrate or cannabinoid extract" means a cannabinoid product, cannabinoid concentrate or cannabinoid extract that has a concentration of THC that is permitted under ORS 475B.625 in a single serving of the cannabinoid product, cannabinoid concentrate or cannabinoid extract for a patient.

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

(36) "Medical marijuana dispensary" means a facility registered under ORS 475B.858.

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

(38) "Net volume" means the fluid measure of a liquid product expressed as milliliters and fluid ounces.

(39) "Net weight" means the gross weight minus the tare weight of the packaging expressed as ounces and grams or

milligrams. "Net weight" as applied to pre-rolled marijuana includes the dried marijuana leaves and flowers, the rolling paper, and the filter or tip.

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

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

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

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

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

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

(45) "Processor" means a person:

(a) Licensed by the Commission to process marijuana under ORS 475B.090;

(b) Licensed by the Commission under ORS 475B.070 who produces kief;

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

(d) Registered with the Authority under ORS 475B.840 as a processing site and who is not exempt from labeling requirements under ORS 475B.605.

(46) "Producer" means a person:

(a) Licensed by the Commission to produce marijuana under ORS 475B.070; and

(b) Registered with the Authority under ORS 475B.810 as a grower and who is not exempt from labeling requirements under ORS 475B.605.

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

(48) "Registrant" means a person registered with the Authority under ORS 475B.785 to 475B.949.

(49) "Registry identification cardholder" means a person to whom a registration card has been issued under ORS 475B.797.

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

(51) "THC" means total delta-9-tetrahydrocannabinol as calculated pursuant to OAR 333-064-0100.

(52) "These rules" means OAR 845-025-7000 through 845-025-7190.

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

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

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

(56) "Usable hemp"

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

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

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

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

(c) "Usable marijuana" does not include:

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

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

STATUTORY/OTHER AUTHORITY: ORS 475B.605, 475B.610

STATUTES/OTHER IMPLEMENTED: ORS 475B.605

AMEND: 845-025-7020

RULE TITLE: Packaging for Sale to Consumer

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details packaging for sale to consumers.

RULE TEXT:

- (1) Containers or packaging for marijuana items and industrial hemp commodities or products must protect the packaged item from contamination and must not impart any toxic or deleterious substance to the packaged item.
- (2) Marijuana items and industrial hemp commodities or products for ultimate sale to a consumer, patient, or designated primary caregiver, except for usable marijuana, usable hemp, immature marijuana plants, and seeds, must:
 - (a) Be packaged in a container that is resealable and continually child-resistant as certified by a qualified third-party child-resistant package testing firm or placed within an exit package that is resealable and continually child-resistant as certified by a qualified third-party child-resistant package testing firm prior to final sale or transfer to consumer, patient, or designated primary caregiver if the product is a cannabinoid product, cannabinoid concentrate or cannabinoid extract;
 - (b) Not be packaged or labeled in a manner that is attractive to minors; and
 - (c) Be labeled in accordance with OAR 845-025-7000 to 845-025-7190.
- (3) Packaging may not contain any untruthful or misleading content.
- (4) Nothing in this rule:
 - (a) Prevents the re-use of packaging that is capable of continuing to be child-resistant, as long as the package is in good working order and maintains its child-resistant properties, and as permitted by rules established by the Commission or the Authority; or
 - (b) Prohibits the Commission or the Authority from imposing additional packaging requirements in their respective rules governing licensees and registrants.
- (5) A licensee or registrant must provide to the Commission or the Authority upon that agency's request, additional information about the testing that was performed by the qualified third party child-resistant package testing firm in accordance with 16 CFR 1700.
- (6) Licensees and registrants are prohibited from selling packages, containers or devices intended for intravenous delivery.

STATUTORY/OTHER AUTHORITY: ORS 475B.615

STATUTES/OTHER IMPLEMENTED: ORS 475B.070, 475B.090, 475B.100, 475B.615

AMEND: 845-025-7030

RULE TITLE: Labeling for Sale to Consumer

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details labeling for sale to consumers.

RULE TEXT:

(1) A label required by these rules must:

- (a) Be printed on or affixed to the container holding the marijuana item or industrial hemp commodity or product and printed on or affixed to any outer package or container that is used to display the marijuana item or industrial hemp commodity or product for sale or transfer to a consumer, patient or designated primary caregiver;
- (b) Comply with the National Institute of Standards and Technology (NIST) Handbook 130 (2016), Uniform Packaging and Labeling Regulation, incorporated by reference;
- (c) Contain all required information in any typed, legible font that is easy to read and contrasts sufficiently with the background and is at least 1/16th of an inch in height based on the uppercase "K";
- (d) Be in English, though it can also be in other languages; and
- (e) Be unobstructed and conspicuous.

(2) A label may not:

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

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

(3) Principal Display Panel.

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

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

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

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

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

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

(4) Product Identity

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

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

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

(5) Net Quantity Declaration

- (a) The net quantity of contents provided on the principal display panel must be the average net quantity of contents of all of the packages in the batch.
- (b) The net quantity declaration shall be in terms of fluid measure if the item is liquid, or in terms of weight if the item is solid, semi-solid, or viscous.
- (c) The net quantity declaration shall be a distinct item separated from other printed label information on all sides by at least a space equal to the height of the lettering used in the declaration. The declaration shall be presented in bold type in the bottom 30 percent of the principal display panel and in lines generally parallel with the base of the container.
- (6) Potency Labeling. The THC and CBD amounts required to be on a label must be the value calculated by the laboratory that did the testing in accordance with OAR 333-064-0100.
- (a) The potency value shall be expressed as an average of the samples taken and tested under OAR 333-007-0360. A label may not have a THC value that exceeds the applicable maximum concentration limit by over 10 percent as specified in OAR 845-026-0200 to 845-026-0220, as applicable.
- (b) For products tested on or after February 1, 2020, if the potency value for THC or CBD is reported by the laboratory as less than the limit of quantification, the value on the label must be listed as "<LOQ".
- (7) The universal symbol. The universal symbol must be at least 0.48 inches wide by 0.35 inches high and can be downloaded on the Commission's website.
- (8) Medical grade symbol. The medical grade symbol must be at least 0.35 inches in diameter and can be downloaded at marijuana.oregon.gov.
- (9) Hemp symbol. The hemp symbol must be at least 0.48 inches wide by 0.35 high and can be downloaded on the Commission's website.
- (10) A marijuana item or industrial hemp commodity or product may have one or more label panels printed on or affixed to the container or packaging.
- (11) Small Container Label. A marijuana item or industrial hemp commodity or product that is in a container that because of its size does not have sufficient space for a label that contains all the information required for compliance with these rules:
- (a) May, in lieu of a label that has all the information required in OAR 845-025-7030 to 845-025-7145, have a label printed on or affixed to the container holding the marijuana item or industrial hemp commodity or product that includes at least the following:
- (A) A principal display panel containing the net weight or volume, product identity, and universal symbol;
- (B) Licensee business or trade name and license number or registrant business or trade name and registrant number;
- (C) UID number;
- (D) Concentration or amount of THC and CBD in the container; and
- (E) Required warnings.
- (i) For a retail marijuana item or industrial hemp commodity or product, the following warning is required on the label: "For use only by adults 21 and older. Keep out of reach of children."
- (ii) For a medical marijuana item, the following warning is required on the label: "For use by OMMP patients only. Keep out of reach of children."
- (b) Must include all required label information on an outer container or other required label information not listed in subsection (11)(a) of this rule on a hangtag attached to the marijuana item or industrial hemp commodity or product.
- (c) May use a peel-back or accordion label with the information required in subsection (11)(b) of this rule on the inside of the peel-back or accordion label, if the peel-back or accordion label can be easily identified by a patient or consumer as containing important information.
- (12) Tiny Container Label. A marijuana item or industrial hemp commodity or product that is in a container that has a complete surface area available for applying a label that is less than 2 inches squared:
- (a) May have a label printed on or affixed to the container that holds the marijuana item or industrial hemp commodity or product that includes at least the following:
- (A) A principal display panel with the universal symbol and product identity;

- (B) UID number;
 - (C) Concentration or amount of THC and CBD in the container;
 - (D) Licensee or registrant business or trade name and license or registrant number; and
 - (E) A warning that reads: "Keep out of reach of children."
- (b) Must include all required label information on an outer container or other required label information not listed in subsection (12)(a) of this rule on a hangtag attached to the marijuana item or industrial hemp commodity or product.
- (c) May use a peel-back or accordion label with the information required in subsection (12)(c) of this rule on the inside of the peel-back or accordion label, if the peel-back or accordion label can be easily identified by a patient or consumer as containing important information.
- (13) The outer container used to display the marijuana item or industrial hemp commodity or product for sale or transfer to a consumer, patient, or designated primary caregiver must comply with the labeling requirements in these rules, even if an inner container qualifies for the exception under section (11) or (12) of this rule.
- (14) A marijuana item or industrial hemp commodity or product that simultaneously falls within more than one category, for example a cannabinoid concentrate that is intended for human consumption, must comply with the labeling requirements that apply to both cannabinoid concentrates and cannabinoid edibles, with the exception of the "DO NOT EAT" warning if the product is intended for human consumption or the "BE CAUTIOUS" warning if the effects of the product are customarily felt immediately.
- (15) If a marijuana item or industrial hemp commodity or product is placed in a package that is being re-used, the old label must be removed and it must have a new label.
- (16) A licensee or registrant must have documentation that demonstrates the validity of the calculation of the amount of sodium, cholesterol, protein, sugar, carbohydrates and total fat in a cannabinoid edible and must make that documentation available to the Commission or the Authority upon request.
- (17)(a) A marijuana item or industrial hemp commodity or product that contains an ingredient consisting of two or more sub ingredients must either:
- (A) Use the common name of the ingredient followed by a parenthetical listing of all ingredients in a descending order of predominance; or
 - (B) List all sub ingredients as individual ingredients in descending order of predominance.
- (b) The list of ingredients must include any substance used in processing, preparing, manufacturing, packaging, or holding the cannabinoid product that is present in the final product, including any cooking or release spray.
- (c) The list of ingredients must correctly identify the type of marijuana item or industrial hemp ingredient used to make the product.
- (18) A cannabinoid edible that contains only a single serving may omit the servings per container declaration as long as the label clearly states that the package contains a single serving.
- (19) A cannabinoid edible shall use one of the nutrition information formats provided by the Commission to display on the label the amount of calories, sodium, protein, added sugars, cholesterol, total carbohydrates, and total fat per serving, the serving size and number of servings per container, and the list of ingredients and potential allergens.
- (20) If the container holding the marijuana item or industrial hemp commodity or product does not meet the child resistant standards set out in these rules, the outermost label must contain the following statement: "This package is not child resistant."
- (21) Exit packaging must contain a label that reads: "Keep out of the reach of children."
- (22) A cartridge or vaporizing device containing a cannabinoid or hemp concentrate, extract or product intended for use with an inhalant delivery system as that is defined in ORS 431A.175 is not required to be labeled in accordance with these rules except that the cartridge or device must have a label with the universal symbol or hemp symbol, as appropriate. All the remaining label requirements must be included on the packaging as required by these rules.
- (23) The Commission may require that marijuana items and industrial hemp commodities and products sold at retail by Commission licensees be labeled with a Universal Product Code.
- (24) Once a label is approved by the Commission, the label identification number provided by the Commission must be

prominently displayed on the label of the outermost container.

(25) If a cannabinoid concentrate or extract contains any added substances, the item shall be considered a cannabinoid product and labeled under OAR 845-025-7120.

STATUTORY/OTHER AUTHORITY: ORS 475B.605

STATUTES/OTHER IMPLEMENTED: ORS 475B.605

ADOPT: 845-025-7145

RULE TITLE: Artificially Derived Cannabinoid Labeling

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details artificially derived cannabinoid labeling.

RULE TEXT:

On or after July 1, 2022, a label for a marijuana or hemp item that contains an artificially derived cannabinoid allowed by OAR 845-025-1310 must comply with the following requirements:

(1) In addition to the requirements of OAR 845-025-7000 through 845-025-7190, the product identity must clearly identify that the product contains an artificially derived cannabinoid and must include the words “artificially derived cannabinoid.”

(2) If these rules require the label for the marijuana or hemp item to list the ingredients, the ingredient listing must identify any artificially derived cannabinoid by its full name and use the words “artificially derived” in the description of the specific ingredient.

STATUTORY/OTHER AUTHORITY: ORS 475B.605, 475B.232, 475B.236

STATUTES/OTHER IMPLEMENTED: ORS 475B.605, 475B.600

AMEND: 845-025-7160

RULE TITLE: Packaging and Labeling Pre-approval Process

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details the packaging and labeling pre-approval process.

RULE TEXT:

(1) Prior to selling, offering for sale, or transferring a marijuana item or industrial hemp commodity or product that is for ultimate sale to a consumer, patient, or designated primary caregiver, a licensee, a license applicant or a registrant must submit both a package and a label application to and receive approval from the Commission.

(a) The initial submission shall be made electronically if required by the Commission. The licensee, license applicant or registrant must submit a physical prototype upon request by the Commission.

(b) If a license applicant submits packages and labels for pre-approval, final determination for packages and labels will not be made until the applicant has been issued a license.

(2) Except as provided in sections (5) to (7) of this rule, the packaging and label applications must be accompanied by the following:

(a) A fee as specified in OAR 845-025-1060; and

(b) Information including but not limited to:

(A) Documentation that the package has been certified as child resistant as defined by 16 CFR 1700 by a qualified third-party child-resistant package testing firm.

(B) A picture of and description of the item to be placed in the package.

(C) For label applications for inhalable cannabinoid products that contain non-cannabis additives:

(i) The non-cannabis additive's list of ingredients as required by 845-025-3265(1); and

(ii) In a form and manner prescribed by the Commission, information regarding the manufacturer of the non-cannabis additive, the additive or additives being used by the licensee, and attestation by the licensee of the accuracy of the information submitted for label pre-approval.

(D) For label applications for marijuana or hemp items that contain an artificially derived cannabinoid allowed by OAR 845-025-1310:

(i) The applicable documentation required by OAR 845-025-1310(1);

(ii) A copy of the food establishment license issued by the Oregon Department of Agriculture (ODA) to the manufacturer of the artificially derived cannabinoid; and

(iii) In a form and manner prescribed by the Commission, citations to the peer reviewed studies as required by OAR 845-025-1310(1), and attestation by the licensee of the accuracy of the information submitted for label pre-approval.

(3) If a licensee submits a list of ingredients to the Commission in order to comply with (2)(b)(C) of these rules, and that the licensee believes the list of ingredients is a trade secret, the licensee must mark the information "confidential - trade secret."

(a) If the Commission receives a public records request for information submitted by a licensee, it will review all documents submitted to determine whether the documents contain trade secrets that would be exempt from disclosure under Oregon's Public Records Act, ORS 192.345.

(b) For purposes of this rule "trade secret" has the meaning given that term in ORS 192.345.

(4) The Commission will evaluate the packaging and label in order to determine whether:

(a) The packaging:

(A) Has been certified as child resistant by a qualified third-party child-resistant package testing firm;

(B) Is attractive to minors or is marketed in a manner attractive to minors;

(C) Contains untruthful or misleading content; and

(D) Will contain a marijuana item or industrial hemp commodity or product that is not compliant with ORS 475B, OAR 333, Divisions 7 and 8, or OAR 845, Division 25.

(b) The label:

- (A) Complies with the labeling rules, OAR 845-025-7000 to 845-025-7190, or any additional labeling requirements in ORS 475B, OAR 333, Divisions 7 and 8 or OAR 845, Division 25.
- (B) Contains any material that is attractive to minors; and
- (C) Contains untruthful or misleading content.
- (5) The Commission must review the packaging and labeling and notify the licensee, licensee applicant or registrant whether the packaging and labeling is approved, and if not approved, a description of the packaging or labeling deficiencies.
- (6) If a licensee or registrant's label or package is deficient, it must correct the deficiencies and resubmit the label or package for pre-approval, but the licensee or registrant is not required to submit an additional fee unless the label or package is found deficient for a second time in which case the application will be denied and the licensee or registrant must resubmit the packaging or labeling in accordance with section (1) of this rule.
- (7) A licensee, applicant or registrant may submit packaging and labeling for approval on the same application for a product that may have different flavors, colors or sizes, if the product and packaging is otherwise identical. Applications for approval of packaging and labeling under this section are subject to a single application fee.
- (8) Packages and labels that have been previously approved do not need to be resubmitted if the only changes to the packaging or label are:
- (a) Changes in the:
- (A) Harvest or processing date;
- (B) Strain;
- (C) Test results;
- (D) Net weight or volume; or
- (E) UID numbers.
- (b) The deletion of any non-mandatory label information.
- (c) The addition, deletion or change in the:
- (A) UPC barcodes or 2D mobile barcodes (QR codes);
- (B) Website address, phone number, fax number, or place of address of the licensee or registrant; or
- (C) Instructions for opening or using child-resistant packages.
- (d) The repositioning of any label information on the package, as long as the repositioning of label information is consistent with these rules.
- (e) A marijuana wholesaler or a marijuana retailer with an approved usable marijuana or hemp label may change the producer's business name, trade name, or license number without resubmission and pre-approval.
- (9) Prior to a licensee transferring a package or label approval from one licensee to another, the licensee requesting to transfer the label must submit a form prescribed by the Commission and pay the applicable fee as described in OAR 845-025-1060.
- (10) The Commission may publish a list of previously-approved, child-resistant, commercially available packaging. Packaging identified on this list as approved for certain product types does not need to be submitted for package approval if the packaging is identical to the previously-approved package.
- (11) The Commission may publish a list of licensees and registrants who have approved label applications.
- (12) Labels for marijuana items or industrial hemp commodity or products do not require pre-approval if they are generic labels as defined in OAR 845-025-7000 and contain only the information required by these rules.
- (13) Packages that are not intended to be child resistant do not require pre-approval. Any package that has not been certified as child-resistant must contain the statement described in OAR 845-025-7030(20).
- (14) Notwithstanding any provisions of this rule, the Commission may permit or require electronic submission of labels and packaging for approval.

STATUTORY/OTHER AUTHORITY: ORS 475B.610, ORS 475B.620, 475B.236, 475B.605

STATUTES/OTHER IMPLEMENTED: ORS 475B.610, ORS 475B.620

AMEND: 845-025-7190

RULE TITLE: Effective Date

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details the effective date of packaging and labeling rules.

RULE TEXT:

- (1) These rules become effective on August 15, 2018. On and after August 15, 2018, all package and label applications received by the Commission will be reviewed and evaluated under these rules.
- (2) All marijuana items and industrial hemp commodities and products packaged or transferred for sale to a consumer on or after April 1, 2019 must be labeled and packaged according to these rules.
- (3) On and after January 1, 2020, marijuana items and industrial hemp commodities and products with labels approved prior to August 15, 2018, can no longer be sold, offered for sale, or transferred to a consumer, patient, or designated primary caregiver.
- (4) For inhalable cannabinoid products that contain a non-cannabis additive and are processed or manufactured on or after April 1, 2021, all labels must be pre-approved by the Commission in accordance with these rules.
 - (a) An inhalable cannabinoid product with a label approved by the Commission prior to April 1, 2021, that contains a non-cannabis additive and that does not meet the requirements of OAR 845-025-3265 or 845-025-7120 may not be possessed, sold, delivered, transferred, transported, purchased, or received on or after July 1, 2021.
 - (b) An inhalable cannabinoid product that contains a non-cannabis additive that is manufactured prior to April 1, 2021 may be possessed, sold, delivered, transferred, transported, purchased, or received prior to July 1, 2021.
- (5) A marijuana or hemp item that contains an artificially derived cannabinoid allowed by OAR 845-025-1310 and is sold or transferred on or after July 1, 2022, must have a label that has been pre-approved by the Commission in accordance with these rules.

STATUTORY/OTHER AUTHORITY: ORS 475B.605, 475B.615, 475B.236, 475B.610, 475B.620

STATUTES/OTHER IMPLEMENTED: ORS 475B.605

AMEND: 845-025-7500

RULE TITLE: Seed-To-Sale Tracking — CTS Requirements

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details CTS requirements.

RULE TEXT:

(1) A licensee must:

(a) Use CTS as the primary inventory and recording keeping system.

(b) Have a CTS account activated and functional within three business days of being licensed and must maintain an active account while licensed.

(2) A licensee must have at least one license holder who is a CTS administrator. A licensee may authorize additional license holders or licensee representatives to obtain Administrator accounts.

(3) In order to obtain a CTS administrator account, a license holder must attend and successfully complete all required CTS training, except as provided in section (4) of this rule. The Commission may also require additional ongoing, continuing education for individual administrators to retain his or her CTS administrator account.

(4) A licensee may designate licensee representatives as CTS users. A designated user must be trained by a CTS administrator in the proper and lawful use of CTS. Notwithstanding section (3) of this rule a licensee may designate a licensee representative to attend and successfully complete required CTS training so long as both the licensee and the designated representative obtain CTS administrator accounts.

(5) A licensee must:

(a) Maintain an accurate and complete list of all CTS administrators and CTS users for each licensed premises and must update the list when a new CTS user is trained.

(b) Train and authorize any new CTS users before those users are permitted to access CTS or input, modify, or delete any information in CTS.

(c) Cancel any CTS administrator or user from an associated CTS account if that individual is no longer a licensee representative or the administrator or user has violated OAR 845-025-7500 to 845-025-7590.

(d) Correct any data that is entered into CTS in error.

(6) A licensee is accountable for all actions licensee representatives take while logged into CTS or otherwise conducting inventory tracking activities.

(7) Nothing in this rule prohibits a licensee from using secondary separate software applications to collect information to be used by the business including secondary inventory tracking or point of sale systems. If a licensee uses a separate software application that links to the CTS system it must get approval from the CTS vendor contracting with the Commission and the software application must:

(a) Accurately transfer all relevant CTS data to and from CTS for the purposes of reconciliations with any secondary systems.

(b) Preserve original CTS data when transferred to and from a secondary application.

(8) If at any point a licensee loses access to CTS for any reason, the licensee must keep and maintain comprehensive records detailing all tracking inventory activities that were conducted during the loss of access.

(a) Once access is restored, all inventory tracking activities that occurred during the loss of access must be entered into CTS.

(b) A licensee must document when access to the system was lost and when it was restored.

(c) A licensee may not transport any marijuana items to another licensed premises until such time as access is restored and all information is recorded into CTS.

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

STATUTES/OTHER IMPLEMENTED: ORS 475B.150

AMEND: 845-025-7520

RULE TITLE: Unique Identification (UID) Tags

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details unique identification tags.

RULE TEXT:

- (1) A licensee, grow site administrator, person responsible for a marijuana processing site, person responsible for a dispensary, and hemp certificate holder must:
- (a) Use UID tags issued by a Commission-approved vendor that is authorized to provide UID tags for CTS. Each licensee is responsible for the cost of all UID tags and any associated vendor fees.
 - (b) Have an adequate supply of UID tags at all times, except during the first ten calendar days of licensure so long as UID tags have been ordered and are in transit to the premises.
 - (c) Assign and affix a UID tag to each individual marijuana plant being cultivated no later than when each plant reaches a height of 36 inches or when the individual plant is flowering, whichever is sooner.
 - (d) Assign and affix a UID tag to all other marijuana items, or receptacles containing marijuana items, in a manner that:
 - (A) Establishes an accurate record from one marijuana item to another; and
 - (B) Uses a new UID tag each time a marijuana item is added to or placed in a receptacle.
 - (e) Place tags in a position that can be clearly read by an individual standing next to the item and the tag must be kept free from dirt and debris.
- (2) The requirements of subsection (1)(d) of this rule do not apply to producers or grow site administrators in the first 45 days after the harvest of a marijuana plant if a UID tag has not yet been designated in CTS.
- (3) A licensee, research certificate holder, laboratory licensee, hemp certificate holder, grow site subject to CTS tracking, or medical marijuana processing site may not combine marijuana items or hemp items of different size, potency, or category under a single UID tag, except for:
- (a) Mixed lots of usable marijuana;
 - (b) Mixed lots of usable hemp;
 - (c) Pre-rolled marijuana of identical weight of usable marijuana; or
 - (d) Cannabinoid concentrates, extracts, or hemp items that are transferred to a processor or processing site to be processed.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.560, ORS 475B.105

STATUTES/OTHER IMPLEMENTED: ORS 475B.105

AMEND: 845-025-7540

RULE TITLE: Seed-To-Sale Tracking — CTS User Requirements

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details CTS user requirements.

RULE TEXT:

- (1) A licensee and any designated CTS administrator or user shall enter data into CTS that fully and transparently accounts for all inventory tracking activities.
- (2) A licensee is responsible for the accuracy of all information entered into CTS.
- (3) An individual entering data into the CTS system may only use that individual's CTS account. Each CTS administrator and CTS user must have a unique log-on and password, which may not be used by any other person.
- (4) A violation of this rule is a Category III violation. Intentional misrepresentation of data entered into the CTS system is a Category II violation.

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

STATUTES/OTHER IMPLEMENTED: ORS 475B.150

AMEND: 845-025-7570

RULE TITLE: Seed-To-Sale Tracking — Cultivation Batches

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details the tracking of cultivation batches.

RULE TEXT:

- (1) Immature marijuana plants under 36 inches in height at the premises of a producer, at a grow site subject to tracking in CTS, or at the premises of a research certificate holder must be recorded in CTS as part of a cultivation batch.
- (2) A producer, research certificate holder, or grow site administrator must assign each cultivation batch a unique user-generated batch name and record the batch name and number of immature marijuana plants in each cultivation batch in CTS.
- (3) Batch names must be physically affixed to the cultivation batch or the segregated area where the cultivation batch is physically located.
- (4) A cultivation batch may not have more than 100 immature marijuana plants less than 36 inches tall.
- (5) A producer, research certificate holder, or grow site administrator may have an unlimited number of cultivation batches at any one time.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

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

AMEND: 845-025-7580

RULE TITLE: Reconciliation with Inventory

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes inventory reconciliation.

RULE TEXT:

(1) All licensees, laboratory licensees, research certificate holders, grow site administrators, medical marijuana processing sites, and medical marijuana dispensaries must:

- (a) Use CTS for all inventory tracking activities, as defined by these rules.
- (b) By 8:00 AM local time of the next calendar day, reconcile all marijuana item inventories and weights in CTS;
- (c) Record all required information for usable marijuana, cannabinoid concentrates and extracts by weight;
- (d) Record the wet weight of each harvested marijuana plants immediately after harvest; and
- (e) Record all required information for cannabinoid products by unit count but must also record the weight per unit of a product.

(2) Notwithstanding subsection (1)(b) of this rule, during the first 45 days following the harvest of a marijuana plant, daily reconciliation of the weight of moisture lost to evaporation is not required for marijuana. The weight of moisture loss must be reconciled prior to any transfer, processing, sale, or packaging and no later than 45 days after the harvest, whichever comes first.

(3) The requirements in subsection (1)(b) and section (5) of this rule do not apply during the first ten calendar days of licensure or registration so long as the licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary has ordered UID tags and the UID tags are in transit to the receiving party.

(4) The requirements in subsection (1)(b) of this rule do not apply to marijuana items held by a laboratory licensee that are undergoing analytical testing required by these rules or OAR 333-007-0300 to 333-007-0490 so long as the marijuana items do not leave the laboratory's licensed premises and are reconciled on the same day that the analytical testing concludes.

(5) Notwithstanding subsection (1)(d) of this rule, the wet weight of each harvested marijuana plant may be entered as the mean average of the plants being harvested. The mean average shall be calculated as the sum total wet weight of the plants being entered into CTS as an individual group divided by the number of plants in that group.

(6) In addition to the requirements in section (1) of this rule, retailers and medical marijuana dispensaries must record each sale, delivery, or transfer of a marijuana item to a consumer as a sales transaction and record the price before tax and amount of each item sold and the date of each transaction in CTS for each individual transaction. A marijuana item transferred to a medical marijuana patient or caregiver for no cost must be recorded as a sales transaction with zero price.

(7) Information that was not required to be recorded and reconciled daily pursuant to section (3) of this rule must be recorded and reconciled within three calendar days of the licensee's, grow site administrator's, medical marijuana processing site's, or medical marijuana dispensary's receipt of UID tags.

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

STATUTES/OTHER IMPLEMENTED: ORS 475B.150

AMEND: 845-025-7700

RULE TITLE: Transportation and Delivery of Marijuana Items

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details the requirements for the transportation and delivery of marijuana items.

RULE TEXT:

(1) Marijuana items transferred by licensees.

(a) Marijuana items transferred between licensed premises may only be transported by:

(A) A licensee or licensee representative of the originating license or another license under common ownership;

(B) A licensee or licensee representative of the receiving license; or

(C) A wholesale licensee or wholesale licensee representative on behalf of the originating or receiving licensee.

(b) Marijuana items transferred by a licensee to a PRMG or to the residence of a registry identification cardholder or designated primary caregiver may only be transported by the originating licensee or a licensee representative of the originating licensee.

(c) Samples of marijuana items that are obtained by a laboratory licensee pursuant to OAR 333-007-0360 may only be transported by the laboratory licensee or a laboratory licensee representative of the receiving laboratory.

(2) Physical transport requirements for licensees.

(a) An individual authorized to transport marijuana items on behalf of a licensee or laboratory licensee must have a valid Driver License.

(b) A licensee or laboratory licensee must:

(A) Store marijuana items in the delivery vehicle within a locked, secured area, shielded from view from the exterior of the vehicle;

(B) When transporting perishable marijuana items, provide appropriate temperature control within the transport vehicle;

(C) Use a delivery vehicle that is equipped with an alarm system and is insured at or above the legal requirements in Oregon;

(D) Deliver marijuana items to all destinations and return any remaining marijuana items to the origin premises within 60 hours of original departure;

(E) Document all overnight stops in the planned route of the manifest and include the address, estimated arrival time at, and estimated departure time from the location of each overnight stop;

(F) Package all marijuana items for transport in shipping containers and assign and affix a UID tag to all receptacles containing marijuana items as required by these rules;

(G) Provide a copy of the manifest to each location receiving the inventory described on the manifest, but may prepare a separate CTS manifest for each receiving location in order to maintain transaction confidentiality;

(H) Contact the Commission immediately, or as soon as possible under the circumstances, if a vehicle transporting marijuana items is involved in any accident or other situation involving product loss;

(I) Travel directly from the originating location to the destination location as described in the manifest route;

(J) Notify the Commission in advance of every stop at an unlicensed location that exceeds two hours in duration and is not already listed in the manifest route; and

(K) Immediately make the vehicle and its contents available for inspection upon the Commission's request if the delivery vehicle is stopped at an unlicensed location.

(c) A licensee or laboratory licensee may not:

(A) Make any unnecessary stops in between the originating and destination locations except to other licensed premises receiving inventory as described on the manifest;

(B) Remove the marijuana items from the vehicle until they arrive at the destination recorded in the manifest. Licensees or laboratory licensees may not transfer marijuana items to, nor store marijuana items in a hotel or any other unlicensed premises;

- (C) Except as allowed in section (8) of this rule, void or change a manifest after departing the originating premises; or
- (D) Travel with any persons not listed on the manifest.

(3) CTS Manifest General Requirements.

(a) Prior to removing a marijuana item from the originating location for the purposes of transport or delivery, the originating licensee, laboratory licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must use CTS to generate a printed transport manifest containing the following information:

- (A) The originating location's license number and address as it appears in CTS;
- (B) The destination location's license number and address as it appears in CTS;
- (C) The UID, product name, and quantity (by weight or unit as applicable) of each marijuana item;
- (D) The actual date and estimated time of departure;
- (E) Location and duration of time for any overnight stop;
- (F) The arrival date and estimated time of arrival or completion of delivery;
- (G) The delivery vehicle make, model, and license plate number; and
- (H) The name, contact information, worker permit number and signature of the individual accompanying the transport.

(b) A physical, printed copy of the generated manifest must accompany every transport of marijuana items.

(c) An originating licensee transporting marijuana items to a retailer licensee must generate a manifest at least 24 hours in advance of initiating transport, if the marijuana items being transported exceed:

- (A) 25 pounds of usable marijuana;
- (B) One pound of cannabinoid concentrate or extract; or
- (C) 1,000 units of sale of any individual cannabinoid product.

(d) Notwithstanding subsection (3)(b) of this rule, a manifest is not required for a sales transaction or transfer of marijuana to a consumer, patient, or caregiver when the physical transfer of the marijuana occurs at the premises of a licensed retailer or at a medical marijuana dispensary.

(4) CTS Manifest Requirements for Transports to Consumers. When transporting marijuana items to a consumer as allowed by these rules, the manifest must include:

- (a) The information required on the manifest by subsection (3)(a) of this rule, except for a destination location license number;
- (b) The name of the individual receiving the marijuana item;
- (c) The address of the destination; and
- (d) All information for the manifest required under OAR 845-025-2880.

(5) CTS Manifest Requirements for Transfers to PRMGs, Registry Identification Cardholders, or Designated Primary Caregivers.

(a) Prior to transferring marijuana items to a PRMG, registry identification cardholder, or designated primary caregiver, a licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must use CTS to generate a printed transport manifest containing:

- (A) The information required on a manifest by subsection (3)(a) of this rule, except for a destination location license number;
- (B) The name of the individual receiving the marijuana item;
- (C) The address of the destination, if the delivery is not completed at the originating location;
- (D) If delivered to a registry identification cardholder, the registry identification card number;
- (E) If delivered to a designated primary caregiver on behalf of a patient, designated primary caregiver identification card; and
- (F) If delivered to a PRMG, the marijuana grower and grow site registration card number of the PRMG.

(b) A licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary transporting marijuana to individuals or locations not in CTS must record whether each marijuana item was accepted by the recipient or rejected and returned to the originating location inventory, and if accepted, record the transport as complete in CTS.

(6) CTS Requirements when Receiving from Locations in CTS. Upon receipt of a delivery of marijuana items, the

receiving licensee, laboratory licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must:

- (a) Record each applicable UID as accepted and received or rejected in CTS as applicable;
 - (b) Verify the marijuana items received are as described on the manifest and record receipt of the marijuana items in CTS if accepted; and
 - (c) Separately and for each UID, document any differences between the quantities specified on the manifest and the quantities received in CTS.
- (7) CTS Requirements when Receiving from Locations Not in CTS. When receiving marijuana items from a source not subject to CTS tracking but otherwise allowed by these rules or OAR Chapter 333 Division 8, a licensee, grow site administrator, medical marijuana processing site, or medical marijuana dispensary must:
- (a) Use CTS to record an incoming manifest including the registry identification card number, designated primary caregiver identification card number, or grow site registration card number, as applicable;
 - (b) Assign and affix a UID tag to each quantity of marijuana items received;
 - (c) Use CTS to record the incoming transport no later than the time of daily inventory reconciliation as required by these rules; and
 - (d) Verify the marijuana items received are as described on the manifest and record receipt of the marijuana items in CTS.
- (8) Licensee Transport of Marijuana to Intermediary Stops. A licensee may remove marijuana items from a manifest after departing from the originating premises if:
- (a) The route of the original manifest lists the trade name, license number, address, and estimated arrival time for each licensed premises that will be visited as an intermediary stop;
 - (b) All marijuana items in the vehicle are included on a CTS manifest at the time of departure from the originating premises;
 - (c) Marijuana items that are removed from the original manifest at an intermediary stop are immediately added to a new CTS manifest. The destination license on the new manifest must be listed on the original manifest route as an intermediary stop;
 - (d) Changes to the original manifest under subsection (8)(c) of this rule are only made while the marijuana items subject to the change are physically located within the licensed premises of the intermediary stop to which they are being transferred; and
 - (e) The amount of marijuana items being transported in the vehicle does not exceed:
 - (A) 25 pounds of usable marijuana;
 - (B) One pound of concentrate or extract; or
 - (C) 1,000 units of sale of any individual cannabinoid product.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.105

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.070, 475B.090, 475B.100, 475B.105

AMEND: 845-025-8520

RULE TITLE: Prohibited Conduct

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details prohibited conduct.

RULE TEXT:

(1) Sale to a Minor. A licensee or permittee may not sell, deliver, transfer or make available any marijuana item or hemp item to a person under 21 years of age unless the individual holds a valid OMMP patient or designated primary caregiver card.

(a) Violation of this section for an intentional sale to a minor by licensee or permittee or licensee representative is a Category II violation.

(b) Violation of this section for other than intentional sales is a Category II(b) violation.

(2) Identification. A licensee or licensee representative must require a person to produce identification as required by ORS 475B.216 before selling or providing a marijuana item or hemp item to that person. Violation of this section is a Category IV violation.

(3) Access to Premises.

(a) A licensee, laboratory licensee, or permittee may not:

(A) During regular business hours for the licensed premises, refuse to admit or fail to promptly admit a Commission regulatory specialist who identifies him or herself and who enters or wants to enter a licensed premises to conduct an inspection to ensure compliance with ORS 475B affecting the licensed privileges; or these rules;

(B) Outside of regular business hours or when the premises appear closed, refuse to admit or fail to promptly admit a Commission regulatory specialist who identifies him or herself and requests entry on the basis that there is a reason to believe a violation of ORS 475B affecting the licensed privileges; or these rules is occurring; or

(C) Once a regulatory specialist is on the licensed premises, ask the regulatory specialist to leave until the specialist has had an opportunity to conduct an inspection to ensure compliance with ORS 475B affecting the licensed privileges; or these rules.

(b) Violation of subsection (a) of this section is a Category II violation.

(c) A licensee or laboratory licensee must at all times retain control of, or the right of access to, all or any part of the licensed premises.

(A) Failure to retain such control or right of access is a Category II violation. If the licensee has marijuana items in physical inventory at the licensed premises or in CTS, failure to retain such control or right of access is a Category I violation and may be grounds for immediate suspension or cancellation of the license.

(B) Notwithstanding paragraph (A) of this subsection, a licensee is not in violation of this section if:

(i) Licensee has met the requirements in OAR 845-025-1160(6);

(ii) Licensee lost access to the premises through no fault of their own, is unable to find a new location within 30 days of losing access to the premises, and removes all marijuana items from the licensed premises in compliance with ORS Chapter 475B and these rules prior to losing access, or

(iii) Licensee promptly notifies the Commission of the failure to retain access to the premises and surrenders its license.

(4) Use or Consumption of Intoxicants on Duty and Under the Influence on Duty.

(a) No licensee, licensee representative, laboratory licensee, laboratory licensee representative, or permittee may consume any intoxicating substances while on duty, except for employees as permitted under OAR 845-025-1230(6)(b). Violation of this subsection is a Category III violation.

(b) No licensee, licensee representative, laboratory licensee, laboratory licensee representative, or permittee may be under the influence of intoxicating substances while on duty. Violation of this subsection is a Category II violation.

(c) Whether a person is paid or scheduled for a work shift is not determinative of whether the person is considered "on duty."

(d) As used in this section:

(A) "On duty" means:

- (i) From the beginning to the end of a work shift for the licensed business, including any and all coffee, rest or meal breaks; or
- (ii) Performing any acts on behalf of the licensee or the licensed business outside of a work shift if the individual has the authority to put himself or herself on duty.

(B) "Intoxicants" means any substance that is known to have or does have intoxicating effects, and includes alcohol, marijuana, or any other controlled substances.

(5) Permitting Use of Marijuana at Licensed Premises. A licensee, laboratory licensee, or permittee may not permit the use or consumption of marijuana, hemp items, or any other intoxicating substance, anywhere in or on the licensed premises, or in surrounding areas under the control of the licensee, except for employees as permitted under OAR 845-025-1230(6)(b). Violation of this section is a Category III violation.

(6) Import and Export. A licensee, laboratory licensee, or permittee may not import marijuana items into this state or export marijuana items out of this state. Violation of this section is a Category I violation and could result in license or permit revocation.

(7) Permitting, Disorderly or Unlawful Conduct. A licensee, laboratory licensee, or permittee may not permit disorderly activity or activity that is unlawful under Oregon state law on the licensed premises or in areas adjacent to or outside the licensed premises under the control of the licensee.

(a) If the prohibited activity under this section results in death or serious physical injury, or involves unlawful use or attempted use of a deadly weapon against another person, or results in a sexual offense which is a Class A felony such as first degree rape, sodomy, or unlawful sexual penetration, the violation is a Category I violation and could result in license or permit revocation.

(b) If the prohibited activity under this section involves use of a dangerous weapon against another person with intent to cause death or serious physical injury, it is a Category II violation.

(c) As used in this section:

(A) "Disorderly activities" means activities that harass, threaten or physically harm oneself or another person.

(B) "Unlawful activity" means activities that violate the laws of this state, including but not limited to any activity that violates a state criminal statute.

(d) The Commission does not require a conviction to establish a violation of this section except as required in ORS 475B.045.

(8) Marijuana as a Prize, Premium or Consideration. No licensee or permittee may give or permit the giving of any marijuana item as a prize, premium, or consideration for any lottery, contest, game of chance or skill, exhibition, or any competition of any kind on the licensed premises. Violation of this section is a Category V violation.

(9) Visibly Intoxicated Persons. No licensee or permittee may sell, give, or otherwise make available any marijuana item to any person who is visibly intoxicated. Violation of this section is a Category III violation.

(10) Prohibited inhalable cannabinoid products.

(a) For purposes of this rule, a "prohibited inhalable cannabinoid product" is an inhalable cannabinoid product that does not meet the requirements of OAR 845-025-3265.

(b) No licensee or permittee may:

(A) Process or manufacture a prohibited inhalable cannabinoid product on or after April 1, 2021;

(B) Possess, sell, deliver, transfer, transport, purchase, or receive the prohibited inhalable cannabinoid product on or after July 1, 2021, if the prohibited inhalable cannabinoid product was processed or manufactured prior to April 1, 2021; or

(C) Possess, sell, deliver, transfer, transport, purchase, or receive a prohibited inhalable cannabinoid product that was processed or manufactured on or after April 1, 2021.

(c) Violation of this section is a Category III violation. An intentional violation of this section is a Category II violation.

(11) Additional Prohibitions. A licensee or permittee may not:

(a) Sell or deliver any marijuana item or hemp item through a drive-up or walk-up window.

(b) Use any device or machine that both verifies the age of the consumer and delivers marijuana or hemp items to the consumer.

(c) Deliver marijuana or hemp items to a consumer off the licensed premises, except that retail licensees may provide delivery as set forth in OAR 845-025-2880.

(d) Violation of subsection (a), (b), or (c) of this section is a Category III violation.

(e) Permit industrial hemp or a hemp item to be present on the licensed premises, except as allowed by these rules.

Violation of this subsection is a Category III violation. An intentional violation is a Category II violation.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, ORS 475B.070, 475B.090, 475B.100, 475B.232, 475B.236

STATUTES/OTHER IMPLEMENTED: ORS 475B.070, 475B.090, 475B.100, 475B.105, 475B.227, 475B.329, 475B.333, 475B.119

ADOPT: 845-025-8550

RULE TITLE: History of Lack of Institutional Control

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes a history of lack of institutional control.

RULE TEXT:

(1) The Commission may cancel, suspend, restrict or require mandatory training for any license issued under 475B.010 to 475B.545, or impose a civil penalty in lieu of or in addition to a suspension, if the commission finds or has reasonable grounds to believe there is a history of a lack of institutional control involving the operation or premises for which a license has been issued, or the employees, agents or representatives of the licensee, or the CTS account of the licensee.

(2) A history of lack of institutional control:

(a) Means violations of Commission statutes or rules have been observed at the premises and the licensee failed to show adequate compliance measures, education of employees, agents, or licensee representatives on those compliance measures, and prompt action upon learning of deficiencies in compliance measures; and

(b) Is based on the nature, number and circumstances of the incidents, and can include incidents at the licensed premises that were not themselves the subject of violation charges.

(3) Behavior that is grounds for a sanction includes but is not limited to noncompliance with requirements relating to license privileges, security, tracking, testing, transportation, packaging and labeling, as well as prohibited and dishonest conduct.

(4) The Commission gives significant weight to serious incidents, such as those involving a danger to public health and safety, unlawful or dishonest conduct, or conduct indicating that licensee may be engaging in diversion of marijuana.

(5) Violation of this rule is a Category I violation. A licensee may mitigate the history by showing that the problems are not serious or persistent, or by demonstrating its willingness and ability to control the problems that gave rise to the history of lack of institutional control.

(6) Enforceable Compliance Plans.

(a) If the Commission elects to issue a written Notice of Warning in lieu of a violation to a licensee for a history of a lack of institutional control, the Commission may require the licensee to submit a written compliance plan setting out the specific actions that the licensee will take to address the problems.

(b) A draft compliance plan required under this rule must be submitted to the Commission within 30 days of the licensee receiving notice of the requirement. The Commission will provide written feedback regarding the licensee's draft plan within 20 days of receipt. A final acceptable compliance plan must be submitted no later than 60 days from the date the licensee received initial notice of the requirement, or 10 days from the date the licensee received written feedback on their draft plan, whichever is later. The Commission will give written approval of a compliance plan as acceptable if it determines that implementation of the plan is reasonably likely to reduce or prevent the identified compliance problems. Under no circumstances will the time period between initial Commission notice of the requirement and Commission approval of a final acceptable compliance plan exceed 90 days.

(c) Once a compliance plan is approved, the licensee must follow the plan. The licensee may request Commission approval to discontinue a compliance plan no sooner than one year from the approval date. The licensee may request Commission approval to modify a compliance plan no sooner than six months from the approval date. The Commission will grant the request if it finds there is no longer a significant risk at the premises of future compliance problems pertaining to the elements of the plan contained in the licensee's request.

(d) Approval of a compliance plan under this rule does not prevent the Commission from taking any other compliance action.

(e) Failure to submit an acceptable compliance plan as required or to follow an approved compliance plan is a Category III violation.

(f) The licensee must keep the compliance plan on the licensed premises and make the compliance plan available at any time for immediate inspection by any Commission employee or any peace officer. Failure to comply with this

requirement is a Category IV violation.

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

STATUTES/OTHER IMPLEMENTED: 475B.256

AMEND: 845-025-8590

RULE TITLE: Suspension, Cancellation, Civil Penalties, Sanction Schedule

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details the suspension, cancellation, civil penalties, and sanction schedule.

RULE TEXT:

(1) The Commission may suspend or cancel:

(a) A license issued under ORS 475B.010 to 475B.545 or 475B.560.

(b) A marijuana worker permit issued under ORS 475B.261.

(c) A research certificate issued under ORS 475B.286.

(d) An industrial hemp certificate issued under OAR 845-025-2700 or 845-025-2705.

(e) A laboratory license issued under ORS 475B.560.

(2) The Commission may cancel a license under ORS 475B.256(1)(a) only when the conduct poses a significant risk to public health and safety. A significant risk to public health and safety includes, but is not limited to:

(a) Exercising licensed privileges while the license is suspended, or in violation of restrictions imposed on the license;

(b) Allowing minors at a processor license;

(c) Prohibited conduct involving a deadly or dangerous weapon or conduct that results in death or serious injury;

(d) Prohibited use of pesticides, fertilizers and agricultural chemicals;

(e) Diversion of marijuana, inversion of marijuana, or other conduct described in ORS 475B.186;

(f) Transferring or providing adulterated marijuana or hemp items to a licensee or consumer;

(g) Prohibited conduct by laboratory licensees as described in OAR 845-025-5075;

(h) Failure to meet testing requirements as described in OAR 845-025-5700, 333-007-300 to 333-007-0500 and 333, division 64;

(i) Intentionally destroying, damaging, altering, removing or concealing potential evidence, or attempting to do so, or asking or encouraging another person to do so.

(3) Civil Penalties.

(a) The Commission may impose a civil penalty under ORS 475B.416. Civil penalties will be calculated by multiplying:

(A) The number of days in a suspension, if suspension could be or is being imposed, by \$165 for licensees or certificate holders for Category II(b) violations;

(B) The number of days in a suspension, if suspension could be or is being imposed, by \$250 for licensees or certificate holders for all other violation categories; or

(C) The number of days in a suspension, if suspension could be or is being imposed, by \$25 for permittees.

(b) The Commission may impose for each violation of a provision of ORS 475B.600 to 475B.655 or OAR 845-025-7000 to 845-025-7190, a civil penalty of no more than \$500 for each day the violation occurs.

(4) The Commission uses the following violation categories for licensees licensed under ORS 475B.010 to 475B.545:

(a) Category I — Violations that make licensee ineligible for a license or pose a significant risk to public health and safety;

(b) Category II — Violations that create a present threat or substantial likelihood of a present threat to public health or safety;

(c) Category II (b) — Violations for sales to a minor;

(d) Category III — Violations that create a potential threat to public health or safety;

(e) Category IV — Violations that create a climate conducive to abuses associated with the sale or manufacture of marijuana items;

(f) Category V — Violations inconsistent with the orderly regulation of the sale or manufacture of marijuana items.

(5) Violation sanctions.

(a) The Commission may sanction a licensee, permittee, Commission-certified hemp grower, or Commission-certified hemp handler in accordance with the guidelines set forth in Exhibit 1, incorporated by reference. Exhibit 1 also contains

the categories for the most common violations.

(b) Exhibit 1 lists the proposed sanctions for single or multiple violations that occur within a two year period for each category described in section (3) of this rule. The Commission may allege multiple violations in a single notice or may count violations alleged in notices issued within the previous two year period toward the total number of violations. In calculating the total number of violations, the Commission may consider a proposed violation for which the Commission has not yet issued a final order.

(c) The proposed sanctions in Exhibit 1 are guidelines. If the Commission finds one or more mitigating or aggravating circumstances, it may assess a lesser or greater sanction, up to and including revocation. Mitigating circumstances may decrease the penalty but will not dismiss the violation. The Commission may decrease or increase a sanction to prevent inequity or to take account of particular circumstances in the case.

(d) Mitigating circumstances include, but are not limited to:

(A) Making a good faith effort to prevent a violation. Examples of a good faith effort to prevent a violation may include employee training programs, management oversight, and the existence and enforcement of relevant policies.

(B) Extraordinary cooperation in the violation investigation demonstrating the licensee, permittee, certificate holder, Commission-certified hemp grower, or Commission-certified hemp handler accepts responsibility.

(C) Self-reporting of a violation by a licensee or applicant. This mitigating circumstance does not apply where licensee has a pre-existing duty to report to the Commission.

(D) The licensee or applicant has demonstrated to the satisfaction of the Commission that the conduct that led to the violation is not persistent or serious.

(E) The licensee or applicant has demonstrated to the satisfaction of the Commission a willingness and ability to control the licensed premises and inventory.

(e) Aggravating circumstances include, but are not limited to:

(A) Receiving a prior warning about one or more compliance problems.

(B) Repeated failure to comply with laws.

(C) Failure to use age verification equipment purchased as an offset to a previous penalty.

(D) Efforts to conceal a violation.

(E) Intentionally committing a violation.

(F) A violation involving more than one consumer or employee.

(G) A violation involving a juvenile.

(H) A violation resulting in injury or death.

(I) A violation that occurred at a licensed premises that has been granted a security waiver.

(6) A licensee, certificate holder, Commission-certified hemp grower, or Commission-certified hemp handler may not avoid the sanction for a violation or the application of the provision for successive violations by changing the corporate structure for example, by adding or dropping a partner or converting to another form of legal entity when the individuals who own, operate, or control the business are substantially similar.

STATUTORY/OTHER AUTHORITY: ORS 475B.025

STATUTES/OTHER IMPLEMENTED: ORS 475B.256, 475B.416, 475B.560, 475B.635, 475B.119

OAR 845-025-8590
Exhibit 1

| Category | 1 Violation in a 2-year period | 2 Violations in a 2-year period | 3 Violations in a 2-year period | 4 Violations in a 2-year period | 5 Violations in a 2-year period | 6 Violations in a 2-year period |
|-------------------------|--------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|
| I | Revoke | | | | | |
| II | 30 days | 40 days | Revoke | | | |
| II (Producer) | \$7,500 | \$10,000 | Revoke | | | |
| II(b) | 30 days or \$4,950 | 30 days | Revoke | | | |
| III | 10 days or \$2,500 | 30 days or \$7,500 | 30 days | Revoke | | |
| IV | 7 days or \$1,750 | 10 days or \$2,500 | 20 days or \$5,000 | 30 days | Revoke | |
| V | 3 days or \$750 | 7 days or \$1,750 | 10 days or \$2,500 | 20 days or \$5,000 | 30 days | Revoke |

ADOPT: 845-026-0100

RULE TITLE: Definitions

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule sets the definitions for Division 26 rules.

RULE TEXT:

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

(1) "Adult use cannabinoid" includes, but is not limited to, tetrahydrocannabinols, tetrahydrocannabinolic acids that are artificially or naturally derived, delta-8-tetrahydrocannabinol, delta-9-tetrahydrocannabinol, the optical isomers of delta-8-tetrahydrocannabinol or delta-9-tetrahydrocannabinol and any artificially derived cannabinoid that is reasonably determined to have an intoxicating effect.

(2) "Adult use cannabis item"

(a) Means:

(A) A marijuana item;

(B) An industrial hemp commodity or product that meets the criteria in OAR 845-026-0300; or

(C) An industrial hemp commodity or product that exceeds the greater of:

(i) A concentration of more than 0.3 percent total delta-9-tetrahydrocannabinol; or

(ii) The concentration of total delta-9-tetrahydrocannabinol allowed under federal law.

(b) Does not mean:

(A) Industrial hemp processed through retting or other processing such that it is suitable fiber for textiles, rope, paper, hempcrete, or other building or fiber materials;

(B) Industrial hemp seed processed such that it is incapable of germination and processed such that is suitable for human consumption; or

(C) Other products derived only from hemp fiber or hemp seeds incapable of germination that may include other non-cannabis ingredients.

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

(b) "Artificially derived cannabinoid" does not include:

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

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

(C) Any other chemical substance identified by the commission, in consultation with the Oregon Health Authority and the State Department of Agriculture, by rule.

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

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

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

(7) "Cannabinoid concentrate" has the meaning given that term in OAR 845-025-1015.

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

(9) "Cannabinoid extract" has the meaning given that term in OAR 845-025-1015.

(10) "Cannabinoid hemp product"

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

- (b) Usable hemp, industrial hemp extracts and industrial hemp concentrates that have been combined with non-cannabis additives.
- (c) Cannabinoid hemp product does not include usable hemp by itself, hemp stalk by itself, an industrial hemp concentrate or extract by itself, hemp seed incapable of germination by itself, or other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients.
- (11) "Cannabinoid product" has the meaning given that term in OAR 845-025-1015.
- (12) "Cannabinoid suppository" means a small soluble container designed to melt at body temperature within a body cavity other than the mouth, especially the rectum or vagina containing a cannabinoid product, concentrate or extract.
- (13) "Cannabinoid tincture" has the meaning given that term in OAR 845-025-1015.
- (14) "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.
- (15) "Cannabinoid transdermal patch" means an adhesive substance applied to human skin that contains a cannabinoid product, concentrate or extract for absorption into the bloodstream.
- (16) "Cannabis plant" means a plant of the genus Cannabis within the plant family Cannabaceae.
- (17) "Commission" means the Oregon Liquor and Cannabis Commission.
- (18) "Consumption or use" means to eat, drink, ingest, inhale, apply topically to the skin or hair, or otherwise consume an item.
- (19) "Delta-8-tetrahydrocannabinol" or "delta-8-THC" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 5957-75-5.
- (20) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromen-1-ol, Chemical Abstracts Service Number 1972-08-3.
- (21) "Delta-9-tetrahydrocannabinolic acid" or "delta-9-THCA" means (6aR,10aR)-1-hydroxy-6,6,9-trimethyl-3-pentyl-6a,7,8,10a-tetrahydro-6H-benzo[c]chromene-2-carboxylic acid, Chemical Abstracts Service Number 23978-85-0.
- (22) "Flowering" means a cannabis plant that has formed a mass of pistils measuring greater than two centimeters wide at its widest point.
- (23) "Hemp" has the same meaning as "industrial hemp."
- (24) "Hemp edible"
- (a) Means a food or potable liquid into which industrial hemp, an industrial hemp concentrate, an industrial hemp extract, or the dried leaves or flowers of hemp have been incorporated.
- (b) Does not mean hemp seed incapable of germination by itself or other products derived only from hemp seeds incapable of germination that may include other non-hemp ingredients.
- (25) "Hemp tincture" means a liquid cannabinoid hemp product packaged in a container of four fluid ounces or less that consists of either:
- (a) A non-potable solution of at least 25 percent non-denatured alcohol, in addition to an industrial hemp concentrate, industrial hemp extract, or usable hemp and perhaps other ingredients intended for human consumption or ingestion that is exempt from the Liquor Control Act under ORS 471.035; or
- (b) A non-potable solution comprised of glycerin or plant-based oil; industrial hemp concentrate, industrial hemp extract, or usable hemp, and perhaps other ingredients, that does not contain any added sweeteners and is intended for human consumption or ingestion.
- (26) "Hemp topical" means a cannabinoid hemp product intended to be applied to skin or hair.
- (27) "Hemp transdermal patch" means an adhesive substance applied to human skin that contains a cannabinoid hemp product, industrial hemp concentrate, or industrial hemp extract for absorption into the bloodstream.
- (28) "Hemp vapor item manufacturer" means a person responsible for the labeling or manufacturing of an industrial hemp-derived vapor item sold in Oregon and includes:
- (a) A hemp handler licensed with the Oregon Department of Agriculture under ORS 571.281 to process industrial hemp into commodities, products or agricultural hemp seed.
- (b) Any other person responsible for the labeling of an industrial hemp-derived vapor item sold in Oregon.
- (29) "Immature cannabis plant" means a cannabis plant that is not flowering.

- (30) "Industrial hemp" has the meaning given that term in ORS 571.269.
- (31) "Industrial hemp commodity or product" has the meaning given that term in OAR 603-048-0010.
- (32) "Industrial hemp concentrate" has the meaning given that term in ORS 571.269.
- (33) "Industrial hemp extract" has the meaning given that term in ORS 571.269.
- (34) "Industrial hemp-derived vapor item" means an industrial hemp concentrate or industrial hemp extract, as those terms are defined in ORS 571.269, whether alone or combined with non-cannabis additives, that is intended for use in an inhalant delivery system.
- (35) "Inhalant delivery system" has the meaning given that term in ORS 431A.175.
- (36) "Intended for human consumption" means intended for a human to eat, drink, or otherwise put in the mouth but does not mean intended for human inhalation or human use.
- (37) "Intended for human use" means intended to be used by applying it to a person's skin or hair, inhalation or otherwise consuming the product except through the mouth.
- (38) "Laboratory" means a laboratory certified by the Authority under ORS 438.605 to 438.620 and authorized to sample or test marijuana items for purposes specified in these rules.
- (39) "Limit of quantification" or "LOQ" means the minimum levels, concentrations, or quantities of a target variable, for example, an analyte that can be reported by a laboratory with a specified degree of confidence.
- (40) "Marijuana item" has the meaning given that term in OAR 845-025-1015.
- (41) "Mature cannabis plant" means a cannabis plant that is not an immature cannabis plant.
- (42) "Non-cannabis additive" means a substance or group of substances that are derived from a source other than industrial hemp.
- (a) "Non-cannabis additive" includes but is not limited to purified compounds, essential oils, oleoresins, essences or extractives, protein hydrolysates, distillates, or isolates.
- (b) "Non-cannabis additive" does not include plant material that is in the whole, broken, or ground form.
- (43) "Person" has the meaning given that term in ORS 174.100.
- (44) "Presumptive test" means testing under 845-026-4100.
- (45) "Scored" means to permanently physically demark a cannabinoid edible in a way that enables a reasonable person to:
- (a) Intuitively determine how much of the product constitutes a single serving; and
- (b) Easily physically separate the edible into single servings either by hand or with a common utensil, such as a knife.
- (46) "Total delta-9-tetrahydrocannabinol" or "total delta-9-THC" means the sum of the concentration or mass of delta-9-THCA multiplied by 0.877 plus the concentration or mass of delta-9-THC.
- (47) "Usable hemp"
- (a) Means the flowers and leaves of industrial hemp intended for human consumption or use that does not fall within the meaning of industrial hemp concentrate, industrial hemp extract, hemp edible, or cannabinoid hemp product.
- (b) Includes, for purposes of these rules, pre-rolled hemp as long as the pre-roll consists of only dried hemp leaves and flowers, an unflavored rolling paper, and a filter or tip.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.015

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

ADOPT: 845-026-0200

RULE TITLE: Marijuana Concentration and Serving Size Limits: Definitions, Purpose, and Scope

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule sets the definitions, purpose, and scope for marijuana concentration and serving size limits.

RULE TEXT:

(1) OAR 845-026-0200 through 845-026-0220 apply to:

(a) A licensee as that term is defined in OAR 845-025-1015; and

(b) A person registered with the Oregon Health Authority under ORS 475B.785 to 475B.949 who is not exempt under ORS 475B.630.

(2) A cannabinoid product or cannabinoid concentrate or extract meets the concentration limits permitted under OAR 845-026-0210 through 845-026-0220 if:

(a) The total delta-9-THC as calculated in accordance with OAR 333-064-0100(4) does not exceed the maximum amount of THC permitted by more than 10 percent; and

(b) The testing in accordance with ORS 475B.555 was performed using a method with a LOQ sufficient to demonstrate that the total delta-9-THC does not exceed the maximum amount of THC permitted by more than 10 percent.

(3) For purposes of OAR 845-026-0200 through 845-026-0220:

(a) The definitions in OAR 845-026-0100 apply unless otherwise specified.

(b) "Medical marijuana item" is a marijuana item for sale or transfer to a patient or designated primary caregiver and includes medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(c) "Retail adult use marijuana item" is a marijuana item for sale to a consumer.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, ORS 475B.625

STATUTES/OTHER IMPLEMENTED: ORS 475B.625

ADOPT: 845-026-0210

RULE TITLE: Retail Marijuana Item Concentration and Serving Size Limits

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule sets retail marijuana item concentration and serving size limits.

RULE TEXT:

- (1) The maximum concentration or amount of total delta-9-THC permitted in a container and the maximum concentration or amount of total delta-9-THC permitted in a serving of a retail adult use marijuana item is listed in Table 1, incorporated by reference.
- (2) A retail adult use marijuana item may not contain any artificially derived cannabinoids except as allowed by OAR 845-025-1310.
- (3) Cannabinoid edible serving size identification:
 - (a) A retail adult use marijuana item that is a cannabinoid edible must be scored, except as provided in subsections (b) and (c) of this section.
 - (b) If a retail adult use marijuana item is a cannabinoid edible that is not solid, or is incapable of being scored due to its texture or consistency, the cannabinoid edible must be:
 - (A) Sold and packaged with a measuring device that measures single servings; or
 - (B) Placed in packaging that clearly enables a consumer to determine when a single serving has been consumed.
 - (c) If a retail adult use marijuana item is a cannabinoid edible that does not exceed 55 milligrams of total delta-9 THC in the package, the cannabinoid edible must be:
 - (A) Scored;
 - (B) Sold and packaged with a measuring device that measures single servings; or
 - (C) Placed in packaging that clearly enables a consumer to determine when a single serving has been consumed.
- (4) Serving size is determined by the processor and must comply with applicable serving size limits.
- (5) A retail adult use marijuana item that does not fall within a category in Table 1 must meet the concentration and serving size limits applicable to a cannabinoid edible in Table 1.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, ORS 475B.625

STATUTES/OTHER IMPLEMENTED: ORS 475B.625

OAR 845-026-0210**Table 1**

| RETAIL ADULT USE CANNABIS CONCENTRATION AND SERVING SIZE LIMITS | | |
|---|---|--|
| Type of Marijuana Item | Maximum Amount of Total Delta-9-THC Per Serving | Maximum Concentration or Amount of Total Delta-9-THC in a Container |
| Cannabinoid Product – Edibles | Before April 1, 2022: 5 mg On or after April 1, 2022: 10 mg | Before April 1, 2022: 50 mg On or after April 1, 2022: 100 mg |
| Cannabinoid Product – Topicals | N/A | 6% |
| Cannabinoid Product – Transdermal Patches | 10 mg | 100 mg |
| Cannabinoid Product – Tinctures | N/A | 1,000 mg |
| Cannabinoid Product – Capsules | 10 mg | 100 mg |
| Cannabinoid Concentrates or Extracts | N/A | 2,000 mg |
| Cannabinoid Products Other than Cannabinoid Edibles, Topicals, Tinctures, Capsules, or Transdermal Patches and Not Intended for Human Consumption | N/A | 1,000 mg |
| Cannabinoid Products Other than Cannabinoid Edibles, Topicals, Tinctures, Capsules, or Transdermal Patches and Intended for Human Consumption; or Cannabinoid Suppositories | Before April 1, 2022: 5 mg On or after April 1, 2022: 10 mg | Before April 1, 2022: 5 mg On or after April 1, 2022: 10 mg |

ADOPT: 845-026-0220

RULE TITLE: Medical Marijuana Item Concentration Limits

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule sets medical marijuana item concentration limits.

RULE TEXT:

- (1) The maximum concentration or amount of THC permitted in a container and the maximum concentration or amount of THC permitted in a serving of a medical marijuana item is listed in Table 2, incorporated by reference.
- (2) A medical marijuana item may not contain any artificially derived cannabinoids except as allowed by OAR 845-025-1310.
- (3) A cannabinoid edible must be scored. If the cannabinoid edible is not capable of being scored, the cannabinoid edible must be:
 - (a) Sold and packaged with a measuring device that measures single servings; or
 - (b) Placed in packaging that clearly enables a patient to determine when a single serving has been consumed, as that serving size is determined by the processor.
- (4) Serving size is determined by the processor and must comply with applicable serving size limits.
- (5) A medical marijuana item that does not fall within a category in Table 2 must meet the concentration and serving size limits applicable to a cannabinoid edible in Table 2.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, ORS 475B.625

STATUTES/OTHER IMPLEMENTED: ORS 475B.625

OAR 845-026-0220**Table 2**

| MEDICAL CANNABIS CONCENTRATION AND SERVING SIZE LIMITS | | |
|--|---|---|
| Type of Marijuana Item | Maximum Amount of Total Delta-9-THC Per Serving | Maximum Concentration or Amount of Total Delta-9-THC in a Container |
| Cannabinoid Product – Edibles | N/A | 100 mg |
| Cannabinoid Product – Topicals | N/A | 6% |
| Cannabinoid Product – Transdermal Patches | 100 mg | 4,000 mg |
| Cannabinoid Product – Tinctures | N/A | 4,000 mg |
| Cannabinoid Product – Capsules | 100 mg | 4,000 mg |
| Cannabinoid Product – Cannabinoid Suppositories | 100 mg | 4,000 mg |
| Cannabinoid Concentrates or Extracts | N/A | 4,000 mg |
| Cannabinoid Product Other than Cannabinoid Edibles, Topicals, Tinctures, Capsules, Suppositories or Transdermal Patches and Intended for Human Consumption | N/A | 100 mg |
| Cannabinoid Product Other than Cannabinoid Edibles, Topicals, Tinctures, Capsules, Suppositories or Transdermal Patches and Not Intended for Human Consumption | N/A | 4,000 mg |

ADOPT: 845-026-0300

RULE TITLE: Adult Use Cannabis Item

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes adult use cannabis items.

RULE TEXT:

(1) An industrial hemp commodity or product is an adult use cannabis item if it is a hemp item as defined in OAR 603-048-2310 and:

(a) Contains 0.5 milligrams or more of:

(A) Total delta-9-THC;

(B) Any other tetrahydrocannabinol or tetrahydrocannabinolic acid, including delta-8-tetrahydrocannabinol; or

(C) Any other cannabinoids advertised by the manufacturer or seller as having an intoxicating effect;

(b) Contains any quantity of artificially derived cannabinoids; or

(c) The testing done in accordance with ORS 571.330 or 571.339 was performed using a method with a LOQ that is not sufficient to demonstrate that the total delta-9-THC does not exceed 0.5 milligrams.

(2) An adult use cannabis item cannot be sold or delivered to a person under 21 years of age, except by a marijuana retailer that holds a license issued under ORS 475B.105 and that is registered under ORS 475B.146 to sell or deliver marijuana items to a registry identification cardholder who is 18 years of age or older or as allowed under ORS 475B.785 to 475B.949.

(3) Civil Penalties. The Commission may impose a civil penalty of no more than \$10,000 for each violation of section (2) of this rule.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 475B.015, ORS 475B.416

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 475B.015, 475B.211

ADOPT: 845-026-0400

RULE TITLE: Hemp Item Concentration and Serving Size Limits: Definitions, Purpose, Scope and Effective Date

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule sets the scope, definitions, purpose, and effective date for hemp item concentration and serving size limits.

RULE TEXT:

(1) Applicability.

(a) Except as provided in subsection (b) of this section, this rule applies to industrial hemp products that:

(A) Contain cannabinoids and are intended for consumption or use; and

(B) Are offered for sale or transfer to a consumer in Oregon or imported into Oregon for delivery to a consumer on or after July 1, 2022.

(b) This rule does not apply to a hemp item, as that term is defined in OAR 845-025-1015, that is subject to the concentration and serving size limits in OAR 845-025-2760.

(2) An industrial hemp product meets the concentration limits permitted under this rule if:

(a) The total delta-9-THC as calculated in accordance with OAR 333-064-0100(4) does not exceed the maximum amount of THC permitted by more than 10 percent;

(b) The total delta-9-THC as calculated in accordance with OAR 333-064-0100(4) does not exceed the maximum concentration of THC permitted by more than 10 percent; and

(c) The testing done in accordance with ORS 571.330 or 571.339 was performed using a method with a LOQ sufficient to demonstrate that the total delta-9-THC does not exceed the maximum amount of THC permitted in a container by more than 10 percent.

(3) The maximum concentration and amount of total delta-9-THC permitted in a container and the maximum concentration or amount of total delta-9-THC permitted in a serving is listed in Table 3, incorporated by reference.

(4) An industrial hemp product may not contain any artificially derived cannabinoids.

(5) Serving size is as determined by the processor and must comply with applicable serving size limits.

(6) An industrial hemp product that does not fall within a category in Table 3 must meet the concentration and serving size limits applicable to a cannabinoid edible in Table 3.

(7) Civil Penalties. The Commission may impose a civil penalty of no more than \$10,000 for each violation of ORS 475B.254 by a person other than a marijuana retailer that holds a license issued under ORS 475B.105 selling an industrial hemp product to a consumer that exceeds the concentration and serving size limits in this rule.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, ORS 475B.254, 475B.416, 2021 OL Ch. 542, Sec. 17

STATUTES/OTHER IMPLEMENTED: ORS 475B.254, 2021 OL Ch. 542, Sec. 17, ORS 475B.625

OAR 845-026-0400**Table 3**

| INDUSTRIAL HEMP PRODUCT THC CONCENTRATION AND SERVING SIZE LIMITS | | | |
|--|---|---|--|
| Type of Industrial Hemp Product | Maximum Amount of Total Delta-9-THC Per Serving | Maximum Amount of Total Delta-9-THC per Container | Maximum Concentration of Total Delta-9-THC |
| Hemp Edibles | 2 mg | 20 mg | 0.3% |
| Hemp Topicals | N/A | N/A | 0.3% |
| Hemp Transdermal Patches | 2 mg | 20 mg | 0.3% |
| Hemp Tinctures | N/A | 100 mg | 0.3% |
| Usable Hemp | N/A | N/A | 0.3% |
| Industrial Hemp Concentrates or Extracts | N/A | N/A | 0.3% |
| Cannabinoid Hemp Products Other than Hemp Edibles, Topicals, Tinctures, or Transdermal Patches | 2 mg | 20 mg | 0.3% |

ADOPT: 845-026-4100

RULE TITLE: Presumptive Testing

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes presumptive testing.

RULE TEXT:

(1) For the purpose of this rule:

(a) "Crop" has the meaning given that term in OAR 603-048-0010.

(b) "Composite Sample" means cuttings from at least five cannabis plants removing the top five to eight inches and compositing in one receptacle for purposes of testing.

(c) "Grow site" has the meaning given that term in OAR 603-048-0010.

(d) "Production area" has the meaning given that term in OAR 603-048-0010.

(2) In accordance with Section 41a, 2021 Oregon Laws Chapter 542, the Commission must establish a methodology to distinguish whether a cannabis plant is marijuana or industrial hemp for purposes of Sections 40 to 44 of 2021 Oregon Laws Chapter 542.

(3) Cannabis plants may be distinguished between hemp and marijuana for purposes of Sections 40 to 44 of 2021 Oregon Laws Chapter 542 by three methods:

(a) Testing pursuant to OAR 603-048-0600 to 603-048-0625.

(b) Testing by the State Department of Agriculture pursuant to ORS 571.281(7).

(c) Presumptive testing in accordance with this rule.

(4) In addition to any sampling conducted under OAR 603-048-0600, a representative of the State Department of Agriculture or the Oregon Liquor and Cannabis Commission may sample from an industrial hemp grow site licensed under ORS 571.281 for the purposes of conducting a presumptive test.

(5) To conduct sampling for a presumptive test:

(a) A minimum of three composite samples from mature cannabis plants or a minimum of three composite samples from immature cannabis plants must be collected. Each composite sample must be taken from a different production area, or if the grow site has less than three production areas, each composite sample must be taken from three different areas of the grow site;

(b) Grow sites with multiple production areas must have a composite sample collected from at least one out of every 10 separate production areas; and

(c) Sampling is not required to be representative of the crop, grow site, or production area.

(6) All cannabis plants at a grow site are presumptively marijuana for purposes of Sections 40 to 44 of 2021 Oregon Laws Chapter 542 if sampling at the grow site meets any of the following criteria:

(a) At least 50 percent of composite samples taken from mature cannabis plants test at or above five percent total delta-9-THC;

(b) The average total delta-9-THC among the composite samples taken from mature cannabis plants tests at or above five percent;

(c) At least 50 percent of composite samples taken from immature cannabis plants test at or above a 5:1 ratio of total THC to total CBD, with total CBD calculated as described in OAR 333-064-0100;

(d) At least 50 percent of composite samples taken from immature cannabis plants test at or above one percent total delta-9-THC; or

(e) The average total delta-9-THC among the composite samples taken from immature cannabis plants tests at or above one percent total delta-9-THC.

STATUTORY/OTHER AUTHORITY: ORS 475B.025, 2021 OL Ch. 542, Sec. 41a

STATUTES/OTHER IMPLEMENTED: ORS 475B.025, 2021 OL Ch. 542, Sec. 41a

ADOPT: 845-026-5700

RULE TITLE: Industrial Hemp-derived Vapor Item Testing Requirements

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes industrial hemp-derived vapor item testing requirements.

RULE TEXT:

(1) A hemp vapor item manufacturer must comply with the Authority's testing rules in OAR 333-007-0300 to 333-007-0490 and OAR 333, division 64 prior to the sale or transfer of an industrial hemp-derived vapor item, as specified in those rules.

(2) The Commission may impose a civil penalty of up to \$500 per day per violation for failure to comply with this rule unless the person is a hemp handler licensed under ORS 571.281.

(3) This rule is effective on and after July 1, 2022.

STATUTORY/OTHER AUTHORITY: ORS 475B.505, ORS 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.505, ORS 475B.555

ADOPT: 845-026-5760

RULE TITLE: Audit, Compliance, and Random Testing of Industrial Hemp-derived Vapor Items

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes audit, compliance, and random testing of industrial hemp-derived vapor items.

RULE TEXT:

(1) The Commission may require a hemp vapor item manufacturer to submit samples identified by the Commission of an industrial hemp-derived vapor item to a laboratory of the Commission's choosing to be tested in order to determine whether a hemp vapor item manufacturer is in compliance with the marijuana testing rules found in Chapter 333, Division 7 of the Oregon Administrative Rules or other rules of the Commission and may require additional testing that is not required by these rules.

(2) A laboratory doing audit testing must comply with these rules, to the extent they are applicable, and if conducting testing not required by these rules, may only use Authority approved methods, unless otherwise authorized by the Commission.

(3) The Commission may, at any time, require a hemp vapor item manufacturer to permit the sampling of or submit a sample of an industrial hemp-derived vapor item to the Commission for testing. Such testing may include testing for:

(a) Any microbiological contaminant.

(b) Heavy metals.

(c) Other adulterants, pesticides, solvents, additives or contaminants that may pose a risk to public health and safety, or are prohibited by law.

(4) A hemp vapor item manufacturer shall submit all samples required for testing under this rule within a timeframe established by the Commission.

STATUTORY/OTHER AUTHORITY: ORS 475B.550, 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.550, 475B.555

ADOPT: 845-026-5770

RULE TITLE: Audit, Compliance, and Random Testing of Industrial Hemp or Industrial Hemp Items

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes audit, compliance, and random testing of industrial hemp or industrial hemp items.

RULE TEXT:

(1) The Commission may require a person to submit samples identified by the Commission of industrial hemp or industrial hemp items to a laboratory of the Commission's choosing to be tested in order to determine whether a person is in compliance with ORS 475B.211, ORS 475B.254, OAR 845-026-0300 to 845-026-0400 or any other rules of the Commission and may require additional testing that is not required by these rules.

(2) A laboratory doing audit testing must comply with these rules, to the extent they are applicable, and if conducting testing not required by these rules, may only use Authority approved methods, unless otherwise authorized by the Commission.

(3) A person shall submit all samples required for testing under this rule within a timeframe established by the Commission.

STATUTORY/OTHER AUTHORITY: ORS 475B.550, 475B.555

STATUTES/OTHER IMPLEMENTED: ORS 475B.550, 475B.555

ADOPT: 845-026-7000

RULE TITLE: Industrial Hemp-derived Vapor Item Labeling – Definitions

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule sets the definitions for industrial hemp-derived vapor item labeling.

RULE TEXT:

For the purposes of OAR 845-026-7000 through 845-026-7070, unless otherwise specified:

- (1) "Activation time" means the amount of time it is likely to take for an individual to begin to feel the effects of ingesting or inhaling an industrial hemp-derived vapor item.
- (2) "Attractive to minors" means packaging, receptacles, inhalant delivery devices, labeling and marketing that features:
 - (a) Cartoons;
 - (b) A design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;
 - (c) Symbols or celebrities that are commonly used to market products to minors;
 - (d) Images of minors; and
 - (e) Words that refer to products that are commonly associated with minors or marketed by minors.
- (3) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:
 - (a) The use of comically exaggerated features;
 - (b) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or
 - (c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.
- (4) "CBD" means total cannabidiol as calculated pursuant to OAR 333-064-0100.
- (5) "Consumer" means a person who purchases, acquires, owns, holds or uses industrial hemp-derived vapor items other than for the purpose of resale.
- (6) "Container"
 - (a) Means a sealed, hard or soft-bodied receptacle in which an industrial hemp-derived vapor item is placed and any outer receptacle intended to display an industrial hemp-derived vapor item for ultimate sale to a consumer.
 - (b) Does not mean:
 - (A) Inner wrapping or lining;
 - (B) An exit package; or
 - (C) A shipping container used to transfer industrial hemp-derived vapor items in bulk from one hemp vapor item manufacturer to another.
- (7) "Generic label"
 - (a) Means a label that does not have any graphics, pictures, or logos, other than symbols required by these rules and has:
 - (A) Only the information required by rule;
 - (B) Additional test information not required by rule; or
 - (C) Additional information described in OAR 845-026-7060(8)(c).
 - (b) Does not mean a label for an industrial hemp-derived vapor item that contains a non-cannabis additive.
- (8) "Health claim" means any claim made on the label that expressly states or implies a relationship between a substance and a disease or health-related condition.
- (9) "Hemp symbol" means the image, established by the Commission and made available to a hemp vapor item manufacturer, indicating the item is an industrial hemp-derived vapor item.
- (10) "Label" means any display of written, printed, or graphic matter printed on or affixed to any container, wrapper,

liner, or insert accompanying the industrial hemp-derived vapor item.

(11) "Net quantity of contents" means a statement on the principal display panel of the net weight or net volume of the product expressed in the terms of weight, measure, or numerical count.

(12) "Net volume" means the fluid measure of a liquid product expressed as milliliters and fluid ounces.

(13) "Net weight" means the gross weight minus the tare weight of the packaging expressed as ounces and grams or milligrams.

(14) "Place of address" means the name, mailing address, city, state and zip code of the hemp vapor item manufacturer who made the industrial hemp-derived vapor item.

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

(16) "Product identity" means a truthful or common name of the product that is contained in the package.

(17) "Retailer" means a person or business that sells industrial hemp-derived vapor items to consumers.

(18) "Serving" or "serving size" means an amount of product that is suggested for use by a consumer trying the item for the first time.

(19) "THC" means total delta-9-tetrahydrocannabinol as calculated pursuant to OAR 333-064-0100.

(20) "These rules" means OAR 845-026-7000 through 845-026-7070.

(21) "Ultimate sale" means the final sale from a retail location to a consumer.

STATUTORY/OTHER AUTHORITY: ORS 475B.605, 475B.610

STATUTES/OTHER IMPLEMENTED: ORS 475B.605, 475B.610

ADOPT: 845-026-7010

RULE TITLE: Industrial Hemp-derived Vapor Item Labeling: Purpose, Scope, and Effective Date

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule sets the purpose, scope, and effective date, of industrial hemp-derived vapor item labeling.

RULE TEXT:

- (1) The purpose of OAR 846-026-7000 through 845-026-7070 is to set the minimum standards for the labeling of industrial hemp-derived vapor items that are for ultimate sale or transfer to a consumer at a retailer. These minimum standards are applicable to any person manufacturing a hemp-derived vapor item that will be transferred to a person other than a Commission licensee pursuant to ORS 571.336 and 571.337 and includes:
- (a) A hemp handler that is licensed with the Oregon Department of Agriculture under ORS 571.281 to process industrial hemp into commodities, products or agricultural hemp seed.
 - (b) Any other person who is responsible for the labeling of an industrial hemp-derived vapor item sold in Oregon.
- (2) The labeling requirements in these rules do not apply to a hemp vapor item manufacturer transferring a bulk quantity or amount of industrial hemp-derived vapor items to another hemp vapor item manufacturer for labeling.
- (3) Nothing in these rules prohibits the Commission, the Authority, or the Oregon Department of Agriculture from:
- (a) Imposing additional labeling requirements in their respective rules governing hemp vapor item manufacturers as long as those additional labeling requirements are not inconsistent with these rules; or
 - (b) Requiring hemp vapor item manufacturers to provide informational material to a consumer at the point of sale.
- (4) These rules are effective on and after July, 1, 2022.

STATUTORY/OTHER AUTHORITY: ORS 475B.605, 475B.615

STATUTES/OTHER IMPLEMENTED: ORS 475B.605, 475B.615

ADOPT: 845-026-7030

RULE TITLE: Industrial Hemp-derived Vapor Item Labeling for Sale to Consumer

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes industrial hemp-derived vapor item labeling for sale to consumers.

RULE TEXT:

(1) A label required by these rules must:

- (a) Be printed on or affixed to the container holding the industrial hemp-derived vapor item and printed on or affixed to any outer package or container that is used to display the industrial hemp-derived vapor item for sale or transfer to a consumer;
- (b) Comply with the National Institute of Standards and Technology (NIST) Handbook 130 (2016), Uniform Packaging and Labeling Regulation, incorporated by reference;
- (c) Contain all required information in any typed, legible font that is easy to read and contrasts sufficiently with the background and is at least 1/16th of an inch in height based on the uppercase "K";
- (d) Be in English, though it can also be in other languages; and
- (e) Be unobstructed and conspicuous.

(2) A label may not:

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

(b) Be attractive to minors, as that is defined in OAR 845-026-7000.

(3) Principal Display Panel.

(a) Every container that holds an industrial hemp-derived vapor item for sale or transfer to a consumer must have a principal display panel, as that term is defined in OAR 845-026-7000.

(b) If a container holding the industrial hemp-derived vapor item is placed within another container for sale or transfer to a consumer, both containers must have a principal display panel as that term is defined in OAR 845-026-7000 in addition to the other labeling requirements provided in these rules.

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

(d) If the package or container is 1.75 inches or less in height and has a lid with a width of 2 inches or less, then the principal display panel must be on the top of the lid.

(4) Product Identity

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

(b) The product identity must clearly identify that the item is derived from hemp.

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

(5) Net Quantity Declaration

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

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

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

(6) Potency Labeling. The THC and CBD amounts required to be on a label must be the value calculated by the

laboratory that did the testing in accordance with OAR 333-064-0100.

(a) The potency value shall be expressed as an average of the samples taken and tested under OAR 333-007-0360.

(b) If the potency value for THC or CBD is reported by the laboratory as less than the limit of quantification, the value on the label must be listed as "<LOQ".

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

(8) An industrial hemp-derived vapor item may have one or more label panels printed on or affixed to the container or packaging.

(9) Small Container Label. An industrial hemp-derived vapor item that is in a container that because of its size does not have sufficient space for a label that contains all the information required for compliance with these rules:

(a) May, in lieu of a label that has all the information required in OAR 845-026-7030 to 845-026-7040, have a label printed on or affixed to the container holding the industrial hemp-derived vapor item that includes at least the following:

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

(B) The hemp vapor item manufacturer business, trade name, or personal name, and, if applicable, Oregon Department of Agriculture license number;

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

(D) Required warnings. The following warning is required on the label: "This product is derived from hemp and could contain THC. Keep out of reach of children."

(b) Must include all required label information on an outer container or other required label information not listed in subsection (9)(a) of this rule on a hangtag attached to the industrial hemp-derived vapor item.

(c) May use a peel-back or accordion label with the information required in subsection (9)(b) of this rule on the inside of the peel-back or accordion label, if the peel-back or accordion label can be easily identified by consumer as containing important information.

(10) Tiny Container Label. An industrial hemp-derived vapor item that is in a container that has a complete surface area available for applying a label that is less than 2 inches squared:

(a) May have a label printed on or affixed to the container that holds the industrial hemp-derived vapor item that includes at least the following:

(A) A principal display panel with the hemp symbol and product identity;

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

(C) The hemp vapor item manufacturer's business, trade name, or personal name, and, if applicable, Oregon Department of Agriculture license number; and

(D) A warning that reads: "Keep out of reach of children."

(b) Must include all required label information on an outer container or other required label information not listed in subsection (10)(a) of this rule on a hangtag attached to the industrial hemp-derived vapor item.

(c) May use a peel-back or accordion label with the information required in subsection (10)(b) of this rule on the inside of the peel-back or accordion label, if the peel-back or accordion label can be easily identified by a consumer as containing important information.

(11) The outer container used to display the industrial hemp-derived vapor item for sale or transfer to a consumer must comply with the labeling requirements in these rules, even if an inner container qualifies for the exception under section (9) or (10) of this rule.

(12) If an industrial hemp-derived vapor item is placed in a package that is being re-used, the old label must be removed and it must have a new label.

(13) Ingredient listing.

(a) An industrial hemp-derived vapor item that contains an ingredient consisting of two or more sub ingredients must either:

(A) Use the common name of the ingredient followed by a parenthetical listing of all ingredients in a descending order of

predominance; or

(B) List all sub ingredients as individual ingredients in descending order of predominance.

(b) The list of ingredients must correctly identify whether industrial hemp concentrate or industrial hemp extract was used to make the product.

(14) A cartridge or vaporizing device containing industrial hemp concentrate or industrial hemp extract, whether alone or combined with non-cannabis additives, intended for use with an inhalant delivery system is not required to be labeled in accordance with these rules except that the cartridge or device must have a label with the hemp symbol. All the remaining label requirements must be included on the packaging as required by these rules.

(15) The Commission may require that industrial hemp-derived vapor items sold at retail to be labeled with a Universal Product Code.

(16) Once a label is approved by the Commission, the label identification number provided by the Commission must be prominently displayed on the label of the outermost container.

STATUTORY/OTHER AUTHORITY: ORS 475B.605

STATUTES/OTHER IMPLEMENTED: ORS 475B.605

ADOPT: 845-026-7040

RULE TITLE: Industrial Hemp-derived Vapor Item Labeling Requirements

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes the labeling requirements for industrial hemp-derived vapor items.

RULE TEXT:

Prior to an industrial hemp-derived vapor item being sold or transferred to a consumer, the container holding industrial hemp-derived vapor item must have a label that has the following information:

- (1) The hemp vapor item manufacturer's business, trade name, or personal name, and, if applicable, Oregon Department of Agriculture license number;
- (2) Product identity that correctly identifies the item as either an industrial hemp concentrate or extract;
- (3) Date the industrial hemp-derived vapor item was made;
- (4) Net weight or volume in U.S. customary and metric units;
- (5) Serving size and number of servings per container;
- (6) Amount, in milligrams, of THC and CBD in each serving and in the container;
- (7) Activation time, expressed in words or through a pictogram;
- (8) Name of the laboratory that performed any test and any test analysis date;
- (9) Hemp symbol;
- (10) A statement that reads: "This product is not approved by the FDA to treat, cure, or prevent any disease";
- (11) Warnings that state:
 - (a) "This product is derived from hemp and could contain THC. Keep out of reach of children."
 - (b) "DO NOT EAT" in bold, capital letters.
- (12) For industrial hemp-derived vapor items that combine industrial hemp extract and concentrate:
 - (a) The product identity must indicate the item has industrial hemp extract and concentrate.
 - (b) List all ingredients in descending order of predominance by weight or volume.
- (13) For industrial hemp-derived vapor items that contain non-cannabis additives:
 - (a) The product identity must clearly identify that the product contains non-cannabis additives and, in addition to the other requirements of OAR 845-026-7000 through 845-026-7070, must include the words "non-cannabis additive."
 - (b) In addition to the other ingredients in the industrial hemp-derived vapor item, for each non-cannabis additive used, the ingredient listing must contain the words "non-cannabis additive" in a manner that clearly distinguishes each additive from any other additives.
 - (c) All of the ingredients in the non-cannabis additive:
 - (A) Must be listed either alphabetically or in descending order of predominance by weight or volume; and
 - (B) Must be listed on:
 - (i) The label's ingredient list as sub-ingredients of the ingredient term "non-cannabis additive"; or
 - (ii) An insert within the product's container that clearly indicates that the ingredients listed are contained within the industrial hemp-derived vapor item that contain non-cannabis additives.

STATUTORY/OTHER AUTHORITY: ORS 475B.605, 475B.232, 475B.236

STATUTES/OTHER IMPLEMENTED: ORS 475B.605

ADOPT: 845-026-7060

RULE TITLE: Industrial Hemp-derived Vapor Item Labeling Pre-approval Process

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule describes the pre-approval process for industrial hemp-derived vapor items.

RULE TEXT:

- (1) Prior to selling, offering for sale, or transferring an industrial hemp-derived vapor item that is for ultimate sale to a consumer, a hemp vapor item manufacturer must submit a label application to and receive approval from the Commission. The initial submission shall be made electronically if required by the Commission. The hemp vapor item manufacturer must submit a physical prototype upon request by the Commission.
- (2) Except as provided in sections (5) to (7) of this rule, the packaging and label applications must be accompanied by the following:
 - (a) A fee as specified in OAR 845-025-1060; and
 - (b) Information including but not limited to:
 - (A) A picture of and description of the item to be placed in the package.
 - (B) For label applications for an industrial hemp-derived vapor item that contain non-cannabis additives:
 - (i) The non-cannabis additive's list of ingredients from the non-cannabis additive's manufacturer; and
 - (ii) In a form and manner prescribed by the Commission, information regarding the manufacturer of the non-cannabis additive, the additive or additives being used by the hemp vapor item manufacturer, and attestation by the hemp vapor item manufacturer of the accuracy of the information submitted for label pre-approval.
- (3) If a hemp vapor item manufacturer submits a list of ingredients to the Commission in order to comply with paragraph (2)(b)(A) of this rule, and that the hemp vapor item manufacturer believes the list of ingredients is a trade secret, the hemp vapor item manufacturer must mark the information "confidential - trade secret."
 - (a) If the Commission receives a public records request for information submitted by a hemp vapor item manufacturer, it will review all documents submitted to determine whether the documents contain trade secrets that would be exempt from disclosure under Oregon's Public Records Act, ORS 192.345.
 - (b) For purposes of this rule "trade secret" has the meaning given that term in ORS 192.345.
- (4) The Commission will evaluate the label in order to determine whether the label:
 - (a) Complies with the labeling rules, OAR 845-026-7000 to 845-026-7070, or any additional labeling requirements in ORS 475B, OAR 333, Division 7, or OAR 845, Division 26.
 - (b) Contains any material that is attractive to minors; and
 - (c) Contains untruthful or misleading content.
- (5) The Commission must review the labeling and notify the hemp vapor item manufacturer whether labeling is approved, and if not approved, a description of the packaging or labeling deficiencies.
- (6) If the label is deficient, the hemp vapor item manufacturer must correct the deficiencies and resubmit the label for pre-approval, but the hemp vapor item manufacturer is not required to submit an additional fee unless the label is found deficient for a second time in which case the application will be denied and the hemp vapor item manufacturer must resubmit the labeling in accordance with section (1) of this rule.
- (7) A hemp vapor item manufacturer may submit labeling for approval on the same application for a product that may have different flavors, colors or sizes, if the product is otherwise identical. Applications for approval of labeling under this section are subject to a single application fee.
- (8) Labels that have been previously approved do not need to be resubmitted if the only changes to the label are:
 - (a) Changes in the:
 - (A) Processing date;
 - (B) Test results;
 - (C) Net weight or volume; or
 - (b) The deletion of any non-mandatory label information.

(c) The addition, deletion or change in the:

(A) UPC barcodes or 2D mobile barcodes (QR codes);

(B) Website address, phone number, fax number, or place of address of the hemp vapor item manufacturer; or

(d) The repositioning of any label information on the package, as long as the repositioning of label information is consistent with these rules.

(9) Prior to a hemp vapor item manufacturer transferring a label approval from one hemp vapor item manufacturer to another, the hemp vapor item manufacturer requesting to transfer the label must submit a form prescribed by the Commission and pay the applicable fee as described in OAR 845-025-1060.

(10) Labels for industrial hemp-derived vapor items do not require pre-approval if they are generic labels as defined in OAR 845-026-7000 and contain only the information required by these rules.

(11) Notwithstanding any provisions of this rule, the Commission may permit or require electronic submission of labels for approval.

(12) The Commission shall charge the following fees:

(a) Labeling preapproval: \$100.

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

(c) Transferring labeling application to another hemp vapor item manufacturer: \$25 per application.

STATUTORY/OTHER AUTHORITY: ORS 475B.605, ORS 475B.610, 475B.620

STATUTES/OTHER IMPLEMENTED: ORS 475B.610, 475B.620, 475B.236

ADOPT: 845-026-7070

RULE TITLE: Industrial Hemp-derived Vapor Item Labeling Prohibited Conduct

NOTICE FILED DATE: 11/11/2021

RULE SUMMARY: This rule details industrial hemp-derived vapor item labeling prohibited conduct.

RULE TEXT:

The Commission may impose a civil penalty of up to \$500 per day per violation unless the person is a hemp handler licensed under ORS 571.281 for any of the following:

- (1) Failure to comply with these rules.
- (2) Transferring, selling or offering to sell an industrial hemp-derived vapor item for ultimate sale to a consumer to another hemp vapor item manufacturer that is not labeled in accordance with these rules.
- (3) Failing to receive label approval prior to transferring, selling, or offering for sale an industrial hemp-derived vapor item that is for ultimate sale to a consumer.
- (4) Transferring, selling, or offering for sale an industrial hemp-derived vapor item that has not received label approval.
- (5) Selling or offering to sell an industrial hemp-derived vapor item under a different label than what was approved.

STATUTORY/OTHER AUTHORITY: ORS 475B.605

STATUTES/OTHER IMPLEMENTED: ORS 475B.605