

**TITLE 442. OKLAHOMA MEDICAL MARIJUANA AUTHORITY
CHAPTER 10. MEDICAL MARIJUANA REGULATIONS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

442:10-1-4 [AMENDED]

442:10-1-5 [AMENDED]

Subchapter 3. Transporter License [AMENDED]

442:10-3-1 [AMENDED]

Subchapter 4. Research Facilities and Education Facilities [AMENDED]

442:10-4-3 [AMENDED]

442:10-4-4 [AMENDED]

442:10-4-5 [AMENDED]

442:10-4-6 [AMENDED]

Subchapter 5. Medical Marijuana Businesses [AMENDED]

442:10-5-1.1 [AMENDED]

442:10-5-2 [AMENDED]

442:10-5-3 [AMENDED]

442:10-5-3.3 [NEW]

442:10-5-4 [AMENDED]

442:10-5-6. [AMENDED]

442:10-5-6.1 [AMENDED]

442:10-5-7 [AMENDED]

442:10-5-16 [AMENDED]

Subchapter 7. Packaging, Labeling, and Advertising [AMENDED]

442:10-7-1 [AMENDED]

Subchapter 8. Laboratory Testing [AMENDED]

442:10-8-1 [AMENDED]

442:10-8-2 [AMENDED]

442:10-8-3 [AMENDED]

442:10-8-4 [AMENDED]

442:10-8-5 [AMENDED]

Subchapter 9. Waste Disposal Facilities [AMENDED]

442:10-9-3 [AMENDED]

442:10-9-7 [AMENDED]

Subchapter 11. Process Validation [NEW]

442:10-11-1 [NEW]

Appendix A [REVOKED]

Appendix B [REVOKED]

Appendix C [REVOKED]

Appendix C [NEW]

Appendix D [REVOKED]

Appendix E [REVOKED]

Appendix F [REVOKED]

SUMMARY:

The proposed permanent rules implement legislative changes mandated by SB 18X, HB 3929, HB 4056, SB 813, SB 1704, SB 913, and HB 2095; address changes in statute under 63 O.S. § 426, 63 O.S. § 427.6, 63 O.S. § 427.14, 63 O.S. § 427.14a, 63 O.S. § 427.17, 63 O.S. § 427.19, 63 O.S. § 427.20, 63 O.S. § 427.25, and new requirements in 63 O.S. § 427.14b, 63 O.S. § 427.17a, and 63 O.S. § 427.26. The permanent rules are intended to provide a structure for the implementation of these legislative requirements.

The proposed permanent rules also seek to address the risk to public health and safety posed by increasing occurrences of fires and explosions at licensed medical marijuana businesses. Further, the proposed permanent rules provide clarity on tagging, storing, testing, and retesting medical marijuana and medical marijuana products.

Amendments to OAC 442:10-8-1, OAC 442:10-8-2, OAC 442:10-8-3, OAC 442:10-8-4, and OAC 442:10-8-5 establish new laboratory testing requirements effective June 1, 2024. Amendments to OAC 442:10-5-4(l) allow the Authority to employ secret shoppers to inspect licensed commercial medical marijuana businesses. Amendments to OAC 442:10-8-5 allow the Authority to operate a quality assurance laboratory or to contract with a private laboratory. Amendments to OAC 442:10-5-1.1(f) and OAC 442:10-5-16(v) require employees of a medical marijuana business to apply for and receive a credential authorizing the employee to work in a licensed medical marijuana business. The requirement that the Legislature receive all monies from sales tax proceeds collected on medical marijuana and all monies collected from fines and fees is added to OAC 442:10-5-7(h).

Amendments implementing changes to commercial licensing fees occur in OAC 442:10-1-4, OAC 442:10-5-2(b), OAC 442:10-5-3(e)(15), and OAC 442:10-5-6(b)(6)(A). Amendments to supplemental materials required to be submitted by licensees occur in OAC 442:10-3-1(d); OAC 442:10-4-3(e)(6); OAC 442:10-5-2(e)(2)(A)(iii); OAC 442:10-5-3(e)(9); and OAC 442:10-9-3(e)(9). OAC 442:10-1-5(a) is amended to include the national fingerprint-based background check requirement. Amendments to OAC 442:10-4-4 allow the Authority to perform unannounced, on-site inspections. OAC 442:10-5-2(b) is amended to include language regarding one medical marijuana commercial grower license issued for any one property. OAC 442:10-5-3(h) is amended to extend the dates of the current moratorium on processing and issuing new medical marijuana business licenses. OAC 442:10-5-6.1(h) is amended to include penalties for medical marijuana business licensees intentionally not remitting taxes. The prohibition that commercial growers shall not hire or employ undocumented immigrants is included in OAC 442:10-5-16(u).

The amendments require applicants for a commercial grower license to submit to the Authority a bond covering the permit area upon which the business licensee will initiate and conduct commercial growing operations-or an attestation that the permit area on which the licensee operates the commercial growing operation has been owned by the licensee for at least a five (5) year period prior to submission of application. OAC 442:10-5-1.1 is amended to include the required bond or attestation and requires that information be updated. OAC 442:10-5-2(e) requires business licensees submitting material change requests to include information regarding the bond or attestation and requires licensees notify the Authority in writing of any change to or cancellation of a bond. OAC 442:10-5-3(e)(13) adds the required grower bond or attestation to the list of supporting documentation required to be submitted by licensees. OAC 442:10-5-3.3 is a new section governing the required commercial grower bond and includes specific bond requirements and application materials required to be submitted by licensees. The prohibition that growers shall not engage in any commercial growing operations without a bond or attestation is added to OAC 442:10-5-16(t).

Subchapter 11 and OAC 442:10-11-1 establish a voluntary process validation program for commercial licensees.

Proposed permanent rule changes to clarify existing requirements for licensees regarding tagging, storing, testing, and retesting medical marijuana and medical marijuana products occur in OAC 442:10-1-4, OAC 442:10-4-5(f)(3), OAC 442:10-4-5(d)(2)(D), OAC 442:10-5-4(c), OAC 442:10-5-6(d)(2)(D), OAC 442:10-5-6(f)(3), OAC 442:10-7-1(g), OAC 442:10-9-7(b)(2)(D), and OAC 442:10-9-7(d)(3). Amendments to 442:10-5-6(c) and 442:10-5-6(d) clarify patient information required to be reported in the inventory tracking system.

AUTHORITY:

Executive Director of the Oklahoma Medical Marijuana Authority; 63 O.S. § 420-430

COMMENT PERIOD:

January 16, 2024 through February 16, 2024. Persons wishing to present their views in writing may do so before 5:00 p.m. on February 16, 2024 at the following address: Oklahoma Medical Marijuana Authority, P.O. Box 262266, Oklahoma City, Oklahoma 73126 or by submitting public comment on the agency website at www.omma.ok.gov/rules.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on February 16, 2024 at the Oklahoma State Capitol, 2300 N. Lincoln Boulevard, Oklahoma City, OK 73105 in Room 535 at 9:00 a.m. Anyone who wishes to speak must sign in at the door by 9:05a.m. The alternate date and time in the event of an office closure due to inclement weather is February 16, 2024 at the Oklahoma Medical Marijuana Authority, 2501 N. Lincoln Boulevard., Oklahoma City, Oklahoma 73105 in Room 400 at 1:00 p.m. Anyone who wishes to speak must sign in at the door by 1:05p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, within the comment period, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through February 16, 2024 at 5:00 p.m., the close of business, on the public comment form listed at www.omma.ok.gov/rules.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the Oklahoma Medical Marijuana Authority, 2501 N. Lincoln Boulevard., Oklahoma City, Oklahoma 73105. The proposed rules are also available on the agency website at www.omma.ok.gov/rules.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement has been prepared and is available at the Oklahoma Medical Marijuana Authority at the above address or on the agency website at www.omma.ok.gov/rules.

CONTACT PERSON:

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