

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [NEW]

442:10-1-1. Purpose [NEW]

442:10-1-2. Regulatory program established [NEW]

442:10-1-3. Limitations of licenses [NEW]

442:10-1-4. Definitions [NEW]

442:10-1-5. Criminal history screening [NEW]

442:10-1-6. Proof of residency [NEW]

442:10-1-7. Proof of identity [NEW]

442:10-1-8. Applicant photograph [NEW]

442:10-1-9. Recommending physician registration [NEW]

442:10-1-9.1. Recommending physician standards [NEW]

Subchapter 2. Medical Marijuana Licenses [NEW]

442:10-2-1. Application for patient license [NEW]

442:10-2-2. Application for patient license for persons under age eighteen (18) [NEW]

442:10-2-3. Application for caregiver's license [NEW]

442:10-2-3.1. Withdrawal of a caregiver's authorization [NEW]

442:10-2-4. Application for temporary patient license [NEW]

442:10-2-5. Term and renewal of medical marijuana patient and caregiver licenses [NEW]

442:10-2-6. Information contained on patient and caregiver license [NEW]

442:10-2-7. Medical marijuana license verification system [NEW]

442:10-2-8. Possession limits [NEW]

442:10-2-9. Prohibited acts and penalties [NEW]

442:10-2-10. Confidential patient information [NEW]

442:10-2-11. Restrictions on smokable medical marijuana and medical marijuana products [NEW]

Subchapter 3. Transporter License [NEW]

442:10-3-1. License for transportation of medical marijuana [NEW]

442:10-3-2. Requirements for transportation of marijuana [NEW]

442:10-3-3. Transporter agent license [NEW]

442:10-3-4. Employer deactivation of transporter agent license [NEW]

442:10-3-5. Information contained on a transporter agent license [NEW]

442:10-3-6. Inventory manifests [NEW]

Subchapter 4. Research Facilities and Education Facilities [NEW]

442:10-4-1. License required [NEW]

442:10-4-1.1. Responsibilities of the license holder [NEW]

442:10-4-2. Licenses [NEW]

442:10-4-3. Applications [NEW]

442:10-4-4. Inspections [NEW]

442:10-4-5. Inventory tracking, records, reports, and audits [NEW]

442:10-4-6. Penalties [NEW]

Subchapter 5. Medical Marijuana Businesses [NEW]

442:10-5-1. License required [NEW]

442:10-5-1.1. Responsibilities of the license holder [NEW]

442:10-5-2. Licenses [NEW]

442:10-5-2.1. Objection by municipality [NEW]

442:10-5-3. Applications [NEW]

442:10-5-3.1. Proof of residency for commercial licensees [NEW]

442:10-5-3.2. Persons prohibited from holding a commercial license [NEW]
442:10-5-4. Inspections [NEW]
442:10-5-4.1. Operational status visit [NEW]
442:10-5-5. Processing medical marijuana on behalf of a patient or caregiver [NEW]
442:10-5-6. Inventory tracking, records, reports and audits [NEW]
442:10-5-6.1. Penalties [NEW]
442:10-5-7. Tax on retail medical marijuana sales [NEW]
442:10-5-8. Food safety standards for processors [NEW]
442:10-5-9. Standards for handling and processing medical marijuana & medical marijuana products [NEW]
442:10-5-10. Medical marijuana waste disposal [NEW]
442:10-5-11. Attestation confirming or denying foreign financial interests [NEW]
442:10-5-12. Marijuana transaction limitations [NEW]
442:10-5-13. Loss and theft [NEW]
442:10-5-14. Handling of medical marijuana by dispensary [NEW]
442:10-5-15. Entry to licensed premises [NEW]
442:10-5-16. Prohibited acts [NEW]
Subchapter 6. Commercial Licensees [NEW]
442:10-6-1. General security requirements for commercial licensees [NEW]
442:10-6-2. Construction of premises [NEW]
Subchapter 7. Packaging, Labeling, and Advertising [NEW]
442:10-7-1. Labeling and packaging [NEW]
442:10-7-2. Prohibited products [NEW]
442:10-7-3. Advertising [NEW]
Subchapter 8. Laboratory Testing [NEW]
442:10-8-1. Testing standards and thresholds [NEW]
442:10-8-2. General operating requirements and procedures [NEW]
442:10-8-3. Sampling requirements and procedures [NEW]
442:10-8-4. Laboratory quality assurance and quality control [NEW]
442:10-8-5. Quality assurance laboratory [NEW]
Subchapter 9. Waste Disposal Facilities [NEW]
442:10-9-1. License or permit required [NEW]
442:10-9-1.1. Responsibilities of the license or permit holder [NEW]
442:10-9-2. Licenses and permits [NEW]
442:10-9-3. License applications [NEW]
442:10-9-4. Permit applications [NEW]
442:10-9-5. Inspections [NEW]
442:10-9-6. Security requirements [NEW]
442:10-9-7. Audits and inventory [NEW]
442:10-9-8. Penalties [NEW]
442:10-9-9. Waste disposal [NEW]
Subchapter 10. Receivership [NEW]
442:10-10-1. Certificate of Authority [NEW]
442:10-10-2. Term and renewal of Certificate of Authority [NEW]
442:10-10-3. Responsibilities of the Certificate of Authority holder [NEW]
442:10-10-4. Revocation of Certificate of Authority [NEW]
Appendix A. Testing Thresholds [NEW]
Appendix B. LQC Results [NEW]
Appendix C. Schedule of Fines [NEW]
Appendix D. Sample Collection for Final Medical Marijuana Products [NEW]
Appendix E. Sample Collection for Pre-rolls [NEW]
Appendix F. Required Testing By Batch Type [NEW]

SUMMARY:

The amendments establish Oklahoma Medical Marijuana Authority as an independent entity as required under SB 1543. The rules adjust references from OAC 442:10-1-1 to OAC 442: Appendix E, replacing: Oklahoma State Department of Health with Oklahoma Medical Marijuana Authority, Department with Authority, and Commissioner with Executive Director. New requirements that commercial growers are prohibited from being within 1,000 feet of a school are adjusted in OAC 442:10-9-3(e)(5). The definition of “public school” is amended to include technology centers in OAC 442:10-1-4. Language establishing a moratorium on processing and issuing new medical marijuana business licenses for growers, processors and dispensaries beginning August 1, 2022 is added to OAC 442:10-5-3(h). New packaging standards allowing transparent packaging and requiring the use of an exit package and specific package warning labels are added to OAC 442:10-7-1(d). Enhanced penalties for unlawful diversion of product by businesses and patients is added to OAC 442:10-2-9, OAC 442:10-4-6, OAC 442:10-5-6.1, and OAC 442:10, Appendix C. The requirement that medical marijuana commercial grow licensees who operate an outdoor medical marijuana facility register with the Oklahoma Department of Agriculture, Food, and Forestry as an environmentally sensitive crop owner is added to OAC 442:10-5-1.1. The requirement that commercial grower licenses to post signage at the site of the commercial grow operation is added to OAC 442:10-6-1. Amendments to OAC 442:10-4-2(e)(2), OAC 442:10-5-2(e) and OAC 442:10-9-2(e) govern material changes that affect a licensee’s qualifications for licensure and clarifies that licensees cannot operate under the conditions of a material change until approved in writing by the Authority. Amendments to OAC 442:10-5-2(e)(2)(A)(iv) requires commercial licensees carry a physical copy of the written location change approval while transporting medical marijuana products from location to location. Amendments to OAC 442:10-5-8 remove references to the Medical Marijuana Advisory Council and renumber the subsequent food safety standards for processors section to conform, adjusting internal citations throughout.

Clarification regarding the transporter license issued to qualifying applicants and the application for individual transporter agent licenses is added to OAC 442:10-3-1(a). The language regarding “chain of custody” is removed in OAC 442:10-3-6(e) to clarify inventory manifests. OAC 442:10-5-2(k) is amended to reference violations outlined in Appendix C. OAC 442:10-5-6(b)(3)(A) clarifies record retention for both commercial licensees and patient licensees involved in each transaction. OAC 442:10-5-12(c) clarifies the mandatory requirement to use the OMMA provided system for verification of licensees and transactions. OAC 442:10-7-1(g) is amended to require all storage receptacles be labeled with product batch numbers when in use.

Amendments to OAC 442:10-8-1 include clarifying and clean up language. OAC 442:10-8-1(d) allows growers to transfer medical marijuana from harvest batches to processors for decontamination or remediation prior to testing only if the remediated and decontaminated medical marijuana is returned to the originating licensed commercial grower and successfully passes all tests prior to transfer or sale. Provisions regarding the embargo of medical marijuana in OAC 442:10-8-1(g) are amended to no longer conflict with the provisions of 63 O.S. § 427.24. OAC 442:10-8-1(i) removes chemical residue from the list of required tests for production batch samples, requires heavy metal limits be applied to the product from that is submitted at testing, defines a list of terpenoids that must be included in tests for harvest batch and production batch samples, removes the requirement for a continual process of physical inspection, requires harvest batch and production batch samples that are remediated or decontaminated be fully tested and successfully pass all analyses required under this subsection and Appendix F, establishes testing requirements for noninfused pre-rolls, kief, infused pre-rolls, and shake and trim. Amendments to OAC 442:10-8-2 clarify that laboratory accreditation must be specific to the procedure used in the laboratory and allows a medical laboratory director to delegate in writing the duties and responsibilities to a designee that meets all requirements of a laboratory director, requires all deviations from the written procedure be reviewed and approved in writing by the laboratory director, removes the requirement that any non-routine repair must be reported to and reviewed by the quality assurance laboratory, and provides clarification regarding required staff competency documentation. Amendments to OAC 442:10-8-3 require tamper-proof seals affixed to samples at the time of collection, requires samples be collected in the final form for transfer or sale of harvest batches or production batches, requires copies of the sample field log be maintained by both the laboratory and the commercial licensee from which the samples are being collected, and adds the

state inventory tracking system tag number, the sample tag number, and the source package tag number to the list of required items on all COAs. Amendments to OAC 442:10-9-6(c) allow commercial licensees to transport their own waste to a licensed medical marijuana waste disposal facility.

AUTHORITY:

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

COMMENT PERIOD:

November 15, 2022 through December 15, 2022. Persons wishing to present their views in writing may do so before 5:00 p.m. on December 15, 2022 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 December 15, 2022 at the Oklahoma State Capitol, 2300 N. Lincoln Boulevard, Oklahoma City, OK 73105 in Room 535 at 9:00 a.m. The alternate date and time in the event of an office closure due to inclement weather is December 16, 2022 at the Oklahoma State Capitol, 2300 N. Lincoln Boulevard, Oklahoma City, Oklahoma in Room 535, beginning at 9:00 a.m. Anyone who wishes to speak must sign in at the door by 9:05a.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 December 15, 2022 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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