

OAC 310:681 – Summary of 2021 Emergency Rule Changes

OAC 310:681-1-4. Definitions

- Adds definition of “actively operating” or “actively conducting business operations.”
- Adds definition of “error in measurement.”
- Adds definition of “error in measurement allowance.”
- Adds definition of “integration” or “integrated.”
- Revises definition of “inventory tracking system” or “State inventory tracking system” to be consistent with the definition in 63 O.S. § 427.2.
- Revises definition of “marijuana” to reflect changes made to the statutory definition in 63 O.S. § 427.2.
- Revises definition of “medical marijuana waste” to reflect changes made to the statutory definition in 63 O.S. § 427.2.
- Adds definition of “nonoperational.”
- Adds definition of “openly in existence.”
- Adds definition of “publicly traded company.”
- Adds definition of “RFID.”
- Adds definition of “seed-to-sale tracking system.”
- Adds definition of “wholesale package.”
- Adds definition of “working towards operation status.”

OAC 310:681-2-3. Applications for caregiver’s license

- Subsection (e)(2): Adds language that caregivers “shall not charge a medical marijuana patient licensee for cultivating medical marijuana in excess of actual costs incurred in cultivating the medical marijuana.”

OAC 310:681-3-1. License for transportation of medical marijuana

- Subsection (d): Adds language requiring each warehouse location of a commercial transporter applicant or licensee to be inspected and approved by the Department prior to use. OAC

310:681-3-6. Inventory manifests

- Subsection (a): Replaces “an electronic inventory management system” with the “State’s inventory tracking system in accordance with OAC 310:681-5-6(d)” to be consistent with 63 O.S. § 427.16(H).

OAC 310:681-4-2. Licenses

- Subsection (f)(1): Removes language prohibiting research and education facilities from transferring licenses.

OAC 310:681-4-5. Inventory tracking, records, and reports

- Subsection (a)(6): adds language clarifying that data submitted to the Department through the State’s inventory tracking system will satisfy monthly reporting requirements.
- Subsection (c)(5): adds language requiring commercial licensees to maintain written standard operating procedures.
- Subsection (d)(1)-(3): Adds language and requirements for reporting of required data and information into the State’s inventory tracking system pursuant to 63 O.S. § 427.3(D)(8) and § 427.13(B).

- Subsection (e): Adds language requiring commercial licensees use a seed to sale tracking system or integrate their seed to sale tracking system with the State’s inventory tracking system. Clarifies that if the commercial licensee’s seed to sale system does not integrate or share all required information with the State’s inventory tracking system, the commercial license is required to ensure all required information is reported directly to the State’s inventory tracking system.
- Subsection (f)(1)-(8): Adds new language for reporting of required data and information into the State’s inventory tracking system, including requirements related to the purchase and use of RFID tags in order to track medical marijuana and medical marijuana product through all stages of the life span of the plant and product. Adds requirement relating to the use of RFID tags in the context of wholesale packages.
- Subsection (g)(1)-(8): Adds new language and requirements for commercial licensees’ inventory tracking system administrators and employee users to access the State’s inventory tracking system.
- Subsection (h): Creates a new provision governing reporting requirements in the context of loss of access to the State’s inventory tracking system both due to circumstances beyond and within commercial licensees’ control.
- Subsection (i): Clarifies audits conducted by the Department ensure the accuracy of information and data reported to the Department.

OAC 310:681-5-1.1. Responsibilities of the license holder

- Subsection (9): Clarifies that commercial licensees are financially responsible for the costs of compliance and inventory tracking and that the Department will not contribute to, fund or subsidize compliance or tracking expenses incurred by commercial licensees.

OAC 310:681-5-2. Licenses

- Subsection (e)(C)(i)-(vii): Creates new provision allowing a medical marijuana grower, processor, and commercial transporter to submit a request and required documentation to the Department to add a publicly traded company as an owner of up to forty percent (40%) of the equity interest of an existing medical marijuana grower, processor, or commercial transporter that has been licensed for at least eighteen (18) months and is operating in good standing pursuant to 63 O.S. § 427.15a.
- Subsection (f): removes language prohibiting business licensees from transferring licenses.

OAC 310:681-5-2.1. Objection by municipality

- Subsection (a)(1)-(2): Creates new provisions allowing municipal governments to object prior to an initial renewal or transfer of ownership of a medical marijuana dispensary that the municipality determines is operating contrary to the required setback distance from a school pursuant to 63 O.S. § 426.1(E)(2)-(5).

OAC 310:681-5-3. Applications

- Subsection (e)(5): Adds new language reflecting the change in measurement of the distance between a medical marijuana dispensary and a school pursuant to 63 O.S. § 425(G).
- Subsection (e)(9): Adds reference to additional documents required under OAC 310:681-5-2(e)(2)(c) for a medical marijuana grower, processor or transporter to add a publicly traded company as an owner.

OAC 310:681-5-4. Inspections

- Subsection (d): Creates new provisions requiring the Department conduct on-site inspections of warehouse locations owned by medical marijuana transporter applicants and licensees prior to use of the warehouse location pursuant to 63 O.S. § 427.16.

OAC 310:681-5-4.1. Operational status visit

- Subsection (a)(1)-(3): Creates new provisions requiring the Department conduct on-site visits at licensed growers, processors and dispensaries to verify operational status and providing an 180 day grace period pursuant to 63 O.S. § 427.6(K).
- Subsection (b): Creates new provisions requiring the Department to conduct follow up on-site visits at licensed growers, processors and dispensaries to verify operational status if the licensee was not operational at the initial visit pursuant to 63 O.S. § 427.6(K). Adds language allowing discretionary second grace period and requiring the Department move for revocation if licensee is non-operational and second grace period is not granted.

OAC 310:681-5-6. Inventory tracking, records, reports, and audits

- Subsection (a)(4): Adds language clarifying that submission of information and data to the State’s inventory tracking system is required and will satisfy the monthly reporting requirements upon implementation.
- Subsection (b)(5): Creates a new provision adding written standard operating procedures to the list of records commercial licensees are required to keep onsite and maintained for seven (7) years.
- Subsection(d)(1)-(3): Adds language and requirements for reporting required data and information into the State’s inventory tracking system pursuant to 63 O.S. § 427.3(D)(8) and § 427.13(B).
- Subsection(e): Adds language requiring commercial licensees use a seed to sale tracking system or integrate their seed to sale tracking system with the State’s inventory tracking system. Clarifies that if the commercial licensee’s seed to sale system does not integrate or share all required information with the State’s inventory tracking system, the commercial license is required to ensure all required information is reported directly to the State’s inventory tracking system.
- Subsection(f)(1)-(8): Adds new language and requirements for reporting required data and information into the State’s inventory tracking system, including requirements related to the purchase and use of RFID tags in order to track medical marijuana and medical marijuana products through all stages of the life span of the plant and product. Adds requirement relating to the use of RFID tags in the context of wholesale packages
- Subsection (g)(1)-(8): Adds new language and requirements for commercial licensees’ inventory tracking system administrators and employee users to access the State’s inventory tracking system.
- Subsection (h): Creates a new provision governing reporting requirements in the context of loss of access to the State’s inventory tracking system both due to circumstances beyond and within commercial licensees’ control.
- Subsection (i): Clarifies audits conducted by the Department ensure the accuracy of information and data reported to the Department.

OAC 310:681-5-11. Attestation confirming or denying foreign financial interest

- Subsection (a)-(c): Creates new requirements for medical marijuana businesses to submit an attestation to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control disclosing the existence of any foreign financial interests pursuant to 63 O.S. § 427.15.

OAC 310:681-5-18. Prohibited acts

- Subsection (l): Adds prohibition on the transfer, purchase, sale of medical marijuana or medical marijuana products not properly inputted or tracked in the State’s inventory tracking system after implementation.

OAC 310:681-7-1. Labeling and ackaging

- Subsection (e)(3): Creates new requirement that RFID tags not obscure required label and packaging requirements.

OAC 310:681-8-3. Sampling requirements and procedures

- Subsection (d)(3)-(4): Adds requirement that laboratories maintain and properly store reserve samples for at least thirty (30) days.

OAC 310:681-9-1. Waste disposal

- Subsection (b): Adds language reflecting that as of November 1, 2021 there will be no limit to the number of medical marijuana waste disposal licenses pursuant to 63 O.S. §430(A).

OAC 310:681-9-2. Licenses and permits

- Subsection (f): Removes prohibition on transfer of waste disposal facility licenses and permits.

OAC 310:681-9-3. License applications

- Subsection (e)(4): Changes distance measurement between waste disposal facility and school from “property line” to “front entrance” in the context of supporting documentation that must be submitted with applications for waste disposal facility licenses.

OAC 310:681-9-4. Permit applications

- Subsection (c)(1): Changes distance measurement between waste disposal facility and school from “property line” to “front entrance” in the context of supporting documentation that must be submitted with applications for waste disposal facility permit.

OAC 310:681-9-7. Audits and inventory

- Subsection (b)(1)-(3): Creates new requirements for reporting required data and information into the State’s inventory tracking system pursuant to 63 O.S. § 427.3(D)(8) and § 427.13(B).
- Subsection(c): Adds language requiring commercial licensees use a seed to sale tracking system or integrate their seed to sale tracking system with the State’s inventory tracking system. Clarifies that if the commercial licensee’s seed to sale system does not integrate or share all required information with the State’s inventory tracking system, the commercial license is required to ensure all required information is reported directly to the State’s inventory tracking system.
- Subsection(d)(1)-(8): Adds new language and requirements for reporting required data and information into the State’s inventory tracking system, including requirements related to the purchase and use of RFID tags in order to track medical marijuana and medical marijuana products through all stages of the life span of the plant and product. Adds requirement relating to the use of RFID tags in the context of wholesale packages.
- Subsection(e)(1)-(7): Adds new language and requirements for commercial licensees’ inventory tracking system administrators and employee users to access the State’s inventory tracking system
- Subsection (f): Creates a new provision governing reporting requirements in the context of loss of access to the State’s inventory tracking system both due to circumstances beyond and within commercial licensees’ control.