

INITIAL RULE IMPACT STATEMENT

TITLE 442. OKLAHOMA MEDICAL MARIJUANA AUTHORITY

CHAPTER 10. MEDICAL MARIJUANA REGULATIONS

1. DESCRIPTION:

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.

2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:

Primary persons affected by the proposed rules are licensed businesses, though the Agency expects negligible impact because the majority of amendments are implementing legislation already in effect. Agency has worked to minimize cost impacts by limiting amendments, both in number and in scope.

3. DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:

Licensed businesses and patients will benefit from the proposed changes. Businesses will primarily benefit from significantly enhanced clarity throughout, as well as several amendments that are in response to feedback received from the industry. Patients will benefit from additional protections with regards to testing.

4. ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:

The proposed permanent rules are not expected to have an economic impact, cost of compliance, or fee changes because the majority of amendments are implementing legislation already in effect.

5. COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY.

The benefits to the Agency are overall clarity of rules for streamlined enforcement, greater transparency within the stream of commerce for regulatory oversight, and enhanced processes for licensed laboratories. There are no expected costs of implementation and enforcement.

6. IMPACT ON POLITICAL SUBDIVISIONS:

There is not expected to be an impact on political subdivisions.

7. ADVERSE EFFECT ON SMALL BUSINESS:

There are no expected adverse effects on small businesses.

8. EFFORTS TO MINIMIZE COSTS OF RULE:

The agency has made efforts to minimize costs by gathering input from the industry on amendments that would benefit both agency and industry, as well as limiting the number and scope of amendments.

9. EFFECT ON PUBLIC HEALTH AND SAFETY:

These proposed permanent rules will preserve the Agency's core functions to protect the health and safety of all licensees.

10. DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:

There are no identifiable detrimental effects on public health and safety.

11. PREPARATION AND MODIFICATION DATES:

This rule impact statement was prepared on December 20, 2023.