AMENDED RULE IMPACT STATEMENT

TITLE 442. OKLAHOMA MEDICAL MARIJUANA AUTHORITY

CHAPTER 10. MEDICAL MARIJUANA REGULATIONS

1. DESCRIPTION:

Changes to required application materials like certificates of occupancy or ownership transfers, pursuant to SB1635 and SB1939, occur at OAC 442:10-3-1(c-e), OAC 442:10-4-2(c)(2); OAC 442:10-4-2(e)(A)(i); OAC 442:10-4-3(e); OAC 442:10-5-2(c); OAC 442:10-5-2(e); OAC 442:10-5-3(e)(8-9); and OAC 442:10-9-3(e)(9). New definitions for "change of ownership request", "license transfer application", "location change request", and "name change request" provide clarification of the new ownership transfer requirements pursuant to SB1939 and are added to definitions at OAC 442:10-1-4. Updated timeframes to submit renewal applications pursuant to SB1939 are incorporated at OAC 442:10-4-2(c)(6) and OAC 442:10-5-2(c)(5). Specific location prohibitions regarding multiple licenses of the same type pursuant to SB1939 are added to OAC 442:10-5-2(b)(2). Amendments regarding ownership transfers pursuant to SB1939 are added to OAC 442:10-4-2(e); OAC 442:10-5-2(e); and OAC 442:10-9-2(e)(2). Language regarding the possession, sale, or transfer of medical marijuana upon expiration of a license are added to OAC 442:10-4-2(d); OAC 442:10-5-2(d); and OAC 442:10-9-2(d)(1) as required by SB1939. The requirement that employees wear or display their employee credential pursuant to SB758 is added at OAC 442:10-5-1.1(13)(C). Changes to laboratory testing requirements, including final form testing requirements pursuant to SB1635, occur at OAC 442:10-4-5(d)(2)(D); OAC 442:10-5-5(f); OAC 442:10-5-6(d)(2)(D); OAC 442:10-7-1(f)(4); OAC 442:10-8-1; OAC 442:10-8-2; OAC 442:10-8-3; OAC 442:10-8-4; OAC 442:10-9-7(b)(2)(D); and OAC 442:10-11-1(g)(2)(C). Rules requiring medical marijuana to be sold in pre-packaged quantities pursuant to HB3361 are added to OAC 442:10-7-1 and OAC 442:10-7-2. Specific prohibitions regarding opening pre-packaged products are added to OAC 442:10-5-16(s).

Amendments to streamline and clarify inventory manifest requirements are added to the rules at OAC 442:10-3-6(a), OAC 442:10-3-6(b)(1); OAC 442:10-4-5(c)(2); OAC 442:10-4-5(d)(1)(G); OAC 442:10-5-6(d)(1)(H); and OAC 442:10-9-7(b)(1)(G). Amendments to OAC 442:10-4-2(g); OAC 442:10-5-2(g)(2-3); and OAC 442:10-9-2(g) reiterate that commercial license surrender requests are effective upon written approval by the Authority and clarify when the Authority may reject surrender requests. Amendments to OAC 442:10-5-1(a) state that all requirements of Oklahoma law and these Rules are continuing in nature and must be satisfied in order to retain licensure. OAC 442:10-6-1(c) is amended to clarify that commercial growers must maintain required commercial grower signage. Expanded testing requirements for pesticide analytes occur at OAC 442:10-8-1(i)(5). The requirement that dispensaries shall produce any and all COAs for products currently in the dispensary's inventory upon request of a licensed medical marijuana patient or caregiver is added to OAC 442:10-8-1(h). The requirement that processors verify patient license information when processing on behalf of a licensed patient is added to OAC 442:10-5-5. Amendments to labeling requirements at OAC 442:10-7-1(d)(11) provide clarification that if a package or container is relabeled, all initial labels must be completely removed before the new label is applied.

Clean up and clarification of existing rules occurs thought Chapter 10 of OAC 442. Definitions for "decontamination", "final product", "production batch", and "remediation" are amended, new definitions for "final harvest batch", "final production batch", and "tamper-evident" are added, and definitions are alphabetized at OAC 442:10-1-4. Record retention requirements are amended for consistency at OAC 442:10-3-2(c); OAC 442:10-3-6(f); OAC 442:10-4-5(c); OAC 442:10-5-4(h);

OAC 442:10-5-5(b); OAC 442:10-5-6(b); OAC 442:10-5-6(b)(6); OAC 442:10-5-6(i)(1); OAC 442:10-5-10(b)(3); OAC 442:10-9-6(c)(1)(C); OAC 442:10-9-6(c)(2)(B); OAC 442:10-9-6(e); OAC 442:10-11-(f)(3). Amendments to ensure consistent application requirements occur at OAC 442:10-4-1(b), OAC 442:10-4-1.1; OAC 442:10-4-3(b), OAC 442:10-4-3(c)(12-14); OAC 442:10-4-2(h); OAC 442:10-5-3(f); OAC 442:10-9-3(c)(7-8); OAC 442:10-9-3(f); OAC 442:10-9-4(b)(9-10) and OAC 442:10-11-(d)(4). Amendments to ensure consistent language throughout all subchapters of the rules, including adding words where numbers are used, replacing dashes with commas, removing dates that have previously passed, and ensuring consistent verbiage throughout the rules, occur at OAC 442:10-2-9(a-b); OAC 442:10-3-3; OAC 442:10-4-4(b); OAC 442:10-5-1.1(7); OAC 442:10-5-2(b)(1); OAC 442:10-5-3(b); OAC 442:10-5-4(b-c); OAC 442:10-5-4.1(a); OAC 442:10-5-6(i)(7); OAC 442:10-7-2(b); OAC 442:10-9-1(b); OAC 442:10-11-(d)(1); and OAC 442:10-11-(j).

2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:

Primary persons affected by the proposed rules are licensed businesses and licensed patients. The Agency recognizes that there will likely be costs impacting licensed business, but these costs are driven by legislative acts passed in the 2024 regular legislative session and are not caused by the Agency's rulemaking. The Agency has worked to minimize cost impacts by limiting amendments, both in number and in scope, as well as strategic clarifications to lower the administrative burden on Oklahoma businesses. To further limit disruption on businesses and licensed patients, updated pesticide testing requirements that ensure public health and safety will be phased in beginning March 1, 2026 and further expanded beginning December 1, 2026, giving businesses one year to comply with these changes.

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 aligning the State's required testing with standards consistent across the majority of other medical marijuana programs, providing increased product safety.

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

The Agency recognizes that there are costs of compliance with a small number of proposed permanent rules. These rules are necessary to implement legislation adopted during the 2024 legislative session, therefore the costs of compliance are driven by legislative mandate and not agency rulemaking. The requirement that all medical marijuana or medical marijuana products be sold in prepackaged quantities is required by HB 3361 (2024) and 63 O.S. § 431.1 of state statute. While there will be costs of compliance for businesses as a result of this legislative requirement, the Authority worked to minimize the impact of these rules by limiting proposed rule changes to the statutory requirements outlined in the new legislation. By promulgating these rules seven months ahead of the bill's effective date of June 1, 2025, the Authority attempted to set clear expectations and communicate information to the industry to limit disruption caused by the new prepackaging requirements. These proposed permanent rules will expand the Agency's ability to protect the health and safety of all licensees by expanding the number of required pesticide analytes tested for. The Authority recognizes that there are costs of compliance associated with these additional pesticide testing requirements, but the amendments are necessary to ensure safe medical marijuana products for licensed patients in the state. To minimize disruption on businesses and licensed patients, updated pesticide testing requirements will be phased in beginning March 1, 2026 and further expanded beginning December 1, 2026.

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 will be opportunities to maximize use of FTE hours by streamlining processes. The Agency does expect costs of implementation and enforcement, primarily in two ways. First, the Agency expects to invest approximately $2.8M into licensing and inspection technologies for which a portion is associated with these proposed rules. The Agency is also investing $3.5M in start-up costs to establish a Quality Assurance Lab, which will significantly increase the Agency's capacity to protect public health and safety and enforce new rules regarding testing. The Agency expects around $2.4M in ongoing costs to operate the lab.

6. IMPACT ON POLITICAL SUBDIVISIONS:

While there are rule changes that may have minor impacts to municipalities or political subdivisions, these rules are necessary to implement legislative requirements and ensure compliance with state statute, such that any impact to municipalities or political subdivisions are driven by the legislative mandate and not agency rulemaking. There are no expected adverse economic impacts to municipalities or 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 expand the Agency's ability to protect the health and safety of all licensees by expanding the number of required contaminants tested for.

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 initially prepared on October 24, 2024 and was amended on January 29, 2025.