## New OMMA Rules Effective August 16, 2024

September 12, 2024

By: John M. Hickey

On July 25, 2024, OMMA issued new permanent Rules codifying various rules previously put in place via the emergency rule process. On August 16, 2024, OMMA amended its Rules to include new emergency rules.

***Canopy***

Please note OMMA has defined "canopy" to mean: the total surface area within a cultivation area that is dedicated to the cultivation of flowering marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured and must include all of the area within the boundaries where the cultivation of the flowering marijuana plants occurs. If the surface of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy *may not* include the areas within the cultivation area that are used to cultivate immature marijuana plants and seedlings, prior to flowering, and that are not used at any time to cultivate mature marijuana plants. If the flowering plants are vertically grown in cylinders, the square footage of the canopy shall be measured by the circumference of the cylinder multiplied by the total length of the cylinder.

***Liquidation of Product***

A medical marijuana business licensee whose license is not renewed, or whose license is revoked, suspended, or voluntarily surrendered, shall cease all operations immediately upon expiration of the license and shall dispose of any medical marijuana or medical marijuana products in accordance with OAC 442:10-5-10 that were not liquidated prior to licensure expiration.

Except as provided by Section 427.14 of Title 63 of the Oklahoma Statutes, immediately upon expiration of a license, any medical marijuana business shall cease all possession, transfer, or sale of medical marijuana or medical marijuana products. Any continued possession, sale, or transfer shall subject the business owners and operators to felony prosecution pursuant to the Uniform Controlled Dangerous Substances Act.

***OMMA Application Change Fees***

The application fee for a name change or location change continues to be $500. The application fee for a change in ownership is now the same fee as the annual license fee.

***COO Requirement***

While the requirement of a Certificate of Occupancy ("COO") is not new, OMMA's Emergency Rule provide some clarification.

All medical marijuana building must have a COO. Once a COO is issued by the Oklahoma State Fire Marshal or by the political subdivision with an authority having a jurisdiction agreement on file with the Oklahoma State Fire Marshal and such COC has been submitted to OMMA showing full compliance, a licensee seeking to renew is application, will only need to provide an executed copy of OMMA's form affidavit stating the premises continues to comply with zoning classifications, applicable municipal ordinances, and all applicable safety, electrical, fire, plumbing, waste, construction, and building specification codes.

An additional COO along with an affidavit is required if there has been a change of use or occupancy, or if there is any change concerning the facility or location that would, by law, require additional inspection, licensure or permitting by the state or municipality. Licensees are responsible for compliance with applicable state fire, building, and electrical codes and may be liable for all damage that results from noncompliance with state fire, building, and electrical codes to the extent authorized by law. *See* 442:10-5-3.

For more information regarding the COO requirement, see our August 2024 blast at: https://www.hallestill.com/news-insights/oklahoma-cannabis-coos-and-possible-revocation-of-license

***New Licensing Moratorium***

The new licensing moratorium has been extended to August 1, 2026. *See* 442:10-5-3(h).

***Commercial Grower Bond***

The new rules provide clarification regarding various aspect of the required bond for grow. You should familiarize yourself with 442:10:5-3.3.

***Secret Shoppers***

Be aware that OMMA may employ secret shoppers to inspect licensed commercial medical marijuana businesses. Secret shoppers may purchase medical marijuana or medical marijuana products for compliance testing or attempt to purchase medical marijuana or marijuana products in order to prove compliance with OMMA Rules.

***Zero Monthly Reports***

As a reminder, licensees reporting zero inventory must do so by the 15th of each month with information from the preceding month. As an example, July 15 is the due date for the June 1-30 monthly inventory report. Use the Operational Exception function in Metrc to report zero inventory.

Failure to submit Zero Monthly Reports could result in OMMA seeking a $500 fine per occurrence.

https://oklahoma.gov/omma/businesses/seed-to-sale.html

***Laboratory Testing***

Whether or not you run a laboratory testing facility, you should familiarize yourself with the Laboratory Testing section of the Rules, located at 442:10-8-1.

More specifically, see changes to the definition of "decontamination", "final product", "production batch", and "remediation" and adding new definitions for "final harvest batch", "final production batch", and "medical marijuana infused product." As well as changes to prohibitions, remediation and decontamination processes.

If you have any questions or concerns, please feel free to contact a member of our team.

## Attorneys

- John M. Hickey

## Practices

- Cannabis Law