

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 1301:18-2-06

Rule Type: New

Rule Title/Tagline: 10(B) Dispensaries.

Agency Name: Department of Commerce

Division: Division of Cannabis Control

Address: 77 South High Street 20th, Floor Columbus OH 43215

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I. Rule Summary

1. Is this a five year rule review? No
 - A. What is the rule's five year review date?
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 3780.03
5. What statute(s) does the rule implement or amplify? 3780.03, 3780.10
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

Non-medical cannabis application licensing rules are required pursuant to the voter-approved initiated statute.
8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

Pursuant to O.R.C. 3780.10(B), the Division must issue license applications to current medical marijuana cultivators and dispensaries as specified in the statute. The rule outlines the application and licensing process for these licenses, including a determination of the entities eligible to apply, a drawing, and a site selection process.

- 9. Does the rule incorporate material by reference? Yes**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Citations in this rule are to sections of the Ohio Revised Code and Ohio Administrative Code.

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will increase revenues.

\$900,000

This rule includes a \$5,000 application fee. The Division estimates there will be between 180-250 applications. Therefore, we expect the agency's revenue from application fees to be between \$900,000 and \$1,250,000.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The rules require an application and license to dispense non-medical cannabis. The application fee is \$5,000. The application requirements are not cumbersome and is information that most businesses will have readily available.

Selecting sites will take more time and effort. New dispensaries cannot be closer than a mile to another dispensary and must be at least 500 feet from a prohibited facility (e.g., church, school, park). Additionally, licensees must ensure that the site is within their control and there are no local moratoriums or other factors that would prohibit

them from establishing the proposed dispensary at the selected site. Due to all of these factors, attempting to quantify the time and resources necessary would be impractical.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

The application fee will cover the Division's cost of reviewing the applications received and determining eligibility.

III. Common Sense Initiative (CSI) Questions

17. **Was this rule filed with the Common Sense Initiative Office? Yes**
18. **Does this rule have an adverse impact on business? Yes**
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes**

Pursuant to O.R.C. 3780.10(B), the Division must issue license applications to current medical marijuana cultivators and dispensaries as specified in the statute.
 - B. **Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**
 - C. **Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

\$5,000 application fee and application materials.
 - D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 50

(B) All 10(B) applicants authorized to apply for 10(B) licensure shall abide by all application requirements outlined under this rule.

(B) All 10(B) applicants authorized to apply for 10(B) licensure shall abide by all application requirements outlined under this rule.

(C) An applicant that fails to abide by all application requirements may have its application eligibility adjusted, or its application abandoned, by the division.

(D) Distribution of 10(B) application materials shall occur on the division's internet website located at www.com.ohio.gov/divisions-and-programs/cannabis-control.

(D)(1) Any and all updates and ongoing public notices shall be conspicuously posted on the division's internet website.

(E)(1) Prior to publishing 10(B) application materials, the division shall determine which entities are authorized to apply for 10(B) licensure.

(E)(1) (a) The division shall notify all authorized entities in writing of the following:

(E)(1) (b) Each entity authorized to apply shall have one 10(B) license eligible for the phase one site selection process.

(E)(1) (b) (i) Any additional 10(B) licenses issued to the same entity shall be eligible for the phase two site selection process.

(F)(1) All 10(B) initial applications shall be completed on a form prescribed by the division that demonstrates or attests the following:

(F)(1)(a) The applicant's designated point of contact that shall serve as the main contact for the division for the duration of the application period.

(F)(1)(a)(i)(E) All information provided must be in working order and readily available to receive voice messages, electronic messages, or other communication as applicable.

(F)(1)(i)(i) Applicants who choose to apply for a dual-use license shall:

(F)(2)(a) Upon determination by the division that a 10(B) applicant failed to meet all requirements of paragraph (F) of this rule, the division shall notify the applicant in writing of all deficiencies contained within the application.

(F)(2)(a) Upon determination by the division that a 10(B) applicant failed to meet all requirements of paragraph (F) of this rule, the division shall notify the applicant in writing of all deficiencies contained within the application.

(F)(2)(b) Within ten business days of receipt of written notification from the division, the applicant shall alleviate all deficiencies outlined and submit any further documentation requested by the division.

(F)(2)(c) Should an applicant fail to cure all application deficiencies, the application shall be deemed abandoned.

(F)(3) The division shall establish a date and time by which all 10(B) initial applications must be submitted. Any application submitted to the division after the deadline shall be ineligible for licensure and returned to the applicant at the mailing address outlined in the application.

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(G)(1) The division shall contract with a third-party operator to randomly rank all 10(B) applications.

(G)(2) 10(B) applicants that choose to apply for a dual-use license shall have two times the number of opportunities of selection in the drawing.

(G)(3)(a) The third-party operator shall randomly rank all 10(B) applicants, beginning with one and continuing sequentially.

(G)(3)(b) All 10(B) applicants shall be ranked numerically in the order in which the application was drawn by the third-party operator.

(G)(3)(c) The third-party operator shall not have access to any information, including the initial applications, that would allow the operator to correlate a 10(B) applicant with its randomly assigned rank.

(H)(1) After the drawing as outlined in paragraph (G) of this rule, the division shall proceed with the facility site selection process.

(H)(2) The site selection process shall occur in two phases.

(I)(1) Applicants who are eligible for phase one facility site selection process shall submit their materials on a form prescribed by the division.

(I)(2) The division shall establish a date and time by which all phase one facility site selection applications must be submitted.

(I)(2) The division shall establish a date and time by which all phase one facility site selection applications must be submitted.

(I)(2) Should an eligible 10(B) applicant fail to comply with all requirements of this paragraph, or fail to submit an initial facility site application that meets all required criteria by the deadline, the division may modify the applicant's rank or move the applicant into the phase two site selection process.

(I)(3) Throughout the facility site selection process, the division shall establish one or more days to publish to all applicants all phase one facility site business addresses received and approved by the division up to the date of publication.

(I)(4) A 10(B) applicant that is eligible for phase one facility site selection may submit up to three facility sites per phase one application that shall demonstrate the following for each facility site:

(I)(4)(g) Any other information required by the division.

(I)(4)(h) In the event that more than one 10(B) applicant submits the same facility site, the applicant issued the lower rank pursuant to paragraph (G) of this rule, will be required to select a different facility site and will be authorized to submit a substitute location site application.

(I)(4)(h)(i) If an applicant is required to select a different facility site and submitted more than one phase one facility site, the division will immediately review that applicant's additional facility sites in the order the applicant selected pursuant to paragraph (I)(4)(a).

(I)(4)(i) In the event a 10(B) applicant submits a facility site that is within one mile of another phase one facility site as published by the division pursuant to paragraph (I)(3) of this rule, the 10(B) applicant issued the lower rank pursuant paragraph (G) of this rule, will be required to select a different facility site and will be authorized to submit a substitute location site application.

(I)(4)(i)(i) If an applicant is required to select a different facility site and submitted more than one phase one facility site, the division will immediately review that applicant's additional facility sites in the order the applicant selected pursuant to paragraph (I)(5)(a).

(J)(1) After the phase one site selection process, the division will establish and publish regional districts for the phase two site selection process.

(J)(2)(a) The division shall establish a date and time by which all regional preference forms must be submitted. Any phase two applicant who fails to submit a regional preference form pursuant to this paragraph will have their preferences determined by the division.

(J)(2)(a) The division shall establish a date and time by which all regional preference forms must be submitted. Any phase two applicant who fails to submit a regional preference form pursuant to this paragraph will have their preferences determined by the division.

(J)(3) After receipt and review of the regional preference forms, the division shall notify each phase two applicant of its assigned regional district for its 10(B) license.

(J)(3) The assigned regional district shall be based upon the applicant's:

(J)(5) The facility site location application for phase two site selection shall demonstrate the following:

(J)(5) (g) Any other information required by the division.

(J)(6) Throughout the phase two facility site selection process, the division shall establish one or more days to publish to all applicants all phase one facility site business addresses received and approved by the division up to the date of publication.

(J)(7) In the event that more than one 10(B) applicant submits the same phase two facility site, the 10(B) applicant issued the lower rank pursuant to paragraph (G) of this rule, will be required to select a different facility site and will be authorized to submit a substitute facility site location application.

(J)(7) In the event a 10(B) applicant submits a facility site that is within one mile of another phase two facility site as published by the division pursuant to paragraph (J)(6) of this rule, the 10(B) applicant issued the lower rank pursuant paragraph (G), will be required to select a different facility site and will be authorized to submit a substitute facility site location application.

(K) After receiving a facility site location application from a 10(B) applicant and determining that the applicant has met all requirements for provisional licensure established in chapter 3780 of the Revised Code and division 1301:18 of the Administrative Code, the division shall issue a provisional 10(B) license to the applicant for the facility site identified in the facility site location application.

(K)(2) If the division approves a relocation, the applicant must submit a new facility site for approval that meets the criteria established in paragraphs (I) or (J) of this rule, as applicable.

(M) All 10(B) licenses must obtain a certificate of operation within twelve months of receipt of its provisional license.

B. How many existing regulatory restrictions do you propose removing from this rule? 99

3796:2-1-02(A) The department shall provide advance notice to the public indicating the commencement date and time period for accepting applications.

3796:2-1-02(A) The director shall have the right to amend the notice prior to the deadline for submitting an application.

3796:2-1-02(A) The director shall publish such amended notice in the same manner as the original notice.

3796:2-1-02(A) The director shall also have the right to cancel a notice of open application prior to the award of a cultivator provisional license.

3796:2-1-02(B) The provisional license application shall be submitted in accordance with Chapter 3796. of the Revised Code and this chapter.

3796:2-1-02(B)An applicant for a level I cultivator provisional license shall be prohibited from applying for a level II cultivator provisional license, and an applicant for a level II cultivator provisional license shall be prohibited from applying for a level I cultivator provisional license.

3796:2-1-02(B)An applicant for a level I cultivator provisional license shall be prohibited from applying for a level II cultivator provisional license, and an applicant for a level II cultivator provisional license shall be prohibited from applying for a level I cultivator provisional license.

3796:2-1-02(B)An applicant for a level I cultivator provisional license shall be prohibited from applying for a level II cultivator provisional license, and an applicant for a level II cultivator provisional license shall be prohibited from applying for a level I cultivator provisional license.

3796:2-1-02(B)An applicant for a level I cultivator provisional license shall be prohibited from applying for a level II cultivator provisional license, and an applicant for a level II cultivator provisional license shall be prohibited from applying for a level I cultivator provisional license.

3796:2-1-02(B)An applicant for a level I or level II cultivator provisional license shall submit, in accordance with the application instructions, the following:

3796:2-1-02(B)(2)A business plan, which, at a minimum, shall include

3796:2-1-02(B)(2)(e) An organizational chart of the company, including name, address, and date of birth of each principal officer, board member and any other individual associated with the cultivator, provided that all those individuals shall be at least twenty-one years of age;

3796:2-1-02(B)(2)(f) All persons subject to the criminal records checks shall submit both an Ohio bureau of criminal identification and investigation criminal records check and a federal bureau of criminal investigation criminal records check pursuant to division (B) of section 3796.12 of the Revised Code;

3796:2-1-02(B)(3) An operations plan that establishes policies and procedures that the applicant will implement for the secure, safe, sustainable, and proper cultivation of medical marijuana, which, at a minimum, shall include:

3796:2-1-02(B)(3)(d) Facility specifications, including the cultivation environment, layout of the marijuana cultivation area (i.e. grow tables, tiered or stacked orientation, etc.) evidencing that the applicant will comply with the requirements of Chapter 3796. of the Revised Code and will operate in accordance with the rules promulgated pursuant to Chapter 3796. of the Revised Code;

3796:2-1-02(B)(4) A quality assurance plan that establishes policies and procedures for a safe, consistent supply of medical marijuana, which, at a minimum, shall include:

3796:2-1-02(B)(5) A security plan that establishes policies and procedures to prevent theft, loss or diversion from a cultivator and protect facility personnel, which, at a minimum, shall include:

3796:2-1-02(B)(5) (i) If the building is in existence at the time of the application, the applicant shall submit plans and specifications drawn to scale for the interior of the building.

3796:2-1-02(B)(5) (ii) If the building is not in existence at the time of application, the applicant shall submit a plot plan and a detailed drawing to scale of the interior and the architect's drawing of the building to be constructed.

3796:2-1-02(B)(6) A financial plan, which, at a minimum, shall include:

3796:2-1-02(B)(6)(i) Documentation acceptable to the department shall include, as evidence of compliance, a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of application.

3796:2-1-02(B)(6)((i) Documentation acceptable to the department shall include, as evidence of compliance, a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of application.

3796:2-1-02(B)(6)(d)(ii) The documentation must be dated within thirty calendar days before the date that the application was submitted.

3796:2-1-02(B)(6)(d) Information verifying that the applicant will be able to conform to the financial responsibility requirements under rule 3796:2-1-05 of the Administrative Code; and

3796:2-1-03(A) The department, an independent contractor selected by the department, or a combination of the two shall review the submitted applications as described in this chapter and the application instructions. In order to receive consideration under paragraph (B) of this rule, an applicant shall:

3796:2-1-03(A) The department, an independent contractor selected by the department, or a combination of the two shall review the submitted applications as described in this chapter and the application instructions. In order to receive consideration under paragraph (B) of this rule, an applicant shall:

3796:2-1-03(A) (1) Demonstrate sufficient liquid capital pursuant to rule 3796:2-1-02 of the Administrative Code and an ability to meet the financial responsibility requirements under rule 3796:2-1-05 of the Administrative Code;

3796:2-1-03(A) (3) Verify that the proposed facility is not located within five hundred feet of a prohibited facility, which shall be measured in accordance with rule 3796:5-5-01 of the Administrative Code;

3796:2-1-03(A) (4) Certify that the local jurisdiction where the facility is proposed has not passed a moratorium or taken other action that would prohibit the applicant from operating as a medical marijuana cultivator;

3796:2-1-03(B) The applicants shall be ranked using an impartial and numerical process taking into account the criteria identified in rule 3796:2-1-02 of the Administrative Code, as developed by the department, an independent contractor selected by the department, or a combination of the two. The applicants will be ranked based on the following criteria, at a minimum:

3796:2-1-03(B) (1) A business plan, which, at a minimum, shall include:

3796:2-1-03(B) (1) (b) An organizational chart of the company, including name, address, and date of birth of each principal officer and board member of the

cultivator, provided that all those individuals shall be at least twenty-one years of age;

3796:2-1-03(B)(1)(c) Experience, which includes information on business licenses held by any person affiliated with the applicant, regardless if said license is active, revoked, suspended, or expired. If expired, applicant shall provide the grounds behind the expiration. The information provided on business licenses shall include the type of license, the licensing agency, the date the license was obtained, and a summary of any negative actions taken against each license;

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3796:2-1-03(B)(2) An operations plan, which shall include, but not be limited to, the following:

3796:2-1-03(B)(2) (d) Facility specifications, including the cultivation environment, layout of the marijuana cultivation area (i.e. grow tables, tiered or stacked orientation, et cetera.), evidencing that the applicant will comply with the requirements of Chapter 3796. of the Revised Code and will operate in accordance with the rules promulgated pursuant to Chapter 3796. of the Revised Code; and

3796:2-1-03(B)(3) A quality assurance plan, which shall include, but not be limited to, the following:

3796:2-1-03(B)(4) A security plan, which shall include, but not be limited to, the following:

3796:2-1-03(B)(4)(b) Physical equipment used to monitor the facility and meet the security requirements under Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code;

3796:2-1-03(B)(5) A financial plan, which, at a minimum, shall include the following:

3796:2-1-03(B)(5)(c) (i) Documentation acceptable to the department shall include, as evidence of compliance, a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of application.

3796:2-1-03(B)(5)(c) (i) Documentation acceptable to the department shall include, as evidence of compliance, a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of application.

3796:2-1-03(B)(5)(c) (ii) The documentation must be dated within thirty calendar days before the date the application was submitted.

3796:2-1-03(B)(5) (d) Information verifying that the applicant will be able to conform to the financial responsibility requirements under rule 3796:2-1-05 of the Administrative Code; and

3796:2-1-03(C)(1)(a) The applicant must provide documentation establishing that its principal place of business is headquartered in Ohio. The applicant may also provide names, addresses, and verification of any persons associated with the applicant that have established residency in Ohio.

3796:2-1-03(C)(2)(a) The applicant must demonstrate an environmental plan of action to minimize the carbon footprint, energy usage, environmental impact, and resource needs for the production of medical marijuana.

3796:2-1-03(C)(3) Employment practices, which the applicant must demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, disabled persons, and Ohio residents;

3796:2-1-03(C)(4)(a) The applicant must demonstrate the following:

3796:2-1-03(C)(4)(a)(ii) It is owned and controlled as a woman-owned business by a United States citizen who is a resident of this state. For purposes of this paragraph, "owned and controlled" has the same ownership and control requirements as listed in paragraph (C)(4)(a)(i) of this rule.

3796:2-1-03(C)(5) Research plan, which the applicant must provide the department with a detailed proposal to conduct or facilitate a scientific study or studies related to the medicinal use of marijuana.

3796:2-1-03(D) The department may request additional information as part of the application review process from an applicant that otherwise meets all of the requirements under paragraph (A) of this rule. The applicant shall have thirty calendar days from the date the applicant receives the department's request to provide the information. If the applicant fails to provide the requested information within thirty calendar days, it will result in an abandoned application. An abandoned application shall not receive further consideration.

3796:2-1-03(D)The department may request additional information as part of the application review process from an applicant that otherwise meets all of the requirements under paragraph (A) of this rule. The applicant shall have thirty calendar days from the date the applicant receives the department's request to provide the information. If the applicant fails to provide the requested information within thirty calendar days, it will result in an abandoned application. An abandoned application shall not receive further consideration.

3796:2-1-03(D) The department may request additional information as part of the application review process from an applicant that otherwise meets all of the requirements under paragraph (A) of this rule. The applicant shall have thirty calendar days from the date the applicant receives the department's request to provide the information. If the applicant fails to provide the requested information within thirty calendar days, it will result in an abandoned application. An abandoned application shall not receive further consideration.

3796:2-1-03(E) An applicant forfeits all fees associated with an abandoned application. The department shall not be required to act on an abandoned application and the application may be destroyed by the department. An abandoned application will not prevent an applicant from applying for a provisional license in the future if the department issues additional provisional licenses pursuant to paragraph (B) of rule 3796:2-1-01 of the Administrative Code.

3796:2-1-03(E) An applicant forfeits all fees associated with an abandoned application. The department shall not be required to act on an abandoned application and the application may be destroyed by the department. An abandoned application will not prevent an applicant from applying for a provisional license in the future if the department issues additional provisional

licenses pursuant to paragraph (B) of rule 3796:2-1-01 of the Administrative Code.

3796:2-1-04(A) A provisional license shall be issued to the level I and level II qualified applicants receiving at least the minimum required score in each category and the highest total score overall as compared to the other applicants.

3796:2-1-04(A) A provisional license shall be issued to the level I and level II qualified applicants receiving at least the minimum required score in each category and the highest total score overall as compared to the other applicants.

3796:2-1-04(B) In the event that two or more qualified applicants for a cultivator provisional license received the same total score, and awarding a provisional license to all tied applicants would violate paragraph (A) of rule 3796:2-1-01 of the Administrative Code, the department shall select the applicant that received the highest score in the operations plan category. In the event that the same applicants received the same score in the operations plan category, the department shall select the applicant that received the highest score in the security plan category. If a tie score still remains, the tied applicants will be interviewed by an unbiased panel selected by the department.

3796:2-1-04(B) In the event that two or more qualified applicants for a cultivator provisional license received the same total score, and awarding a provisional license to all tied applicants would violate paragraph (A) of rule 3796:2-1-01 of the Administrative Code, the department shall select the applicant that received the highest score in the operations plan category. In the event that the same applicants received the same score in the operations plan category, the department shall select the applicant that received the highest score in the security plan category. If a tie score still remains, the tied applicants will be interviewed by an unbiased panel selected by the department.

3796:2-1-04 (C) If no qualified applicants are found during the process described in rule 3796:2-1-03 of the Administrative Code, a provisional licensee fails to fulfill the conditions in the application, or a certificate of operation is revoked, the department may, at the discretion of the director, announce another period to submit applications in accordance with rule 3796:2-1-02 of the Administrative Code. If the department announces another application period, a qualified applicant that submitted an application during the previous application period, but was not issued a provisional license, may

re-submit an application and the application fee under rule 3796:5-1-01 of the Administrative Code shall be waived.

3796:2-1-04(D) No person shall hold or be granted more than one cultivator provisional license or cultivator certificate of operation at any time. No person shall hold a financial interest in or be an owner, partner, officer, director, shareholder, member, or other person who may significantly influence or control the activities of more than one cultivator. No corporation, partnership, limited liability partnership, limited liability company, or other entity or subsidiary thereof shall hold a financial interest in or be an owner, principal officer, partner, shareholder, member, or other person who may significantly influence or control the activities of more than one cultivator.

3796:2-1-04(D) No person shall hold or be granted more than one cultivator provisional license or cultivator certificate of operation at any time. No person shall hold a financial interest in or be an owner, partner, officer, director, shareholder, member, or other person who may significantly influence or control the activities of more than one cultivator. No corporation, partnership, limited liability partnership, limited liability company, or other entity or subsidiary thereof shall hold a financial interest in or be an owner, principal officer, partner, shareholder, member, or other person who may significantly influence or control the activities of more than one cultivator.

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3796:3-1-02(B)(6) A financial plan, which, at a minimum, shall include:

3796:3-1-02(B)(6)(c) Documentation acceptable to the department that the individual or entity filing the application has sufficient liquid assets for a processor provisional license, which are unencumbered and can be converted within thirty days after a request to liquidate such assets. Documentation acceptable to the department includes a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such

a statement is available at the time of application. The documentation must be dated within thirty calendar days before the date the application was submitted. The following shall be considered sufficient liquid assets:

3796:3-1-02(B)(6)(c) Documentation acceptable to the department that the individual or entity filing the application has sufficient liquid assets for a processor provisional license, which are unencumbered and can be converted within thirty days after a request to liquidate such assets. Documentation acceptable to the department includes a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of application. The documentation must be dated within thirty calendar days before the date the application was submitted. The following shall be considered sufficient liquid assets:

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3796:3-1-02(B)(6)(d) Information verifying that the applicant will be able to conform to the financial responsibility requirements under rule 3796:3-1-05 of the Administrative Code; and

3796:3-1-03(A)The department, an independent contractor selected by the department, or a combination of the two shall review the submitted applications as described in this chapter and the application instructions. In order to receive consideration under paragraph (B) of this rule, an applicant shall:

3796:3-1-03(A)The department, an independent contractor selected by the department, or a combination of the two shall review the submitted applications as described in this chapter and the application instructions. In order to receive consideration under paragraph (B) of this rule, an applicant shall:

3796:3-1-03(A)(1) Demonstrate sufficient liquid capital pursuant to rule 3796:2-1-02 of the Administrative Code and an ability to meet the financial responsibility requirements under rule 3796:2-1-05 of the Administrative Code;

3796:3-1-03(A)(3) Verify that the proposed facility is not located within five hundred feet of a prohibited facility, which shall be measured in accordance with rule 3796:5-5-01 of the Administrative Code;

3796:3-1-03(A) (4) Certify that the local jurisdiction where the facility is proposed has not passed a moratorium or taken other action that would prohibit the applicant from operating as a medical marijuana cultivator;

3796:3-1-03(B) The applicants shall be ranked using an impartial and numerical process taking into account the criteria identified in rule 3796:2-1-02 of the Administrative Code, as developed by the department, an independent contractor selected by the department, or a combination of the two. The applicants will be ranked based on the following criteria, at a minimum:

3796:3-1-03(B)(1) A business plan, which, at a minimum, shall include:

3796:3-1-03(B)(1) (b) An organizational chart of the company, including name, address, and date of birth of each principal officer and board member of the cultivator, provided that all those individuals shall be at least twenty-one years of age;

3796:3-1-03(B)(1) (c) Experience, which includes information on business licenses held by any person affiliated with the applicant, regardless if said license is active, revoked, suspended, or expired. If expired, applicant shall provide the grounds behind the expiration. The information provided on business licenses shall include the type of license, the licensing agency, the date the license was obtained, and a summary of any negative actions taken against each license;

3796:3-1-03(B)(2) An operations plan, which shall include, but not be limited to, the following:

3796:3-1-03(B)(2) (d) Facility specifications, including the cultivation environment, layout of the marijuana cultivation area (i.e. grow tables, tiered or stacked orientation, et cetera.), evidencing that the applicant will comply with the requirements of Chapter 3796. of the Revised Code and will operate

in accordance with the rules promulgated pursuant to Chapter 3796. of the Revised Code; and

3796:3-1-03(B)(3) A quality assurance plan, which shall include, but not be limited to, the following:

3796:3-1-03(B)(4) A security plan, which shall include, but not be limited to, the following:

3796:3-1-03(B)(4)(b) Physical equipment used to monitor the facility and meet the security requirements under Chapter 3796. of the Revised Code and the rules promulgated in accordance with Chapter 3796. of the Revised Code;

3796:3-1-03(B)(5) A financial plan, which, at a minimum, shall include the following:

3796:3-1-03(B)(5)(i) Documentation acceptable to the department shall include, as evidence of compliance, a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of application.

3796:3-1-03(B)(5)(i) Documentation acceptable to the department shall include, as evidence of compliance, a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of application.

3796:3-1-03(B)(5)(ii) The documentation must be dated within thirty calendar days before the date the application was submitted.

3796:3-1-03(B)(5) (d) Information verifying that the applicant will be able to conform to the financial responsibility requirements under rule 3796:2-1-05 of the Administrative Code; and

3796:3-1-05(C)(1)(a) The applicant must provide documentation establishing that its principal place of business is headquartered in Ohio. The applicant may also provide names, addresses, and verification of any persons associated with the applicant that have established residency in Ohio.

3796:3-1-05(C)(2)(a) The applicant must demonstrate an environmental plan of action to minimize the carbon footprint, energy usage, environmental impact, and resource needs for the production of medical marijuana.

3796:3-1-05(C)(3) Employment practices, which the applicant must demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, disabled persons, and Ohio residents;

3796:3-1-05(C)(4) (a) The applicant must demonstrate the following:

3796:3-1-05(C)(4) (a) (ii) It is owned and controlled as a woman-owned business by a United States citizen who is a resident of this state. For purposes of this paragraph, "owned and controlled" has the same ownership and control requirements as listed in paragraph (C)(4)(a)(i) of this rule.

3796:3-1-05(C)(5) Research plan, which the applicant must provide the department with a detailed proposal to conduct or facilitate a scientific study or studies related to the medicinal use of marijuana.

3796:3-1-05(D) The department may request additional information as part of the application review process from an applicant that otherwise meets all of the requirements under paragraph (A) of this rule. The applicant shall have thirty calendar days from the date the applicant receives the department's request to provide the information. If the applicant fails to provide the requested information within thirty calendar days, it will result in an abandoned application. An abandoned application shall not receive further consideration.

3796:3-1-05(E) An applicant forfeits all fees associated with an abandoned application. The department shall not be required to act on an abandoned application and the application may be destroyed by the department. An abandoned application will not prevent an applicant from applying for a provisional license in the future if the department issues additional provisional licenses pursuant to paragraph (B) of rule 3796:2-1-01 of the Administrative Code.

3796:3-1-05(E) An applicant forfeits all fees associated with an abandoned application. The department shall not be required to act on an abandoned application and the application may be destroyed by the department. An abandoned application will not prevent an applicant from applying for a provisional license in the future if the department issues additional provisional

licenses pursuant to paragraph (B) of rule 3796:2-1-01 of the Administrative Code.

3796:4-1-02(B)(5)(c)(i) Documentation acceptable to the department includes a signed statement from an Ohio licensed certified public accountant attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying, if such a statement is available at the time of application.

3796:4-1-02(B)(5)(c)(ii) The documentation must be dated within thirty calendar days before the date the application was submitted;

3796:4-1-02(B)(5)(d) Information verifying that the applicant will be able to conform to the financial responsibility requirements under rule 3796:4-1-05 of the Administrative Code

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

3796:2-1-02, 3796:2-1-03, 3796:2-1-04, 3796:3-1-02, 3796:3-1-03, 3796:4-1-02

D. Please justify the adoption of the new regulatory restriction(s).

The Division is required by statute to make applications available for non-medical cannabis licensing available for current medical marijuana licensees. The rule prescribes the information that licensees must provide on the non-medical cannabis 10(B) dispensary license application and the site selection process.

Rule Summary and Fiscal Analysis

Part A – General Questions

Rule Number: OAC 1301:18-2-06

Rule Type: New

Rule Title/Tagline: 10(B) Dispensaries

Agency Name: Department of Commerce

Division: Division of Cannabis Control

Address: 77 S. High St., 20th Floor, Columbus, OH 43215

Contact: Emily Groseclose

Phone: 614-981-1931

Email: Emily.Groseclose@com.ohio.gov

I. Rule Summary

1. Is this a five year rule review? No
 - A. What is the rule's five year review date? n/a
2. Is this rule the result of recent legislation? Yes
 - A. If so, what is the bill number, General Assembly and Sponsor?
Citizen-initiated statute approved by voters 11/7/2023 (ORC 3780)
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 3780.03
5. What statute(s) does the rule implement or amplify? 3780.03 and 3780.10
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule?

7. What are the reasons for proposing the rule?

Non-medical cannabis application licensing rules are required pursuant to the voter-approved initiated statute.

8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

Pursuant to O.R.C. 3780.10(B), the Division must issue license applications to current medical marijuana cultivators and dispensaries as specified in the statute. The rule outlines the application and licensing process for these licenses, including a determination of the entities eligible to apply, a drawing, and a site selection process.

9. Does the rule incorporate material by reference?

Yes

10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

Citations in this rule are to sections of the Ohio Revised Code and Ohio Administrative Code.

11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

n/a

II. Fiscal Analysis

12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.

This rule includes a \$5,000 application fee. The Division estimates there will be between 180-250 applications. Therefore, we expect the agency's revenue from application fees to be between \$900,000 and \$1,250,000.

13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

The rules require an application and license to dispense non-medical cannabis. The application fee is \$5,000. The application requirements are not cumbersome and is information that most businesses will have readily available.

Selecting sites will take more time and effort. New dispensaries cannot be closer than a mile to another dispensary and must be at least 500 feet from a prohibited facility (e.g., church, school, park). Additionally, licensees must ensure that the site is within their control and there are no local moratoriums or other factors that would prohibit them from establishing the proposed dispensary at the selected site. Due to all of these factors, attempting to quantify the time and resources necessary would be impractical.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).
No
15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).
No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.
The application fee will cover the Division's cost of reviewing the applications received and determining eligibility.

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. Does this rule have an adverse impact on business? Yes
- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes
 - B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
 - C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes
 - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B.9. Note: This section only applies to agencies described in R. C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
- A. How many new regulatory restrictions do you propose adding to this rule? 51
 - B. How many existing regulatory restrictions do you propose removing from this rule? None
 - C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing

restrictions.

3796:2-1-02, 3796:2-1-03, 3796:2-1-04, 3796:3-1-02, 3796:3-1-03,
3796:4-1-02

D. Please justify the adoption of the new regulatory restriction(s).

The Division is required by statute to make applications available for non-medical cannabis licensing available for current medical marijuana licensees. The rule prescribes the information that licensees must provide on the non-medical cannabis 10(B) dispensary license application and the site selection process.