

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

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Oregon Health Authority, Public Health Division

333

Agency and Division

Administrative Rules Chapter Number

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RULE CAPTION

Marijuana Labeling and Testing; Medical Marijuana Growers, Processors, Dispensaries and Cards

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
4-27-17	11:00 a.m.	Atrium Bldg. 99 W 10th Ave., Sloat Rm, Eugene, OR 97401	Jana Fussell
4-28-17	10:00 a.m.	Portland State Office Building; 800 NE Oregon St. Rm 1A, Portland, OR	Jana Fussell

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

333-007-0500, 333-007-2000, 333-008-2210

AMEND:

333-007-0090, 333-007-0200, 333-007-0210, 333-007-0220, 333-007-0300, 333-007-0310, 333-007-0315, 333-007-0320, 333-007-0330, 333-007-0340, 333-007-0345, 333-007-0350, 333-007-0360, 333-007-0370, 333-007-0390, 333-007-0400, 333-007-0410, 333-007-0420, 333-007-0430, 333-007-0440, 333-007-0450, 333-007-0480, 333-008-0033, 333-008-0550, 333-008-0570, 333-008-0600, 333-008-1020, 333-008-1030, 333-008-1070, 333-008-1200, 333-008-1205, 333-008-1230, 333-008-1245, 333-008-1248, 333-008-1620, 333-008-1630, 333-008-1690, 333-008-1760, 333-008-1810, 333-008-1830, 333-008-2180, 333-064-0100, 333-064-0110

REPEAL:

333-007-0090(T), 333-007-0310(T), 333-007-0315(T), 333-007-0320(T), 333-007-0350(T), 333-007-0360(T), 333-007-0410(T), 333-007-0430(T), 333-007-0440(T), 333-007-0450(T), 333-007-0480(T), 333-007-0490, 333-007-2000(T), 333-008-0650(T), 333-008-1200(T), 333-008-1220, 333-008-1230(T), 333-008-1500, 333-008-1501, 333-008-1505, 333-008-9900, 333-008-9910, 333-064-0100(T), 333-064-0110(T)

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 438.605, 438.610, 438.615 & 438.620, 475B.025, 475B.420 - 475B.428, 475B.435, 475B.438, 475B.440, 475B.450, 475B.525, 475B.555, 475B.605, 475B.625

Other Authority:

Statutes Implemented:

ORS 438.605, 438.610, 438.615 & 438.620, 475B.210, 475B.295, 475B.420 - 475B.428, 475B.435, 475B.438, 475B.440, 475B.443, 475B.450, 475B.555, 475B.560, 475B.605, 475B.625, 475B.635

RULE SUMMARY

The Oregon Health Authority (OHA), Public Health Division is proposing to permanently adopt and amend rules in chapter 333, divisions 7 and 64 related to marijuana labeling, and marijuana laboratory sampling and testing; and permanently adopt, amend and repeal rules in chapter 333, division 8 pertaining to medical marijuana growers, processors, dispensaries and patient cards.

ORS 475B.555 directs the Oregon Health Authority (OHA), in consultation with the Oregon Liquor Control Commission (OLCC) and the Oregon Department of Agriculture (ODA), to protect public safety by establishing rules on marijuana laboratory sampling and testing, and marijuana labeling. In order to protect public health and safety, these rules propose to adopt additional requirements for ordered tests, amend

certain standards for the sampling and testing of marijuana items, including testing for pesticides, proposed changes to how control studies are conducted, propose to allow for remediation of marijuana items under certain circumstances, propose to permit OHA or OLCC to request that marijuana items be tested for heavy metals, and propose to specifically allow for quality control or research and development testing. In addition, the rules amend the sampling procedures for testing marijuana items and the reporting of test results. These rules also allow for THC and CBD labeling to be expressed as a range or as an average of the values calculated. Other changes to chapter 333, division 7 and 64 include, but are not limited to:

- Clarify that a cannabinoid product intended for human consumption, which is not specifically categorized in the concentration and serving size limits found in Table 1 and 2, must meet the concentration and serving size limits for a cannabinoid edible.
- Clarify language and add requirements for registrants and licensees regarding ordering laboratory tests.
- Include requirements for testing usable marijuana intended for processing into a cannabinoid product.
- Allow for random testing for pesticides for cannabinoid concentrates and extracts and provides testing requirements following failed pesticide tests.
- Minor changes to the control study rule, in particular what happens when a sample from a control study fails.
- Decreasing the minimum number of samples needed for future testing for potency for cannabinoid products once it has passed a control study.
- Clarify language related to requirements for batches failing control studies.
- Amend certain sampling requirements for batches passing control studies.
- Allow for remediation of cannabinoid concentrates and extracts that fail for pesticides under certain circumstances.
- Allow for remediation of usable marijuana that failed for pyrethrin and piperonyl butoxide pesticide analytes under certain circumstances.
- Clarify requirements and options for batches of marijuana items that fail testing.
- Include the testing of heavy metals as a part of registrant and licensee audit and random testing.
- Adopt rules for quality control and research and development testing.
- Adopt a rule that allows at a minimum 20% of batches from OLCC licensees to be tested for pesticides.
- Amend rules adding requirements for laboratories related to sampling, setting limits of quantification and non-compliance testing.
- Adopting a rule pertaining to marijuana test result reporting requirements for laboratories

Changes to chapter 333, division 8 of the Oregon Administrative Rules are necessary to implement SB 1511 (Oregon Laws 2016, chapter 83); and certain housekeeping measures are necessary for rules governing growers, dispensaries and processors. Revisions to these rules include, but are not limited to:

- Adopt language that states scales used by a person responsible for a grow site must be licensed by the Oregon Dept. of Agriculture (ODA).
- Adopt requirements for designation of plants at medical marijuana grow sites.
- Adopt language that allows OHA to share information with ODA when a violation of Oregon's pesticide law has occurred.
- Include rule references and clarify language regarding labeling, packaging, and testing for a person responsible for a grow site.
- Adopt language that indicates a dispensary or processor may not request a refund of the registration fee if a 60-day letter has been issued.
- Adopt and clarify requirements regarding new and renewal applications for dispensaries and processors.
- Adopt changes to circumstances when the Authority may refund dispensary and processor application fees.
- Clarify language around products intended for human consumption must be made and handled in a manner consistent with ODA statutes.
- Include language that states nicotine product may not be sold in a dispensary.
- Removing previous and nonapplicable rules regarding labeling, signage, and limited marijuana retail sales from registered dispensaries.
- Allow for the transfer of marijuana from a licensed producer to a medical marijuana dispensary or registered processor.
- Adopt rules for a penalty matrix for levels of rule violations by registrants.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

04-30-2017 5:00 p.m.	Brittany Hall	brittany.a.hall@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.