

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**  
A Certificate and Order for Filing Temporary Administrative Rules  
accompanies this form

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ARCHIVES DIVISION  
SECRETARY OF STATE

Oregon Health Authority, Public Health Division  
Agency and Division

333  
Administrative Rules Chapter Number

Permitted pesticide use by persons responsible for a marijuana grow site

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

In the Matter of:

Temporarily adopting OAR 333-008-0650 related to the regulation of persons responsible for a marijuana grow site.

**Statutory Authority:**

ORS 475B.420, 475B.525, 475B.555

**Other Authority:**

**Statutes Implemented:**

ORS 475B.420, 475B.555

**Need for the Temporary Rule(s):**

The Oregon Health Authority (OHA) regulates medical marijuana growers, dispensaries and processors, and establishes rules and standards for testing of marijuana items. As of October 1, 2016, registrants must comply with permanent rules related to the testing of marijuana items. Medical marijuana growers must have every harvest lot of marijuana or usable marijuana, intended for use by a consumer or patient prior to selling or transferring the marijuana or usable marijuana, tested for pesticides by an accredited and licensed laboratory, and usable marijuana must be tested for pesticides before being used by a medical marijuana processor. The listed pesticides in OHA rules that must be tested for are pesticides that the Oregon Department of Agriculture (ODA) does not allow to be used on marijuana or usable marijuana. A failed pesticide test may be evidence of a violation of Oregon's pesticide laws but currently OHA has no mechanism for holding growers accountable. Since the new testing rules went into effect OHA has received many failed pesticide tests. While OHA does not intend to interfere in ODA's investigations of possible illegal pesticide use, it is important for OHA to prevent and discourage illegal pesticide use by making illegal pesticide use a violation of OHA's rules.

**Documents Relied Upon, and where they are available:**

Oregon Revised Statutes chapter 475B: [https://www.oregonlegislature.gov/bills\\_laws/ors/ors475B.html](https://www.oregonlegislature.gov/bills_laws/ors/ors475B.html)

Oregon Revised Statutes chapter 634: [https://www.oregonlegislature.gov/bills\\_laws/ors/ors634.html](https://www.oregonlegislature.gov/bills_laws/ors/ors634.html)

Oregon Administrative Rules chapter 603, division 57: [http://arcweb.sos.state.or.us/pages/rules/oars\\_600/oar\\_603/603\\_057.html](http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_603/603_057.html)

**Justification of Temporary Rule(s):**

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, and medical marijuana patients and caregivers. OHA's new cannabis testing rules went into effect on October 1, 2016. These new rules require testing of marijuana and marijuana items by accredited laboratories including testing for a list of chemicals used in pesticides. Labs are required to report failed test results to OHA. As of October 27, 2016, OHA had received approximately 40 failed pesticide tests. One lab reported that 10% - 15% of the samples of usable marijuana tested were failing for pesticides. The pesticides that labs are detecting may be illegal under state law and yet OHA has no ability to hold medical marijuana growers accountable for this illegal use. This rule is necessary to ensure that OHA can protect the public health and safety by specifically requiring medical marijuana growers to comply with the Department of Agriculture's pesticide laws.

Brittany Hall  
Printed Name

[brittany.a.hall@state.or.us](mailto:brittany.a.hall@state.or.us)  
Email Address