

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

<b>FILED</b> 9-22-15 11:16 AM ARCHIVES DIVISION SECRETARY OF STATE
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Oregon Health Authority, Public Health Division  
Agency and Division

333  
Administrative Rules Chapter Number

Limited Marijuana Retail Sales and Residency

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

In the Matter of:

Temporarily amending Oregon Administrative Rules in chapter 333, division 8 related to limited marijuana retail sales and residency requirements.

**Statutory Authority:**

ORS 475.314 and 475.338, OL 2015, ch. 784; OL 2015, ch. 614, sections 133, 134 and 173; OL 2015, ch. 699, sec. 21a

**Other Authority:**

**Statutes Implemented:**

: ORS 475.300 - 475.346, OL 2015, ch. 784; OL 2015, ch. 614, sections 133, 134 and 173; OL 2015, ch. 699, sec. 21a

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

The passage of Measure 91 allows Oregonians to grow limited amounts of marijuana and possess limited amounts of recreational marijuana for personal use beginning July 1, 2015, thereby eliminating problems caused by the prohibition and uncontrolled manufacture, delivery, and possession of marijuana within the State of Oregon.

The initiative designates the Oregon Liquor Control Commission (OLCC) as the state agency that will regulate the commercial growing and selling of recreational marijuana. During the 2015 legislative session, the consideration to implement an early retail sales program was considered, but the OLCC would not be ready to license retailers for recreational sales until the latter half of 2016. Senate Bill (SB) 460 (OL 2015, ch. 784) was introduced during the 2015 legislative session to commence retail sales as soon as possible to keep legal consumers from purchasing marijuana products from the black market during the transition process.

Under SB 460, medical marijuana dispensaries under the authority of the Public Health Division will be allowed to sell marijuana to persons over the age of 21 without a medical marijuana card for limited amounts of marijuana. A provision in SB 460 is that cities and counties may adopt ordinances prohibiting retail sales within their specific jurisdiction.

SB 460 requires the Oregon Health Authority to establish rulemaking allowing medical dispensaries to sell no more than one-quarter of an ounce of dried leaves and flowers of marijuana, seeds, and no more than four immature marijuana plants.

The Oregon Health Authority is temporarily amending the following Oregon Administrative Rules (OAR):

- OAR 333-008-0025 is revised to establish the new residency requirements for growers.
- OAR 333-008-1010 is revised to add one additional rule reference within the definitions.
- OAR 333-008-1060 is revised to include, as a basis of denial, that a city or county has prohibited the establishment of a dispensary in accordance with sections 133 or 134, chapter 614, Oregon Laws 2015 (HB 3400).
- OAR 333-008-1070 is revised to state that renewal applications shall be processed in accordance with OAR 333-008-1040 to 333-008-1060.
- OAR 333-008-1120 is revised by adding additional residency and identification requirements to the person responsible for a medical marijuana facility.

The Oregon Health Authority is adopting OAR 333-008-1500 to allow for the retail sales of limited marijuana products; require warning posters and the provision of accompanying materials informing individuals of the potential health risks associated with the use of marijuana; apply a tax of 25 percent with the retail sale of marijuana starting on or after January 4, 2016; outline required documentation of marijuana retail products sold; and requires the dispensary to verify that the individual purchasing retail marijuana products is 21 years of age. OAR 333-008-1501 is being adopted to require dispensaries to post certain signs.

OAR 333-008-1400, Moratoriums, is being repealed due to the amendment of OAR 333-008-1060 allowing communities to "opt out".

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

Senate Bill 460 (Oregon Laws 2015, chapter 784): <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/SB460/Enrolled>

House Bill 3400 (Oregon Laws 2015, chapter 614): <https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/HB3400/Enrolled>

House Bill 2041 (Oregon Laws 2015, chapter 699)

<https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/HB2041/Enrolled>

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

The Authority finds that failure to act promptly will result in serious prejudice to the public interest, the Authority, local governments and persons who possess marijuana. These rules need to be adopted promptly due to the Legislature declaring that an emergency exists with the passage of SB 460 (Oregon Laws 2015, chapter 784). The Authority adopts these rules to protect the health and safety of the consumer who wishes to possess limited amounts of marijuana by purchasing products from regulated markets within the State of Oregon. In addition, local governments may adopt ordinances that prohibit sales of limited marijuana retail product within their specific jurisdiction.

Brittany Sande

[brittany.a.sande@state.or.us](mailto:brittany.a.sande@state.or.us)

Printed Name

Email Address

Secretary of State  
Certificate and Order for Filing  
**TEMPORARY ADMINISTRATIVE RULES**  
A Statement of Need and Justification accompanies this form.

**FILED**  
9-22-15 11:16 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on Upon filing, by the  
Oregon Health Authority, Public Health Division 333

Agency and Division

Administrative Rules Chapter Number

Brittany Sande

(971) 673-1291

Rules Coordinator

Telephone

800 NE Oregon St., Suite 930, Portland, OR 97232

Address

To become effective 09/22/2015 through 03/19/2016.

**RULE CAPTION**

Limited Marijuana Retail Sales and Residency

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

**RULEMAKING ACTION**

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

**ADOPT:**

333-008-1500, 333-008-1501

**AMEND:**

333-008-0010, 333-008-0025, 333-008-1010, 333-008-1060, 333-008-1070, 333-008-1120

**SUSPEND:**

333-008-1400

**Statutory Authority:**

ORS 475.314 and 475.338, OL 2015, ch. 784; OL 2015, ch. 614, sections 133, 134 and 173; OL 2015, ch. 699, sec. 21a

**Other Authority:**

**Statutes Implemented:**

: ORS 475.300 - 475.346, OL 2015, ch. 784; OL 2015, ch. 614, sections 133, 134 and 173; OL 2015, ch. 699, sec. 21a

**RULE SUMMARY**

The Oregon Health Authority, Public Health Division is temporarily amending Oregon Administrative Rules in chapter 333, division 8 pertaining to limited marijuana retail sales. SB 460 (Oregon Laws 2015, chapter 784), passed during the 2015 legislative session, allows medical marijuana dispensaries to sell dried cannabis, seeds and plant starts to adults 21 years of age and older starting October 1. Under SB 460 the temporary sales program will end on December 31, 2016.

SB 460 directs the Oregon Health Authority to establish administrative rules allowing for limited amounts of marijuana products to be sold to persons 21 years of age or older without an Oregon Medical Marijuana card. Beginning January 4, 2016, dispensaries must collect a tax of 25% on limited marijuana retail products sold.

In addition, HB 3400, section 173, imposes immediate residency requirements on some Oregon Medical Marijuana Program growers and persons responsible for a dispensary and these rule amendments set out the residency requirements and the process for establishing residency.

Brittany Sande

brittany.a.sande@state.or.us

Rules Coordinator Name

Email Address