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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

FILED
04/16/2026 11:03 AM
ARCHIVES DIVISION
SECRETARY OF STATE

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILING CAPTION: Synthetic nicotine products

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/21/2026 5:00 PM

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.

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Filed By:
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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 05/20/2026
TIME: 10:00 AM
OFFICER: Staff

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 971-277-2343
CONFERENCE ID: 716719238
SPECIAL INSTRUCTIONS:
This hearing is being held remotely via Microsoft Teams. To provide oral (spoken) testimony during this hearing, please contact publichealth.rules@odhsoha.oregon.gov to register to receive the link for the Microsoft Teams video conference via calendar appointment, or you may access the hearing using the meeting URL above. Alternatively, you may dial 971-277-2343, Phone Conference ID 716 719 238# for audio (listen) only. This hearing will close no later than 11:00AM but may close as early as 10:30AM if everyone who signs up to provide testimony has been heard from.

Accessibility Statement: For individuals with disabilities or individuals who speak a language other than English, OHA can provide free help. Some examples are: sign language and spoken language interpreters, real-time captioning, braille, large print, audio, and written materials in other languages. If you need help with these services, please contact the Public Health Division at 971-673-1222, 711 TTY or publichealth.rules@odhsoha.oregon.gov at least 48 hours before the meeting. All relay calls are accepted. To best ensure our ability to provide a modification please contact us if you are considering attending the meeting and require a modification. The earlier you make a request the more likely we can meet the need.

NEED FOR THE RULE(S)

In this rulemaking, the Oregon Health Authority (OHA), Public Health Division is proposing revised rules to update

certain definitions to align with recent statutory changes to ORS 431A.175 due to the passage of SB 1571 (Oregon Laws 2026, chapter 94).

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

- ORS 431A.175 https://www.oregonlegislature.gov/bills_laws/ors/ors431a.html
- ORS 433.835 https://www.oregonlegislature.gov/bills_laws/ors/ors433.html
- OAR 150-323-0500 to 150-323-0510

https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=455

- SB 1571 https://olis.oregonlegislature.gov/liz/2026R1/Downloads/MeasureDocument/SB1571/Enrolled

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

In 2021, the Oregon Legislature passed Senate Bill 587, establishing a new statewide tobacco retail license (TRL) program. TRL requires retailers to have a license to sell tobacco products and inhalant delivery systems in Oregon and comply with tobacco retail regulations. TRL is an effective tool to protect children and young adults from nicotine addiction. Since the program's establishment in 2022, the rate of illegal tobacco product sales to underage people has decreased from 26% to 11% in 2025.

Regulating tobacco and nicotine products manufactured with nicotine from any source is an important step to ensure integrity and consistency of tobacco sales regulations. In March of 2026, the Oregon Legislature passed Senate Bill 1571, expanding the definition of "tobacco products" to include nicotine pouches, nicotine lozenges and any other product containing nicotine from any source. The current rulemaking makes minor revisions to the rules to update certain definitions to align with the statutory definition changes from passage of SB 1571.

Tobacco products, regardless of the source of nicotine, pose a significant risk to public health and an obstacle to health equity due to their role in nicotine addiction. The burden of tobacco use is not distributed evenly. For decades, the tobacco industry has marketed tobacco products to youth, people with low incomes, people who are stressed or struggling, African Americans, Native Americans and Alaska Natives and those who identify as LGBTQ+. Nicotine addiction also contributes to poor mental health, creating and exacerbating stress and forming neural pathways that make young people more vulnerable to other addictions. The passage of SB 1571 helps ensure that all nicotine products are regulated, regardless of the nicotine's source, and will get addictive products out of the hands of youth and reduce tobacco-caused addiction and disease. This rulemaking will align the rules with the definitions in SB 1571.

As part of the rulemaking process, public comment opportunities will be shared electronically with all tobacco retailers located in Oregon, allowing all businesses affected by the rule to provide feedback on the rules that they will have to follow. The TRL program will continue to communicate rule changes with tobacco retailers during their inspections of the stores, answering any questions they have and providing retailer educational materials in multiple languages, as needed. Program materials are currently available in English, Spanish, Korean, Russian, Simplified Chinese, Arabic and Vietnamese. These are some of the most common languages spoken by tobacco retailers in Oregon, as identified during the original TRL rulemaking process, and from inspections conducted on over 1,000 tobacco retailers in Oregon in the first several months of the program's operation. Educational materials support retailer compliance with tobacco retail sales laws by clearly communicating program expectations and thus benefit the retailers' communities.

FISCAL AND ECONOMIC IMPACT:

The proposed revisions to the administrative rules could minimally increase costs for OHA and local public health authorities. There could be minimal cost increases for small businesses. See below for further explanation.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The implementation of these minor administrative rules changes is predicted to minimally increase enforcement costs for OHA. OHA currently conducts inspections to ensure that retailers comply with tobacco retail sales laws. Inspectors will ensure that all products covered under the revised definition of "tobacco products" comply with the tobacco retail sales laws. The Oregon Department of Revenue may have minimally increased enforcement costs, as they are responsible for suspending or revoking tobacco retail licenses if violations reach a certain threshold, as described in OAR 150-323-0520.

OHA may have increased costs associated with education and awareness efforts to help businesses comply with the revised definition of "tobacco products" and the products covered. Staff time to investigate complaints and, if appropriate, to issue citations may also increase costs.

There is no anticipated cost of compliance impact on the public.

(2)(a) There are approximately 1,800 small businesses with around 2,000 locations that would be subject to these rules. These include mini-marts, bodegas, restaurants and bars, drug stores, and other locations where tobacco products or inhalant delivery systems are sold at retail not subject to a local tobacco retail license.

(b) Minimal additional reporting, recordkeeping or other administrative activities by private businesses are projected. Specifically, if retailers of tobacco products or inhalant delivery systems have their license suspended or revoked, they may seek counsel if they decide to appeal the suspension or revocation.

(c) Complying with the revised definition of "tobacco products" may increase the amount of personnel time spent on identifying and sourcing compliant products.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of the rules, as the rulemaking is the result of state legislation with no room for interpretation of the rule text.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

A rule advisory committee was not consulted, as the rulemaking is the result of state legislation with no room for interpretation of the rule text.

RULES PROPOSED:
333-015-0207, 333-015-0305

AMEND: 333-015-0207

RULE SUMMARY: Amend OAR 333-015-0207: The Definitions portion of the Retail Sale of Tobacco Products and Inhalant Delivery Systems rule needs to be amended to align with recent statutory changes, as well as refer to other OARs with the same definition, rather than include the full definition. This will ensure consistency in definitions over time, if language changes in the other statute or rules. The definitions changes include:

- Referring to statutory definitions in ORS 431A.175 for "inhalant delivery system," "nicotine," and "tobacco

products."

- Referring to administrative rule definition in OAR 150-323-0500 for "retailer."
- Referring to administrative rule definition in OAR 150-323-0510 for "unique address."

CHANGES TO RULE:

333-015-0207
Retail Sale of Tobacco Products and Inhalant Delivery Systems: Definitions
The following definitions apply to these rules unless the context indicates otherwise:¶
(1) "Annual Oregon Health Authority license application fee" or "annual Authority license application fee" means the fee adopted by the Authority in OAR 333-015-0227 to be paid by a retailer of tobacco products or inhalant delivery systems at the time that the retailer submits an application under OAR 150-323-0500.¶
(2) "Authority" means the Oregon Health Authority.¶
(3) "Department" means the Oregon Department of Revenue.¶
(4) "Department of Revenue fee" means the annual fee adopted by the Department to be paid by a retailer at the same time the annual Authority license application fee is paid.¶
(5) "Designee" means the agent, or employee of the retailer.¶
(6)~~(a)~~ "Inhalant delivery system" ~~means:¶~~
~~(A) A device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device; or¶~~
~~(B) A component of a device described in this subsection or a substance in any form sold for the purpose of being vaporized or aerosolized by a device described in this subsection, whether the component or substance is sold separately or is not sold separately.¶~~
~~(b) Inhalant delivery system does not include:¶~~
~~(A) Any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold solely for the approved purpose; and¶~~
~~(B) Tobacco products, as defined in ORS 431A.175 and set out in the definitions below~~has the meaning defined in ORS 431A.175.¶
(7) "Local fee" means a fee adopted by a city or governing body of a Local Public Health Authority adopted by an ordinance to be paid by a retailer.¶
(8) "Local Public Health Authority" or "LPHA" means a county government; a health district formed under ORS 431.443; or an intergovernmental entity that provides public health services pursuant to an agreement entered into under ORS 190.010. This does not include LPHAs requiring a license or other authorization as described in ORS 431A.220.¶
(9) "Misbranded and adulterated tobacco product" has the meaning defined in Section 902 and 903 of the Federal Food, Drug, and Cosmetic Act.¶
(10) "~~Premises" mean~~Nicotine" has the ~~r~~meaning defined in ORS 431A.175.¶
~~l property, as designated by a unique address, on which a business that makes retail sales of tobacco products or inhalant delivery systems is located~~(11) "Premises" has the meaning defined in OAR 150-323-0500. When used in these rules, "premises" includes "establishments", as used in ORS 431A.183.¶
(1~~1~~2) "Retailer" ~~means a person or entity, as that term is defined in ORS 60.001, that sells for consideration, offers for retail sale, holds for sale, or exchanges or offers to exchange tobacco products or inhalant delivery systems or that distributes free or low-cost samples of tobacco products or inhalant delivery systems from a premises~~has the meaning defined in OAR 150-323-0500.¶
(1~~2~~3) "These rules" means OAR 333-015-0202 to 333-015-0272.¶
(1~~3~~4) "Tobacco product~~" means bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, shisha, hookah tobacco, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cutting and sweepings of tobacco prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, cigarettes, or a device that can be used to deliver tobacco products to a person using the device that has not been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or any other therapeutic purpose, if the product is marketed and sold solely for the approved purpose as~~" has the meaning defined in ORS 431A.175.¶
(1~~4~~5) "Tobacco retail license" means a license issued by the Department to a retailer for the sale of tobacco products or inhalant delivery systems.¶
(1~~5~~6) "Tobacco retail license fee" means the fee adopted by the Department in OAR 150-323-0500, the fee adopted by the Authority in OAR 333-015-0227, and any local fee adopted by a city or governing body of a LPHA where a retailer is located.¶

(16~~7~~) "Unique address" ~~mean~~has the ~~physical location of the premises where tobacco products or inhalant delivery systems are sold and may be designated by a street number and name, unit, rural route number, or other designation as recognized by the Unites States Postal Office~~meaning defined in OAR 150-323-0510.¶
(17~~8~~) "Vending machine" means a device that, upon the insertion of tokens, money or another form of payment, dispense tobacco product(s) or inhalant delivery system(s).
Statutory/Other Authority: ORS 431A.218, ORS 167.780, ORS 431A.175, ORS 431A.183, ORS 413.042
Statutes/Other Implemented: ORS 167.780, ORS 431A.175, ORS 431A.183, ORS 431A.190-431A.220, ORS 431.110, ORS 431.141-431.144

AMEND: 333-015-0305

RULE SUMMARY: Amend OAR 333-015-0305: The Definitions portion of the Packaging and Labeling rule needs to be amended to align with statutory language, as well as refer to other OARs with the same definition, rather than include the full definition. This will ensure consistency in definitions over time, if language changes in other statute or rules. The amended definitions include:

- Referring to statutory definition in ORS 433.835 for “inhalant.”
- Referring to statutory definition in ORS 431A.175 for “inhalant delivery system” and “nicotine.”
- Referring to administrative rule definition in OAR 150-323-0500 for “retailer.”

CHANGES TO RULE:

333-015-0305
Packaging and Labeling: Definitions ¶

For the purposes of OAR 333-015-0300 to 333-015-0360:¶
(1) "Authority" means the Oregon Health Authority.¶
(2) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.¶
(3) "Child-resistant" means having inner or outer packaging that is:¶
(a) Intended to protect children from nicotine exposure in the household environment or other environment where the product is used;¶
(b) Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly, as defined by 16 CFR 1700.20 (1995); and¶
(c) Re-sealable for any product intended for more than a single use, such as a fillable inhalant delivery system.¶
(4) "Consumer product" means any article, or component part thereof, produced or distributed for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise.¶
(5) "Distributor" means a person or company that supplies stores or businesses with goods.¶
(6) "Fillable inhalant delivery system" means a product that is sold without nicotine or non-nicotine inhalants, not permanently sealed and can be opened and filled with any inhalant.¶
(7) "Inhalant" ~~means nicotine, or any other substance that:¶~~
~~(a) Is in a form that allows the nicotine, cannabinoid or substance to be delivered into a person's respiratory system;¶~~
~~(b) Is inhaled for the purpose of delivering the nicotine, cannabinoid or other substance into a person's respiratory system; and¶~~
~~(c)(A) Is not approved by, or emitted by a device approved by, the United States Food and Drug Administration (FDA) for a therapeutic purpose; or¶~~
~~(B) If approved by, or emitted by a device approved by, the United States Food and Drug Administration for a therapeutic purpose, is not marketed and sold solely for that purpose~~has the meaning defined in ORS 433.835.¶
(8)~~(a)~~ "Inhalant delivery system" ~~means:¶~~
~~(A) A device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device; or¶~~
~~(B) A component of a device described in this section or a substance in any form sold for the purpose of being vaporized or aerosolized by a device described in this section, whether the component or substance is sold separately or is not sold separately.¶~~
~~(b)(A) Inhalant delivery system does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold solely for the approved purpose; and¶~~
~~(B) Tobacco products~~has the meaning defined in ORS 431A.175.¶
(9) "Inner package" or "inner packaging" means the materials used to wrap or protect a product that must be opened by a consumer in order to have access to the product and that may also be but is not required to be the outer package.¶
(10) "Liquid nicotine container" means a consumer product that consists of a container that:¶
(a) Has an opening from which nicotine in a solution or other form is accessible and can flow freely through normal and foreseeable use by a consumer; and¶
(b) Is used to hold soluble nicotine in any concentration.¶
(11) "Manufacturer or distributor contact information" means the name, city, state and country of the

manufacturer who made the inhalant delivery system.¶
(12) "Minor" means an individual under 18 years of age.¶
(13) "Nicotine" ~~means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived~~has the meaning defined in ORS 431A.175.¶
(14) "Non-nicotine liquid container" means a container that:¶
(a) Has an opening from which liquid non-nicotine or liquid non-cannabinoid substances can flow freely through normal and foreseeable use by a consumer; and¶
(b) Is not used to hold liquid nicotine or cannabinoids.¶
(15) "Outer package" or "outer packaging" means the external material used to wrap or protect a product that is visible to a consumer in the retail setting such as, but not limited to, a box or container.¶
(16) "Packaging" means any of the materials used to wrap or protect an inhalant delivery system and includes but is not limited to the inner packaging and outer packaging.¶
(17) "Prefilled inhalant delivery system" means an inhalant delivery system that is permanently sealed, prefilled, disposable and not intended to be disassembled by the consumer.¶
(18) "Retail setting" means a place of business in which merchandise is primarily sold directly to an ultimate consumer.¶
(19) "Retailer" ~~means a person or entity, as that term is defined in ORS 60.001, that sells for consideration, offers for retail sale, holds for sale, or exchanges or offers to exchange tobacco products or inhalant delivery systems or that distributes free or low-cost samples of tobacco products or inhalant delivery systems from a premises~~has the meaning defined in OAR 150-323-0500.¶
(20) "These rules" means OAR 333-015-0300 to 333-015-0360.¶
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Statutory/Other Authority: ORS 431A.175, ORS 431A.218
Statutes/Other Implemented: ORS 431A.175, ORS 431A.190-431A.220