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## PERMANENT ADMINISTRATIVE ORDER

### PH 24-2026

CHAPTER 333

### OREGON HEALTH AUTHORITY PUBLIC HEALTH DIVISION

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**CONTACT:**

Tara Weston

503-758-5523

publichealth.rules@odhsoha.oregon.gov

800 NE Oregon St. Suite 850

Portland, OR 97232

**Filed By:**

Public Health Division

Rules Coordinator

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**RULES:**

333-015-0207, 333-015-0305

AMEND: 333-015-0207

NOTICE FILED DATE: 04/16/2026

**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 real property, as designated by a unique address, on which a business that makes retail sales of tobacco products or inhalant delivery systems is locatedning defined in ORS 431A.175.¶~~

~~(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.¶~~

~~(12) "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.¶~~

~~(123) "These rules" means OAR 333-015-0202 to 333-015-0272.¶~~

~~(134) "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.¶~~

~~(145) "Tobacco retail license" means a license issued by the Department to a retailer for the sale of tobacco products or inhalant delivery systems.¶~~

~~(156) "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.¶~~

~~(167) "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 United States Postal Officemeaning defined in OAR 150-323-0510.¶~~

~~(178) "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

NOTICE FILED DATE: 04/16/2026

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.¶

Statutory/Other Authority: ORS 431A.175, ORS 431A.218

Statutes/Other Implemented: ORS 431A.175, ORS 431A.190-431A.220