



January 30, 2016

Medical Marijuana Changes

This document outlines the basis for the changes that are being proposed to medical marijuana regulations.

What did Measure 91 do and how did it impact the Oregon Medical Marijuana Program?

On November 4, 2014 Oregonians voted to approve Measure 91. Measure 91 permitted “persons licensed, controlled, regulated and taxed by this state to legally manufacture and sell marijuana to persons 21 years of age and older.” This included the establishment of a “comprehensive regulatory framework concerning marijuana under existing state law.” Measure 91 was not intended to “amend or affect in any way the Oregon Medical Marijuana Act.”

However, on June 30, 2015, the Oregon Legislature passed HB 3400 making changes to Measure 91 and the Medical Marijuana Act. The Legislature delegated to the Oregon Health Authority specific rulemaking authority to implement the changes to the Medical Marijuana Act that are listed in HB 3400.

Effective Date: House Bill 3400 establishes March 1st 2016 as the effective date of changes to the Oregon Medical Marijuana Act, including changes to laws governing the regulation of growers, processors and dispensaries. **The changes to the Oregon Medical Marijuana Act go into effect on March 1, 2016, and cannot be changed in rule.**

Issue	HB 3400 Section Number	Effective Date (Established in HB 3400)	Notes
Plant Limits	HB 3400, Section 82	March 1, 2016	Statute establishes the number of plants that can be grown at an address. House Bill 3400 sets different grow site limits for addresses zoned residential and for individuals who were registered with the authority before January 1, 2015. <i>All plant limits are prescribed by House Bill 3400 and cannot be changed in rule.</i>
Grower Residence Requirements	HB 3400, Section 81	March 1, 2016	Statute establishes a two year residency for growers unless the grower was registered with OHA on or before January 1, 2015, and then the requirement is one year of residency. <i>All residency requirements are prescribed by House Bill 3400 and cannot be changed in rule.</i>
Processor Residency Requirements	HB 3400, Section 85	March 1, 2016	Statute establishes that a person responsible for a medical marijuana processing site must be an Oregon resident for two or more years.

			<i>All residency requirements are prescribed by House Bill 3400 and cannot be changed in rule.</i>
Dispensary Residency Requirements	HB 3400, Section 86	March 1, 2016	Statute establishes that a person responsible for a medical marijuana dispensary must be an Oregon resident for two or more years, unless the person was registered with OHA on or before January 1, 2015, and then the residency requirement is one year. <i>All residency requirements are prescribed by House Bill 3400 and cannot be changed in rule.</i>
Regulation and Inspection of Growers	HB 3400, Section 81 and 90b	March 1, 2016	Statute requires OHA to establish by rule a grow site registration system to regulate the production of medical marijuana and permits OHA to inspect the grow site and records of a “person designated to produce marijuana by a registry identification cardholder”. HB 3400, Section 90b permits OHA to inspect any marijuana grow site to determine compliance with the Oregon Medical Marijuana Act.
Regulation and Inspection of Processors	HB 3400, Section 85, 85a	March 1, 2016	Statute requires OHA to establish by rule “a marijuana processing site registration system to track and regulate the processing of marijuana.” Allows for inspection of the premises and records of a marijuana processors to ensure compliance with House Bill 3400. Section 85a requires a processing site is required to meet any public health and safety standards adopted by OHA by rule.
Regulation and Inspection of Dispensaries	HB 3400, Section 86	March 1, 2016	Statute requires OHA to establish by rule a medical marijuana dispensary registration system for the purpose of regulating the transfer of marijuana items to and from a dispensary. OHA may impose standards on the operation of a dispensary to ensure the public health and safety. (Section 86(10)(e)).

Recordkeeping and Reporting of Marijuana Transfers (Growers)	HB 3400, Section 85e, 81a	March 1, 2016	<p>Statute requires the development of a database of information related to the production of marijuana by person designated to produce marijuana by a medical marijuana cardholder.</p> <p>Section 81a requires a “person designated to produce marijuana by a registry identification cardholder” to submit certain information to the OHA database monthly. Section 81(7)(e) requires a person responsible for a grow site to submit information concerning transfers of marijuana to patients, processing sites or dispensaries on a monthly basis.</p> <p><i>OHA proposed rules require reporting of aggregate transfer data, once a month. OHA is not proposing to have a tracking system like OLCC. See OHA’s FAQ for more information.</i></p>
Recordkeeping and Reporting of Marijuana Transfers (Processors)	HB 3400, Section 85b	March 1, 2016	<p>Statute requires medical marijuana processors to report information about the amount of marijuana transferred to the processing site and from the processing site into OHA’s database.</p> <p><i>OHA proposed rules require reporting of aggregate transfer data, once a month. OHA is not proposing to have a tracking system like OLCC. See OHA’s FAQ for more information.</i></p>
Recordkeeping and Reporting of Marijuana Transfers (Dispensaries)	HB 3400, Section 86b	March 1, 2016	<p>Statute requires medical marijuana dispensaries to report information about the amount of marijuana transferred to the dispensary and from the dispensary into OHA’s database.</p> <p><i>OHA proposed rules require reporting of aggregate transfer data, once a month. OHA is not proposing to have a tracking system like OLCC. See OHA’s FAQ for more information.</i></p>
Concentration and Serving Size	HB 3400, Section 105	<p>Effective date not set in statute.</p> <p>OHA has proposed April 1, 2016 and is considering postponing the effective</p>	<p>Statute requires OHA to adopt rules for the maximum concentration of THC permitted in a single serving of marijuana products, concentrates and extracts and the number of servings permitted in a package.</p>

		date to June 1, 2016.	
Labeling	HB 3400, Section 101	Effective date not set in statute. OHA has proposed April 1, 2016 and is considering postponing the effective date to June 1, 2016.	Statute requires OHA to adopt rules for the labeling of marijuana and the labels must include: Health and safety warnings; activation time results of tests, potency, serving size and number of servings, content of the marijuana item, and for edibles, information that would apply to “regular” food product.
Laboratory Testing	HB 3400, Section 91	Effective date not set in statute. OHA has proposed June 1, 2016.	Requires OHA to set testing standards for marijuana intended for sale to the public.
Grower Operating Procedure and Waste Management Requirements	HB 3400, Section 90g	Effective date not set in statute. OHA has proposed March 1, 2016 to align with other rules being established.	Statute gives OHA the general rulemaking authority to adopt rules necessary to protect the public health and safety. A grower who is producing marijuana and selling that marijuana to an OHA registered processor or dispensary and entering a product into the stream of commerce must under draft rules: 1) Create operating procedures that at a minimum include the manner in which all pesticides or other chemicals are applied during the production process; and 2) Comply with any applicable law concerning waste management.
Security Requirements	N/A	Effective date/specific requirement not set in statute. OHA proposed an effective date of March 1, 2016.	Measure 91 requires anyone growing marijuana plants at home to have those plants out of the public’s view. Security requirements are being proposed in rule to hold all medical marijuana growers to a similar standard, which may require the building of a fence so that the marijuana plants cannot be seen. A grow site address with more than 12 plants, or a grower selling usable marijuana, seeds or immature plants to an OHA registered processor or dispensary is subject to additional security requirements like cameras because of the concern about diversion and theft, and because the grower is engaging in a

		<p>commercial enterprise. However, OHA’s rules have a process for requesting a waiver of any of the security requirements.</p> <p>Note: OHA proposed these rules to mirror OLCC security requirements. Through the public rulemaking process it became clear to OHA that elements of these rules do not work for all medical marijuana growers, particularly in rural areas.</p> <p>OHA is removing the specifics in the proposed rules related to security and fencing. Rules will broadly require persons responsible to prevent public access to the grow site and keep plants out of public view.</p>
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Other applicable state laws:

OHA will not include language in rule referencing other state laws regarding water rights or pesticide use. OHA initially proposed language in rules to notify medical marijuana growers of existing water right and pesticide requirements, however **OHA is removing this language from rule.** Removing the language from OHA rules will not exempt medical marijuana growers from being subject to state water rights or pesticide law. For example:

Water rights: Under existing Oregon law, and as enforced by the Oregon Water Resources Department (OWRD) water rights are required if a medical marijuana grower is producing marijuana and selling that marijuana to an OHA processor or dispensary. This means water must be supplied from a public or private water provider, or the grower must have proof from OWRD that a water right is not required.

Pesticide Use: Under existing Oregon law, and as enforced by the Oregon Department of Agriculture, medical marijuana growers are subject to any pesticide restrictions or requirements that exist.