



## Oregon Medical Marijuana Program Civil Penalty Matrix

### CIVIL PENALTY BASE AMOUNTS

Base amounts for civil penalties of violations of OAR Chapter 333, Divisions 7 and 8, are as follows:

Category 4	\$	200.00
Category 3	\$	300.00
Category 2	\$	400.00
Category 1	\$	500.00

Table 1: Civil Penalty Base Amounts

### CIVIL PENALTY MITIGATION

In reaching a determination of the amount of a civil penalty to propose for violations the Oregon Health Authority (Authority), Oregon Medical Marijuana Program (OMMP) may consider mitigating circumstances, as described in OAR 333-008-2210(5)(a-b), in accordance with *OMMP Civil Penalty Mitigation and Aggravation Standards* (Standards), set out below.

1. Initial mitigation of a civil penalty will be determined by using the criteria outlined in the Standards.
2. If a single violation meets more than one mitigating criteria, the Authority will not propose an initial civil penalty amount below the values listed in Table 2.
3. When mitigating circumstances are documented by the OMMP, civil penalties may be decreased as follows:

Category 4	\$	100.00
Category 3	\$	150.00
Category 2	\$	300.00
Category 1	\$	500.00

Table 2: Mitigated Civil Penalty Amounts

### CIVIL PENALTY AGGRAVATION

In reaching a determination of the amount of a civil penalty to propose for violations OMMP may consider aggravating circumstances, as described in OAR 333-008-2210(6)(a-h), in accordance with the Standards.



1. Initial aggravation of a civil penalty will be determined by using the criteria outlined in the Standards.
2. If a single violation occurred under more than one aggravating circumstance, the Authority may propose that the civil penalty for that violation be levied at \$500, regardless of the category of the violation
3. When aggravating circumstances exist, civil penalties may be increased as follows:

	Aggravated 25%	Aggravated 50%	Aggravated 100%
Category 4	\$ 250.00	\$ 300.00	\$ 400.00
Category 3	\$ 375.00	\$ 450.00	\$ 500.00
Category 2	\$ 500.00	\$ 500.00	\$ 500.00
Category 1	\$ 500.00	\$ 500.00	\$ 500.00

Table 1: Aggravated Civil Penalty Amounts

### COMBINED AGGRAVATION & MITIGATION

In situations where a violation occurred under both aggravating and mitigation circumstances, determination of the amount of the proposed civil penalty shall be accomplished by: Calculating the aggravated amount from the base amount and then reducing on mitigation from the total aggravated amount by no more than 25%, regardless of how many elements may meet mitigation criteria.



## OMMP Civil Penalty Mitigation and Aggravation Standards

Mitigation of violations - OAR 333-008-2210(5)		
Type of Adjustment	OMMP will consider	Allowed Penalty Adjustment
MITIGATION	<p><b>(a) Making a good faith effort to prevent a violation</b></p> <p>Example:</p> <ul style="list-style-type: none"> <li>• Significant attempts to comply that do not satisfy a technical aspect of rule (Such as signage requirements under OAR 333-008-1205(2))</li> </ul> <p>*Example presented is not exhaustive</p>	<p>Each instance of a penalty that mitigation applies to may be reduced as follows:</p> <ul style="list-style-type: none"> <li>• 75% Reduction from the base for each Category 4 violation</li> <li>• 75% Reduction from the base for each Category 3 violation</li> <li>• 50% Reduction from the base for each Category 2 violation</li> <li>• 0% reduction for each category 1 violation (no mitigation allowed)</li> </ul>
MITIGATION	<p><b>(b) Extraordinary cooperation in the violation investigation demonstrating the licensee or permittee accepts responsibility</b></p> <p>Example:</p> <ul style="list-style-type: none"> <li>• Violation corrected during the inspection without delaying the inspection process</li> </ul> <p>*Example presented is not exhaustive</p>	<p>Each instance of a penalty that mitigation applies to may be reduced as follows:</p> <ul style="list-style-type: none"> <li>• 75% Reduction from the base for each Category 4 violation</li> <li>• 75% Reduction from the base for each Category 3 violation</li> <li>• 50% Reduction from the base for each Category 2 violation</li> <li>• 0% reduction for each category 1 violation (no mitigation allowed)</li> </ul>

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<b>Aggravation of violations - OAR 333-008-2210(6)</b>		
Type of Adjustment	OMMP will consider	Allowed Penalty Adjustment
<b>AGGRAVATION</b>	<p><b>(a) Received prior warning about one or more compliance problems</b></p> <p>Example:</p> <ul style="list-style-type: none"> <li>• Warnings could be from: bulletins or information otherwise issued by OHA, OLCC or ODA; Information provided by staff of OHA, OLC or ODA; Information included in a stipulated settlement agreement or final order issued by OHA, OLCC, or ODA; or, information provided as part of a notice of violation or corrective action.</li> </ul> <p>*Example presented is not exhaustive</p>	<ul style="list-style-type: none"> <li>• 25% increase in civil penalty base amount for the violation in question (not to exceed \$500 per violation per ORS 475B.925) - not the total civil penalty for the proposed order.</li> <li>• Additional enforcement actions as the violations warrant</li> <li>• Multiple instances of this type of violation in a two-year period will lead to a 50% increase in civil penalty base amount for the violation in question (not to exceed \$500 per violation per ORS 475B.925)</li> </ul>
<b>AGGRAVATION</b>	<p><b>(b) Repeated failure to comply with laws</b></p> <p>Example:</p> <ul style="list-style-type: none"> <li>• Multiple violations for the same rule or law, prohibition or requirement, by citation</li> </ul> <p>*Example presented is not exhaustive</p>	<ul style="list-style-type: none"> <li>• 50% increase in civil penalty base amount for the violation in question (not to exceed \$500 per violation per ORS 475B.925) - not the total civil penalty for the proposed order.</li> <li>• Additional enforcement actions as the violations warrant</li> <li>• Multiple instances of this type of violation in a two-year period will lead to a 100% increase in civil penalty base amount for the violation in question (not to exceed \$500 per violation per ORS 475B.925)</li> </ul>

<b>Aggravation of violations - OAR 333-008-2210(6)</b>		
Type of Adjustment	OMMP will consider	Allowed Penalty Adjustment
<b>AGGRAVATION</b>	<p><b>(c) Efforts by person or registrant to conceal a violation</b></p> <p>Example:</p> <ul style="list-style-type: none"> <li>• Untruthful statements, obscuring of evidence, delays in providing access or documentation ETC...</li> </ul> <p>*Example presented is not exhaustive</p>	<ul style="list-style-type: none"> <li>• All violations that meet this aggravation criteria are increased to the maximum \$500 per instance.</li> <li>• Additional enforcement actions as violations warrant</li> </ul>
<b>AGGRAVATION</b>	<p><b>(d) Intentionally committing a violation</b></p> <p>Example:</p> <ul style="list-style-type: none"> <li>• Registrant had or should have had knowledge of rule and law yet committed violation</li> </ul> <p>*Example presented is not exhaustive</p>	<ul style="list-style-type: none"> <li>• 50% increase in civil penalty base amount for the violation in question (not to exceed \$500 per violation per ORS 475B.925) - not the total civil penalty for the proposed order.</li> <li>• Multiple instances of this type of violation in a two year period will lead to a 100% increase in civil penalty base amount for the violation in question (not to exceed \$500 per violation per ORS 475B.925)</li> <li>• Additional enforcement actions as violations warrant</li> </ul>

Aggravation of violations - OAR 333-008-2210(6)		
Type of Adjustment	OMMP will consider	Allowed Penalty Adjustment
AGGRAVATION	<p><b>(e) A violation involving more than one consumer or employee</b></p> <p>Example:</p> <ul style="list-style-type: none"> <li>• Conspiring to commit a violation with multiple people.</li> </ul> <p>*Example presented is not exhaustive</p>	<ul style="list-style-type: none"> <li>• 25% increase in civil penalty base amount for the violation in question (not to exceed \$500 per violation per ORS 475B.925) - not the total civil penalty for the proposed order.</li> <li>• Multiple instances of this type of violation in a two year period will lead to a 50% increase in civil penalty base amount for the violation in question (not to exceed \$500 per violation per ORS 475B.925)</li> <li>• Additional enforcement actions as violations warrant</li> </ul>
AGGRAVATION	<p><b>(f) A violation involving a transfer of marijuana item to anyone other than a patient, designated primary caregiver, grower, or registrant</b></p>	<ul style="list-style-type: none"> <li>• All violations that meet this aggravation criteria are increased to the maximum \$500 per instance.</li> <li>• Additional enforcement actions as violations warrant</li> </ul>

**Aggravation of violations - OAR 333-008-2210(6)**

Type of Adjustment	OMMP will consider	Allowed Penalty Adjustment
<p><b>AGGRAVATION</b></p>	<p><b>(g) A violation resulting in injury or death</b></p> <p>Example:</p> <ul style="list-style-type: none"> <li>• Selling marijuana items that had failed testing that caused illness</li> </ul> <p>*Example presented is not exhaustive</p>	<ul style="list-style-type: none"> <li>• All violations that meet this aggravation criteria are increased to the maximum \$500 per instance.</li> <li>• Additional enforcement actions as violations warrant</li> </ul>
<p><b>AGGRAVATION</b></p>	<p><b>(h) Three or more violations within a two-year-period, regardless of the category, where the number of the proposed or final violations indicate a disregard for the law of failure to control the premises.</b></p>	<ul style="list-style-type: none"> <li>• 50% increase in civil penalty base amount for the violation in question (not to exceed \$500 per violation per ORS 475B.925) - not the total civil penalty for the proposed order.</li> <li>• Multiple instances of this type of violation in a two year period will lead to a 100% increase in civil penalty base amount for the violation in question (not to exceed \$500 per violation per ORS 475B.925)</li> <li>• Additional enforcement actions as violations warrant</li> </ul>