

Recreational Marijuana Program

Compliance Education Bulletin

Bulletin CE2023-05 (Updated 1/8/2024)

December 13, 2023



The Oregon Liquor & Cannabis Commission (OLCC) is providing the following information to recreational marijuana licensees, applicants, Oregon Department of Agriculture (ODA) hemp handlers and growers, hemp vapor item manufacturers, and medical marijuana processors and dispensaries.

The bulletin is part of OLCC's compliance education. It is important that you read it and understand it. If you don't understand it, please contact the OLCC for help.

Failure to understand and follow the information contained in this bulletin *could result in an OLCC administrative violation affecting your ability to work or operate your business.*

Compliance Education Bulletin CE2023-05 covers the following rule changes that, **unless otherwise specified, become operative January 2, 2024:**

- Oregon Water Resources Department Marijuana Producer Water Use Form;
- License denial criteria and premises restrictions;
- Daily sales limits and concentration/serving size limits;
- Clarification of "different potency" under one UID tag;
- Infused pre-roll weights and labeling;
- Inactivation of package and label applications;
- The state cannabis reference laboratory;
- Violations and violation categories;
- Changes to definitions;
- Presumptive testing of hemp crops;
- Addition of hemp items to advertising rules & health claims in advertising; and
- Minor technical changes.

Questions regarding the contents of this bulletin may be sent to: marijuana@oregon.gov.

Unless otherwise specified below, these rules are effective on and after January 2, 2024.

Important note about links in this document: Links to specific rules will always take you to the language that is currently in effect at the time you follow the link. **Because these rules are not effective until January 2, 2024, following the links before then will not show the updated language adopted by OLCC in November 2023.** In the meantime, you can see the [final language that was filed with the Oregon Secretary of State](#).

Oregon Water Resources Department Marijuana Producer Water Use Form

Earlier this year, the Commission, in a joint effort with the Oregon Water Resources Department (OWRD), shifted the process for review and approval of legal sources of water for marijuana producer licenses to OWRD. With any new/change of ownership application or request to change the licensed premises of a producer license, producer applicants and licensees will be required to submit their documentation of legal access of water directly to OWRD and obtain an [Oregon Water Resources Marijuana Producer Water Use Form](#) from OWRD approving their source of water. Prior to licensure or approval of any changes made to a licensed premises, OWRD will determine if the documentation provided for proof of legal access of water is valid for the existing proposed premises and ensure the required infrastructures are in place.

For questions concerning water rights, please contact your [local water master](#).

Psilocybin Manufacturer, Psilocybin Service Center Facilities, and Marijuana Businesses License Denial Criteria and Premises Restrictions

In January of 2023, the Oregon Health Authority (OHA) launched its psilocybin program, necessitating OLCC to adopt rules prohibiting recreational marijuana licenses to be at the same physical location as a licensed psilocybin premises. OLCC has amended its rules to provide clarity to applicants and licensees. The following rules were amended:

- OAR [845-025-1115](#) was amended to identify psilocybin manufactures and psilocybin service centers as those license types held under ORS 475A.290 and 475A.305. The language “at the same location” was removed and replaced with “any portion of the premises of the business proposed to be licensed overlaps or would overlap with a portion of an area licensed under ORS 475A.290 as a psilocybin manufacturer or an area licensed under 475.305 as a psilocybin service center.”
- OAR [845-025-1230](#) was amended to preclude recreational marijuana businesses from having any portion of the proposed or already licensed marijuana premises overlap with a psilocybin manufacturer or psilocybin service center.

The above changes will align the Commission’s rules with OHA’s rules and allow marijuana and psilocybin licensed premises to coexist at the same location or address if no portion of either licensed premise overlaps with the other.

Increase in Retailer Daily Sales Limits

These rules double the daily sales limits for cannabinoid concentrates, cannabinoid extracts, and cannabinoid products intended for inhalation (e.g. infused pre-rolls and inhalable cannabinoid products with non-cannabis additives). **Beginning January 2, 2024**, consumers can purchase up to 10 grams of concentrates **or** extracts, **AND** 10 grams of cannabinoid products intended for inhalation. For example, a consumer *could* purchase 5 grams of extract, 5 grams of concentrate, 5 grams of “flavored vapes,” and 5 grams of infused pre-rolls (the flavored vapes and infused pre-rolls are cannabinoid products intended for inhalation). A consumer *could not* purchase 10 grams of concentrate and 10 grams of extract. See OAR [845-025-2800](#). Note that for cannabinoid concentrates and extracts, the concentration limit per container has not changed. See the tables below for more information.

Licensees with pre-approved labels for these product types **may need** to have their labeling pre-approved if they are changing their product offerings for these new limits. See OAR [845-025-7160\(8\)](#) for what you can change on a pre-approved label. Contact marijuana.packaging@oregon.gov if you have questions.

Clarity on Concentration Limit for Mixtures of Concentrate & Extract

There is a **new product category** defined in Division 26 for the purpose of concentration and serving size limits: “**Mixed concentrate and extract.**” This clarifies that a cannabinoid product made entirely of concentrates and extracts (potentially including the addition of hemp concentrates or extracts) has the same concentration limit as a marijuana concentrate or extract by itself, even if it is not intended exclusively for inhalation. If you are combining marijuana extract and marijuana concentrate, the correct Cannabis Tracking System (CTS) categorization is “combined category”. Review the [Recreational Marijuana System Product and Tax Categorization Guide](#) for more information.

Concentration Limit Change for Cannabinoid Products Intended for Inhalation

Cannabinoid products intended for inhalation are products such as “flavored vapes” (inhalable cannabinoid products with non-cannabis additives) and infused pre-rolls. **Effective January 2, 2024**, the concentration limit for cannabinoid products intended for inhalation has been increased to 2,000 mg total THC per container, to match the concentration limit for cannabinoid concentrates and extracts.

If you currently have a batch of products that had previously failed **ONLY** because the potency was above the 1,000 mg limit **AND** it is below the new limit of 2,000 mg, you can contact the OLCC at marijuana.cts@oregon.gov (or submit [OLCC’s online form](#) for lab testing issues) to request to have the test status changed to “Test Passed”.

OAR 845-026-0210

Table 1

RETAIL ADULT USE CANNABIS CONCENTRATION AND SERVING SIZE LIMITS		
Type of Marijuana Item	Maximum Amount of Total Delta-9-THC Per Serving	Maximum Concentration or Amount of Total Delta-9-THC in a Container
Cannabinoid Product – Edibles	10 mg	100 mg
Cannabinoid Product – Topicals	N/A	6%
Cannabinoid Product – Transdermal Patches	10 mg	100 mg
Cannabinoid Product – Tinctures	N/A	1,000 mg
Cannabinoid Product – Capsules	10 mg	100 mg
Cannabinoid Product – Suppositories	10 mg	100 mg
Cannabinoid Product – Mixed Concentrate and Extract	N/A	2,000 mg
Cannabinoid Concentrates or Extracts	N/A	2,000 mg
Cannabinoid Products Other than Mixed Concentrate and Extract, Cannabinoid Edibles, Topicals, Tinctures, Capsules, Suppositories, or Transdermal Patches and Not Intended for Human Consumption	N/A	2,000 mg
Cannabinoid Products Other than Mixed Concentrate and Extract, Cannabinoid Edibles, Topicals, Tinctures, Capsules, Suppositories, or Transdermal Patches and Intended for Human Consumption	10 mg	100 mg

OAR 845-026-0220

Table 2

MEDICAL CANNABIS CONCENTRATION AND SERVING SIZE LIMITS		
Type of Marijuana Item	Maximum Amount of Total Delta-9-THC Per Serving	Maximum Concentration or Amount of Total Delta-9-THC in a Container
Cannabinoid Product – Edibles	N/A	100 mg
Cannabinoid Product – Topicals	N/A	6%
Cannabinoid Product – Transdermal Patches	100 mg	4,000 mg
Cannabinoid Product – Tinctures	N/A	4,000 mg
Cannabinoid Product – Capsules	100 mg	4,000 mg
Cannabinoid Product – Cannabinoid Suppositories	100 mg	4,000 mg
Cannabinoid Product – Mixed Concentrate and Extract	N/A	4,000 mg
Cannabinoid Concentrates or Extracts	N/A	4,000 mg
Cannabinoid Product Other than Mixed Concentrate and Extract, Cannabinoid Edibles, Topicals, Tinctures, Capsules, Suppositories or Transdermal Patches and Intended for Human Consumption	N/A	100 mg
Cannabinoid Product Other than Mixed Concentrate and Extract, Cannabinoid Edibles, Topicals, Tinctures, Capsules, Suppositories or Transdermal Patches and Not Intended for Human Consumption	N/A	4,000 mg

Clarification of “Different Potency” Under one UID tag

OAR [845-025-7520](#) places limits on what items may be combined under one UID tag. The rule has prohibited items of “different potency” from being combined under one tag, but provided no definition related to what “different” specifically meant. These rules clarify the term “**different potency**” to mean “the total THC concentration of any item combined under a single UID is less than 90 percent of the total THC concentration of the item with the highest concentration of total THC under that UID tag.”

For example:

- Three half-gram extract vapes of 85%, 80%, and 78% potency **may be sold as a multi-pack under a single Metrc UID tag**, because 78% potency is within 90 percent of the total THC concentration of 85% potency.
- However, three half-gram vapes of 85%, 80%, and 70% would **not be permitted** to be combined under a single UID tag under this rule because 70% is more than a 10 percent difference from 85%.

This change will allow licensees to bring more product offerings to market. ***It is still not permissible to combine different product types under one UID tag, such as an edible and an extract.*** All other limitations imposed by this rule still apply. New product offerings must still be compliantly labeled, including required test results; contact marijuana.packaging@oregon.gov for guidance.

Note: This rule is intended primarily to support multi-packs of a product (e.g. multiple flavors of a gummy sold in a single pack, multiple vape strains or terpene-profiles sold in a single pack). Co-mingling separate SKUs under a single package tag in Metrc will also co-mingle the chain of custody and test results.

If an issue arises (such as a recall) on a particular process lot, but the items from that process lot have been co-mingled under a single tag with items from a different process, OLCC would be unable to distinguish items sent to retail from the affected process lot versus other process lots co-mingled under the same UID tag.

This would result in OLCC notifying licensees **about all the products** co-mingled under that Metrc UID tag and place an additional burden on the original manufacturer and/or retailers to sort through which items are or are not affected by a recall. As a result, OLCC recommends that processors and wholesalers use this allowance with caution and think through the downstream effects of co-mingling different items or batches of products under a single Metrc tag.

Infused Pre-roll Weights and Labeling

These rules modify the definition of “net weight” in OAR [845-025-7000](#) to exclude the filter or crutch from the net weight for infused pre-rolls. Following the issuance of [Compliance Bulletin CE2023-02](#), most OLCC licensed labs tested infused pre-rolls without the filter or tip. For infused pre-rolls **manufactured on and after January 2, 2024**, the net weight on the label must not include the filter or tip. For infused pre-rolls manufactured **prior to this date**, the OLCC will not be taking any enforcement action regarding the net weight on the label *as long as* the potency is accurately listed on the label in accordance with how the lab tested the item.

Net weights for infused pre-rolls must also be updated in Metrc to reflect the exclusion of the filter or crutch from the weight. Changes to the net weight can be done at the item level in Metrc, and will be reflected in all packages linked to that specific item (including packages in other licenses’ inventory). Questions about how to update net weights in Metrc can be directed to marijuana.cts@oregon.gov.

Inactivation of Packaging and Labeling Applications

On and after April 1, 2024, any new package or label that is submitted and reviewed by the OLCC (i.e. not approved), and not resubmitted within 365 days by the licensee, medical registrant, or Commission certified hemp-handler will be inactivated. This change also applies to approved package or label applications that have been re-opened by the OLCC due to a request for an amendment by a licensee, medical registrant, or Commission certified hemp-handler. Failure to resubmit within the timeframe will result in the application fee being forfeited. See OAR [845-025-7160](#).

Cannabis Reference Laboratory

OAR [845-025-5765](#) outlines how the OLCC will be collaborating with ODA to create Oregon's state Cannabis Reference Laboratory. The cannabis reference lab will work with the OLCC to conduct testing of cannabis products. **Test results issued by the reference laboratory can invalidate results issued by OLCC licensed labs.** The cannabis reference laboratory may also participate in the audit testing of products to help the OLCC investigate concerns of product contamination and product misrepresentation.

Violations and Violation Categories

Categories of Violations: OAR [845-025-2020\(3\)](#) changed some of the violation categories based on a **producer's** prohibited conduct. Under OAR [845-025-2800\(6\)\(a\)](#), if a **retailer** sells, transfers, delivers, purchases, possesses, accepts, returns, or receives any marijuana item or hemp item other than is provided in the rule and there are reasonable grounds to believe there is diversion or inversion of marijuana it is a Category I violation. If not, then then a violation of OAR [845-025-2800\(4\)\(m\)](#) is a Category III violation. OAR [845-025-3215\(6\)\(b\)](#) makes it a Category I violation for a **processor** to produce marijuana. Under OAR [845-025-3215\(6\)\(c\)](#) if a **processor** transfers, sells, transports, purchases, possesses, accepts, returns, or receives any marijuana item, industrial hemp, or hemp item other than as provided in this rule and there are reasonable grounds to believe these is diversion or inversion of marijuana it is a Category I violation. If not, then a violation of OAR [845-025-3215\(3\)\(a\)](#) is a Category III violation.

OAR [845-025-5590\(1\)](#) clarifies that the Commission may suspend or revoke a **worker permit** if the worker is convicted of a felony at any point while they have their permit.

Under OAR [845-025-7700\(1\)\(d\)](#), it is now a Category I violation to transfer or transport marijuana off the license premises **without a manifest** if it went to an unknown or undisclosed location or if it went to an unlicensed location.

Additionally, **violations for adulterating or supplying adulterated marijuana items have been consolidated** into OAR [845-025-8540\(2\)\(b\)](#) and [\(3\)](#). Previously, there were redundant prohibitions on adulterating or supplying adulterated marijuana items under OAR [845-025-1300\(1\)\(e\)](#) and OAR [845-025-2070\(3\)](#). Removing the redundant prohibitions increases clarity on violation categories for these activities. **Adulterating marijuana items is a Category I violation if done knowingly or intentionally**, and a Category II violation otherwise. Supplying adulterated marijuana items is a Category I violation.

Definitions in Divisions 25

The new definitions are summarized below, the exact definitions are found on OAR [845-025-1015](#).

The changes to definitions took effect December 13, 2023.

- **“Certificate of tax compliance”:** Refers to the certificate issued by the Oregon Department of Revenue to Retailer applicants to show compliance with tax requirements.
- **“Cannabis reference laboratory”:** Refers to the cannabis reference laboratory operated by the ODA.
- **“Compliance test”:** Clarified to include tests conducted by the cannabis reference laboratory.
- **“Licensee”:** This definition now includes laboratory licensees.

Additionally, several definitions that were previously included in both OAR 845-025-1015 and 845-025-7000 have been consolidated into OAR 845-025-1015. In a few cases, the definitions have been modified slightly to reconcile differences in the definitions.

The changes to definitions [took effect December 13, 2023](#).

Presumptive Testing of Hemp Crops

In 2021, OLCC implemented a rule describing how a hemp crop could be tested by ODA and/or OLCC to determine if the crop is presumptively considered marijuana. The statute that authorized this presumptive testing sunsets January 1, 2024, so this rule is being repealed effective January 2, 2024.

Addition of Hemp Items to Advertising Rules & Health Claims in Advertising

Previously, the advertising rules in [845-025-8000 through 8080](#) only applied to marijuana items. **Effective January 2, 2024, the advertising rules apply to the advertising of hemp items by OLCC marijuana licensees as well.** Additionally, a clearer standard was provided in regards to health claims on advertising, see OAR [845-025-8040](#) (this is the same standard that has long been in effect for health claims made on labels, see OAR [845-025-7030](#)).

Minor Technical Changes

This rule package also includes a number of minor technical changes. Many of these changes are just updating the rules to match current practices.

Minor technical changes include:

- Requiring **laboratories** to record in Metrc any result above the LOQ for any required analyte in a compliance test. For potency testing, this also means that laboratories will be required to enter results for Delta-9 THC, Delta-9-THCA, and Total THC as separate results in Metrc.
- **Products that failed compliance** testing which are permitted to be remediated under OHA's 333-007-0450 rules may now to be transferred to a wholesaler or processor for remediation without needing permission from OLCC.
- Clarifying that a **processing job** where the input and output weights are identical is considered an "incorporation of cannabinoids" for the purpose of recording the processing job.
- Removing the option for an applicant to submit label applications prior to obtaining a license.
- Clarifying that **producer applicants** must provide an OWRD marijuana producer water use form as proof of a legal source of water.
- Changing some rules to refer to "marijuana" instead of "usable marijuana." This clarifies that they apply to all marijuana, including harvested crops that have not been dried.
- Clarifying that the labeling rules for **industrial hemp-derived vapor items** apply whenever those items are sold to Oregon consumers, but do not apply to items transferred out of this state.