

# Recreational Marijuana Program

## Compliance Education Bulletin

Bulletin CE2018-05

July 16, 2018

The Oregon Liquor Control Commission is providing the following information to: recreational marijuana licensees.

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 rules compliance violation affecting your ability to work or operate your business.*

Bulletin CE2018-05 covers the following issues:

- Upcoming enforcement based on Metrc data
- How to verify test data in Metrc prior to receiving or selling an item

### Upcoming enforcement based on Metrc data

This week OLCC will begin issuing warnings based on Metrc data that shows clear violations of sales and testing rules. All inventory and activity must be reconciled in Metrc, Oregon's Cannabis Tracking System (CTS), every day.

Misrepresentation of Metrc data is a Category III violation, which can result in a 10-day suspension of your license or a \$1,650 fine; intentional misrepresentation of data or violations of sales and testing rules can result in a Category I violation, which could result in a revocation of your license.

The OLCC will focus on using Metrc data for compliance and enforcement activity in the following areas:

- Sales to individual customers above the daily limit ([OAR 845-025-2800\(3\)\(a\)](#));
- Sales above concentration limits ([OAR 333-007-0210](#), [Table 1](#), and [Table 2](#))
- Untested or incompletely tested products sent by producer, processor or wholesale licensees to licensed retailers ([see Oregon Health Authority's overview on marijuana testing](#)).

### Sales above the daily limit

There is a daily maximum limit of each marijuana item customers may purchase. The maximum differs based on the item type (e.g. usable marijuana, extracts/concentrates).

The amounts also differ based on customer type (recreational consumer **OR** registry identification cardholder/ Oregon Medical Marijuana Program (OMMP) patient **OR** designated primary caregiver). See [OAR 845-025-2800\(3\)\(a\)](#) for the specific maximum daily amount by item type and customer type that OLCC retailers are allowed to sell. The OLCC has created a [visual reference for recreational sale limits](#) that can be found on the OLCC recreational marijuana website.

The OLCC will enforce daily sales limit violations based on Metrc data that reflects usable marijuana, extracts, and concentrate sales. An individual customer sale that exceeds the maximum daily limit may constitute a Category III violation (or greater).

**Common Metrc data entry issues** the OLCC has seen:

- **Sales to a patient or caregiver that are reported in Metrc as sales to a recreational consumer:** Sales to patients and caregivers must be categorized in Metrc linked to a valid OMMP card number. Whether reporting in Metrc manually, uploading a CSV file, or using a point-of-sale (POS) API integration customers must be categorized appropriately.

***Even if you use a POS system, only Metrc data is what counts.***

**What you can do:** Correctly use the “Patient” and “Caregiver” customer type in Metrc to report a valid OMMP card number. See the [Metrc Sales CSV Import instructions](#) and the [API documentation](#) for more information.

- **Sales at same minute aggregating sold amount:** Both the CSV import and API combine sales that are reported simultaneously. Many licensees have been reporting sales occurring within a one-minute time frame, rather than at one-second time frame.

Under the above scenario a retail licensee operating with multiple registers conceivably could have multiple discrete sales each under the maximum limit that are rung up at the same minute. Metrc will aggregate these sales together and make it appear to be a single sale above the maximum limit.

**What you can do:** Sales time should be reported as precisely as possible, down to the second, especially for high volume stores with multiple registers. ***For example, rather than reporting “05/30/2018 10:00” as the sales date and time, instead report it as “05/30/2018 10:00:17.”*** See the [Metrc Sales CSV Import instructions](#) and the [API documentation](#) for more information.

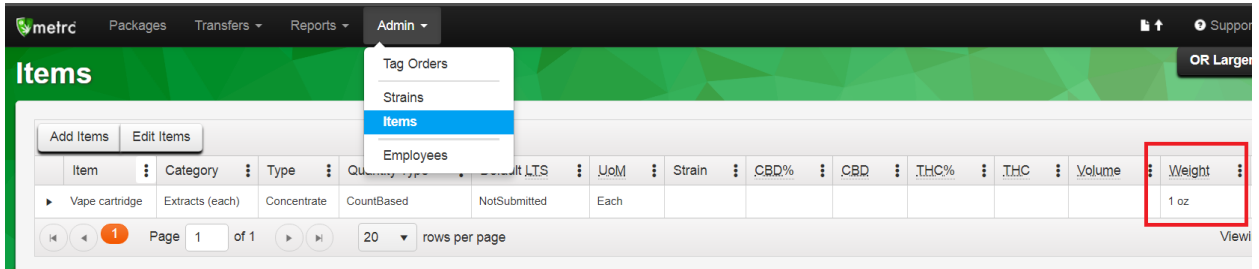
- **Wrong item unit of measure, especially for count-based items:** In Oregon count-based items (transferred and sold as “each”), such as “Extracts (each)” are required to have a weight per unit and an associated unit of measure. Although extracts and concentrate items may be transferred and sold as individual units, the sales limits are based on weight. The number of units multiplied by the weight per unit is how OLCC monitors sales limits for these items.

Sometimes items are unintentionally misconfigured in Metrc by the licensee and the wrong weight or unit of measure is entered when setting up the item (e.g. 1 ounce instead of 1 gram). This results in every individual sale of the item being above the sales limit (e.g. 1 unit of a 1 ounce extract is above the sales limit).

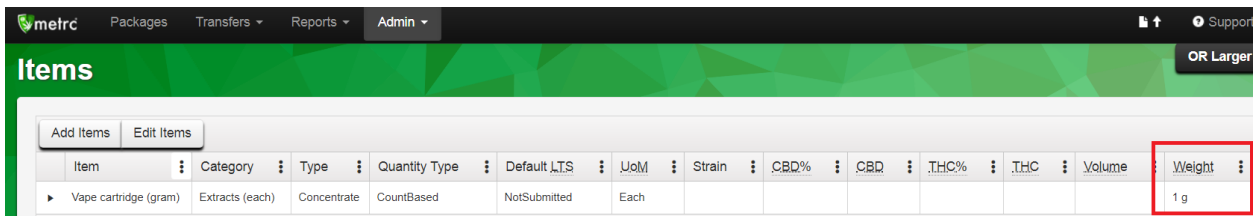
**What you can do:** Verify with the marijuana product’s originating licensee the weight per unit and unit of measure configured for a specific package. The first line in the package details will show information related to the creation of the package and identifies the licensee that created the item.

If the item weight per unit or unit of measure is incorrect you should return the product to the vendor for correction or create a new item in your Metrc account with the correct information. Once a new item is created you can repackage it using a new Metrc tag and categorize it with the new (corrected) item name.

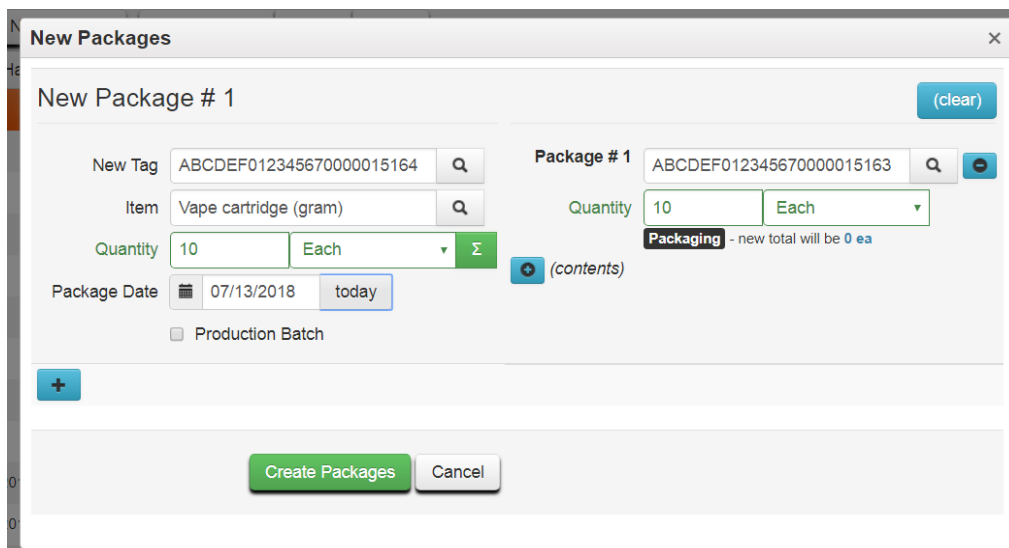
For example, the creator of the package can look in their items section and see the weight per unit of all count-based items they have created:



If the weight per unit is incorrect (in this example the unit of measure is “ounces” instead of “grams”), a new item can be created:



Once a new item has been created, the package with the old (incorrect) item can be repackaged under a new tag with the new (corrected) item:



Prior to a licensed retailer receiving marijuana items from other licensees, and before the licensed retailer sells them, the marijuana items should be verified for **the product identity** (e.g. concentrate vs. edible) and the **accuracy of the information in Metrc** (e.g. product identity matches Metrc item category). When making sales verify that the **correct quantity** was sold from the **correct RFID Metrc package tag** and with the **correct unit of measure**.

### **Sales above the concentration limit**

OLCC's rules limit, based on net weight, how much of a given item can be sold to a customer (see above); OHA's testing rules specify the amount of THC content allowed in an individual item to be sold to a customer. The OLCC will begin compliance enforcement on sales **above the OHA concentration limits** based on Metrc data with a focus on extracts, concentrates, and cannabinoid products (e.g. edibles, tinctures, and topicals). This enforcement will be based on **lab results as entered into Metrc** measured based on the milligrams per gram of THC.

Specific concentration limit allowances per product type can be found [here for recreational consumers](#) and [here for "medical grade" products that may be purchased by OMMP patients or caregivers](#).

**Common issues** the OLCC has seen:

- **Items that pass testing for serving size limits but exceed the container size limit:** Even if a product has passed potency testing a licensee must verify both the amount of THC in the product's serving size and container size and ensure it is within the limits allowed per OHA rule. To determine the total amount of THC being sold licensees should multiply the mg/g of THC determined by the lab by the number of grams of the item; this amount cannot exceed the applicable concentration limit.

**What you can do:** Prior to receipt of or sale of an item confirm that the package-specific amount of THC does not exceed the applicable item type. **Do not assume that a passing potency result means that an item is below the concentration limit.**

- **Wrong item unit of measure, especially for count-based items:** In Oregon count-based items (transferred and sold as "each") are configured to require a weight per unit and an associated unit of measure. Although extracts, concentrates, and cannabinoid products may be transferred and sold as individual units, the concentration limits are based on weight (milligrams of THC). The number of units multiplied by the weight per unit multiplied by the milligrams of THC is what OLCC monitors to ensure concentration limits for these items don't exceed allowable limits.

Sometimes items are misconfigured in Metrc by the licensee and the wrong weight or unit of measure is entered when setting up the item (e.g. 1 ounce instead of 1 gram). This may result in every individual sale of the item being cataloged above the concentration limit (e.g. 1 unit of a 1 ounce extract with 600 mg/g of THC is above the concentration limit).

**What you can do:** Verify with the originating licensee the weight per unit and the unit of measure used to configure the specific package. The first line in the package details will show information related to the creation of the package and identifies the licensee that created the item.

If the item weight per unit or unit of measure is incorrect you should return the product to the vendor for correction or create a new item in your Metrc account with the correct information. Once a new item is created you can repackage it using a new Metrc tag and categorize it with the new (corrected) item name. (see the above section on sales above the daily limit for more details on how to fix this issue)

### Untested or incompletely tested products sent to retail

Each batch of a marijuana item must be tested and pass all compliance standards which are set by the Oregon Health Authority. Usable marijuana flower batches can be up to a maximum of 15 pound increments from within a single harvest lot; for processed items (extracts, concentrates, edibles, etc.) a batch is the equivalent of a process lot. The required tests will depend on the item type and its intended licensee destination (e.g. producer to processor, producer to retail, etc.). The OLCC will focus on items sent to retail that do not meet the testing requirements. **Both the licensee sender and the licensee recipient** share responsibility to ensure untested or incompletely tested items are not sent, received, or sold to customers. Individually and collectively each licensee could face compliance action for failure.

OHA's testing rules are described in more detail at <http://healthoregon.org/marijuanatesting/>. The process of sampling and testing within Metrc is described in more detail in [OLCC's Sampling and Testing Guide](#).

**Common issues** the OLCC has seen:

- **Improper chain of custody between sample and batch:** Test results in Metrc are associated only between directly related Metrc packages. For example, if 7.5 pounds of one strain of usable marijuana (package ABC) and 7.5 pounds of another strain of usable marijuana (package XYZ) from the same batch are *physically* sampled and tested for pesticides but the sample package in Metrc is only associated with package ABC, then package XYZ will not have the correct test results associated with it. OLCC relies on test results in Metrc with proper chain of custody between batches and samples. If test results are "missing" from a package, that mistake must be rectified with Metrc's assistance prior to transfer or sale of the item(s).

**What you can do:** Create samples with the proper chain of custody so that test results are linked back correctly from sample to batch. If a mistake is made contact Metrc support for resolution.

- **Not testing every batch within a harvest lot:** Under OHA's testing rules *every single batch* must be tested for all required compliance tests. For usable marijuana a batch is a maximum of 15 pounds within a single harvest lot. For example, a harvest lot of 150 pounds would mean a minimum of 10 batches that must all be sampled and tested in accordance with rule. The number of total tests required will depend on how many strains are within the harvest lot; more

details can be found in [OLCC's Sampling and Testing Guide](#) or [OHA's testing rules](#) (see OAR 333-007-0320 for required tests for usable marijuana and OAR 333-007-0400 through OAR 333-007-0430 for more detail on pesticide, water activity/moisture content, and potency testing).

**What you can do:** Ensure that every single package in Metrc has the required test results associated with it prior to receipt and sale. If a package says "TestPassed" but does not have any test results or says "NotSubmitted" and has no test results listed you should ask the licensee possessing the marijuana item about the discrepancy *prior* to receiving the transfer.

- **Incomplete testing based on product type:** Test requirements are checked for compliance based on both the product categorization in Metrc and the product identity as listed on the label of the item. Cannabinoid products (e.g. edibles, topicals, and tinctures) are only required to have potency tests completed on the final product. However, if an item is listed as something else (e.g. concentrate or extract) it also needs to be tested for potency as well as pesticides.

**What you can do:** Based on the package's product type in Metrc and the product identity on the physical label, verify that all test types required for that item type have been entered into Metrc. Refer to <http://healthoregon.org/marijuanatesting/> for the matrix of required tests based on product type and licensee destination.

## How to verify test data in Metrc prior to receiving or selling an item

A prior OLCC compliance education bulletin ([CE2018-01](#)) discusses how to confirm in Metrc all lab results and other information for all Metrc packages, including prior to receiving packages on an inbound manifest. Please refer to that bulletin for specific Metrc functionality; this bulletin focuses primarily on various item types and what licensees receiving marijuana items should look for to verify accuracy of lab test information. More detail can also be found in the [OLCC's Sampling and Testing Guide](#), which provides a comprehensive overview of how sampling and testing should be recorded in Metrc.

### Inventory Transfer Request (ITR) Items

The OLCC allows Oregon Medical Marijuana Program (OMMP) medical registrants transitioning to an OLCC license to be pre-approved, by completing an Inventory Transfer Request (ITR), to bring certain marijuana items from their OMMP inventory into the OLCC system as "start-up" inventory. In most cases these items will not have corresponding test results entered in Metrc, but if the items were tested in compliance with OLCC rules prior to OLCC licensing these items are allowed to be sold through the system.

When transferring ITR items the licensee originating the transfer should provide prospective recipients two things to verify the legitimacy and accuracy of the item's lab results:

- The OLCC-approved ITR request form that indicates the item being transferred (producer ITR form can be found [here](#) and processor ITR form can be found [here](#)); and

- The lab results printout that show the type of testing and when it was completed.

A licensee receiving a license should also complete basic due diligence to ensure that the item being transferred was created properly and can reasonably be expected to be an ITR item. *For example, if an item has a source harvest (and was therefore created in Metrc after the producer's licensure) and also a test status of "NotSubmitted" then it is almost certainly not an ITR item and was likely not properly tested.*

## Usable Marijuana

All usable marijuana must be tested in batches of no larger than 15 pounds within a harvest lot comprised of material from plants harvested within the same 72 hour period. The one exception to this 15 pound "ceiling" is that a single potency test may be conducted on the same strain within a harvest lot. The result for the individual batch (or strain) tested is the result that "counts" and must be represented on the label for purposes of potency. Currently the labeling rules allow for the potency on the label to be +/- 10% (**percent NOT percentage points**) of the potency detected by the lab for that individual batch. For example, a batch of usable marijuana tested at 20% THC could be labeled as 22% THC – it **would not** be able to be labeled at 30% THC.

**If a strain has multiple potency tests the label must represent the specific potency value tied to that package in Metrc** – choosing the most favorable potency value if that test does not correspond to the specific Metrc package would be misrepresentation of a marijuana item.

*For example, if a producer harvests 30 pounds of Blue Dream on the same day and chooses to have two sets of potency testing done on separate 15 pound increments of the strain, each individual 15 pound increment (and all derived items) must be sold to consumers with labels that reflect the specific potency result to which it is tied in Metrc (within +/- 10%). A producer may choose to undertake more testing than is required, as in this example, but must still label the item according to result linked to the actual physical material that was sampled and tested.*

**Note: New labeling rules will soon go into effect and change the way in which potency for usable marijuana may be listed on the label.** Read and understand the [newly adopted labeling rules \(845-025-7000 through 845-025-7190\)](#) and ensure you understand all the requirements. There will be more information on the changes communicated as the rules are implemented.

## Extracts, Concentrates, and Cannabinoid Products

Extracts, concentrates, and cannabinoid products are tested at the level of a process lot. The size of the lot, as well as whether the product has received control study certification, will determine the number of samples and potency values required from a single lot. There are currently two ways that potency for an extract, concentrate, or cannabinoid product can be listed:

- 1) Within +/- 10% of the average potency value across sample increments tested by the lab; or
- 2) A range of the lowest and the highest potency value detected of increments tested.

Currently the labeling rules allow for the potency on the label to be +/- 10% (**percent NOT percentage points**) of the average potency detected by the lab for all sample increments from a batch. *For example, an edible tested at 45 mg THC could be labeled at a maximum of 49.5 mg.*

In Metrc, acceptable potency results should have a single (average) value, associated with a single sample, entered by the lab. When receiving an item, licensees should verify that the full scope of testing was completed and also that:

- 1) If the label lists the average potency that the values on the label for potency correspond to +/- 10% of the potency value listed in Metrc; or
- 2) If the label lists a potency range that the range is reasonable given the potency value listed in Metrc (*for example, that the potency value in Metrc is not outside of the range listed on the label*).

The 10% variance is for purposes of testing. The required label on the product may show a value +/- 10% of the tested value to allow for reasonable variance and consistent labeling. **A label may not show a value that exceeds the maximum allowable potency for that item as described in OAR 333-007-0210 and OAR 333-007-0220.**

**Note: New labeling rules will soon go into effect and change the way in which potency for usable marijuana may be listed on the label.** Read and understand the [newly adopted labeling rules \(845-025-7000 through 845-025-7190\)](#) and ensure you understand all the requirements. There will be more information on the changes communicated as the rules are implemented.

### [Industrial Hemp and Hemp-Derived Items](#)

Industrial hemp, hemp extracts, and hemp concentrates may be received by OLCC processors from hemp growers or handlers licensed with the Oregon Department of Agriculture (ODA). A licensee receiving hemp products should verify test results depending on the type of hemp item:

- 1) **Raw industrial hemp:** can only be received from an ODA hemp grower or handler by an OLCC processor that has a hemp endorsement. Test results will not be in Metrc but the grower/handler must provide lab results as part of transfer.
- 2) **Hemp extract/concentrate:** Whether an extract/concentrate is received from the hemp handler, or is processed from raw hemp by the OLCC processor, **at a minimum** the hemp extracts and concentrates must be tested for potency prior to transfer or further processing to certify that it is less than or equal to 5% THC.
- 3) **Hemp commodity or product (e.g. edible, topical, etc):** OLCC licensees may only receive hemp commodities or products from other OLCC licensees; hemp commodities or products cannot be transferred from outside into the OLCC system. Any hemp commodity or product must have the complete scope of test results recorded in Metrc prior to sale or transfer just like any other item created within the OLCC system.