



# Recreational Marijuana Program Compliance Education Bulletin

## Bulletin CE2020-01

January 28, 2020

The Oregon Liquor Control Commission is providing the following information to:

- Recreational marijuana licensees
- Medical marijuana facilities subject to CTS tracking; and
- OLCC hemp certificate holders.

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 at [marijuana@oregon.gov](mailto:marijuana@oregon.gov) 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 **CE2020-01** covers the following issues:

- Implementation of 2019 legislative changes
- Technical rule amendments to marijuana regulation **effective February 1, 2020.**

The summary below highlights major rule changes that may affect licensee compliance with certain requirements. **This summary is not a comprehensive list of all changes.**

You can view recent rule changes highlighting changes under "Recent Rule Changes" at <https://www.oregon.gov/olcc/marijuana/Pages/Recreational-Marijuana-Laws-and-Rules.aspx>

The full text of the OLCC's recreational marijuana rules can be viewed on the Secretary of State webpage at: <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3873>

Due to the scope of the changes to OLCC Division 25 rules, this bulletin has been divided into the following sections for ease of reference:

- [Changes for all facilities subject to CTS tracking](#)
- [Changes for all licensees](#)
- [Changes for Producer licensees](#)
- [Changes for Retailer licensees](#)
- [Changes for Laboratory licensees and Hemp Certificate Holders](#)

All marijuana compliance bulletins are posted at [marijuana.oregon.gov](http://marijuana.oregon.gov) under the "bulletins" section.

## Changes for All Facilities Subject to CTS Tracking

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### Use of UID Tags for All CTS Tracked Marijuana Facilities 845-025-7520

New rules clarify that each outermost container of marijuana items must have its own unique UID tag that matches what is recorded in CTS for that tag number. This means that for any container of marijuana items, the information recorded for the UID in CTS must match what is recorded for that UID tag. The item type for that UID and the quantity as reported in CTS must match for the container with that specific UID on it. A package may not be “split” into multiple containers unless each is labeled with a UID tag associated with the correct item. Photocopied tags or hand-written references are not compliant with this rule. This is not a change, but makes the rule more explicit.

Multiple packages with different UIDs may not be within the same container unless each has its own appropriately-tagged and tracked container within the larger container.

### Transportation of Marijuana Items - Manifests 845-025-7700

New rules clarify how tracking and manifest requirements apply to a CTS-tracked facility based on the type of facility and the destination. All CTS-tracked facilities must record a transfer manifest for items that are being transported to another location under their applicable privileges.

Except for Retailers and Dispensaries making a sale at their licensed premises, any facility subject to tracking in CTS must generate a manifest before removing any tracked items from the premises or before allowing any tracked items to be removed from the premises. This includes licensees, laboratory licensees, medical marijuana grow sites subject to CTS tracking, medical marijuana processing sites, and medical marijuana dispensaries.

Some of these facilities are allowed to provide marijuana directly to individuals at their premises, such as medical marijuana grow sites. For these locations or any location recording a manifest of marijuana items other than to another CTS-tracked facility, the responsible party for the CTS-tracked facility must record the initial manifest in CTS and must also record the transfer as completed.

### Daily Inventory Reconciliation for All CTS Tracked Marijuana Facilities 845-025-7580

Licensee inventories must now be fully accurate each day no later than 8:00 AM local time each day. Previous rule language required reconciliation “at close of business.” This means licensees may conduct inventory reconciliation in CTS any time before 8:00 AM, including during the prior evening, as long as inventory is 100% accurate at 8:00 AM.

## Changes for All Licensees

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### Prohibited Changes to Pending License Applications 845-025-1132

Rules that became effective January 1, 2020 prohibit applicants from making certain changes to their application after it has been submitted:

- An application cannot be changed from one license type to another. For example, a Producer application cannot be changed to a Processor application.
- The location of the proposed licensed premises cannot be changed.
- The ownership of the application cannot be changed by 51% or more.

### Transportation of Marijuana Items – “Cold Calling” or “Circular Manifests” 845-025-7700

In addition to clarifying manifest requirements, new rules allow a licensee transporting less than 25 pounds of usable marijuana, less than one pound of a concentrate or extract, and fewer than 1,000 units of sale of cannabinoid products to create a “circular manifest” in order to visit other licensed facilities with marijuana items prior to accepting an order. This means the licensee must generate a manifest listing the destination facility as the same as their own origin facility.

#### **This “cold call” option requires a licensee to take the following steps:**

1. Record a manifest with the same destination as the origin.
2. Perform sales delivery visits to licensees who may accept some amount of the marijuana items.
3. If a licensee determines they want to receive some number of the packages, the origin licensee may “edit” the manifest in CTS to remove those items.
4. Immediately after removing the requested items from the manifest, the origin licensee must record a new manifest to the destination licensee and confirm that it has been accepted before leaving the premises.
5. The origin licensee may then proceed along the route recorded on the transport manifest to the next potential recipient licensee.
6. All items not delivered to other licensees as described above must be physically returned and “accepted” in CTS within 60 hours of the original departure.
7. If the last packages on a manifest are accepted by the destination licensee, the origin licensee must record those packages as “rejected” on their “circular manifest” and accept them back into their own inventory in order to record the final manifest to the last destination licensee.

The OLCC has posted a [Metrac “How-to” Guide for this type of transfer](#). The guide explains how to create and manage “circular manifests.”

OLCC Metrac guides can be found at [oregon.gov/olcc/marijuana/Pages/OLCCCTS.aspx](http://oregon.gov/olcc/marijuana/Pages/OLCCCTS.aspx) under the “Additional Resources” header.

### Kief from Producer Licensees 845-025-2020

Implementing a statutory change from [House Bill 2098](#), licensees who may receive usable marijuana from Producers may now receive kief from Producers as well. Kief is considered a cannabinoid concentrate and is subject to all applicable testing and labeling rules for cannabinoid concentrates.

### Loss of Access to the Premises for All Licensees 845-025-1160 (5)(b)

A licensee losing access to their licensed premises for any reason, such as expiration of a lease, must inform the Commission at least 15 days in advance of losing access. The Commission may allow a change of location if all marijuana is removed from the premises prior to the loss of access and the licensee can provide a land use compatibility statement for a new proposed location.

Failing to maintain legal access to the licensed premises remains grounds for license denial or revocation.

### Visitor Logging Requirements for All Licensees 845-025-1230 (9)

A visitor log is not required when a visitor is a government official on official business. In addition, the rule now clearly states that a visitor log must be maintained on the licensed premises for 90 days.

### Trade Samples Limits by Producer, Processor, and Wholesaler Licensees 845-025-1330

Licensees may provide “trade samples” of marijuana or hemp to other licensees for the purpose of the receiving licensee to determine whether or not to purchase the item. Trade samples are limited to the following amounts to a single receiving licensee in any one month period:

- 5 grams per strain of usable marijuana or hemp;
  - o No more than 6 strains, meaning a maximum of 30 grams to each receiving licensee each month.
- 5 grams of cannabinoid concentrates or extracts;
- 5 units of sale per cannabinoid or hemp product line;
  - o No more than 6 individual product lines, meaning a maximum of 30 units of sale to each receiving licensee each month.
  - o This amount is an increase from previous rule which limited the amount to 5 units of sale per receiving licensee.
  - o A “product line” of a marijuana or hemp item is an item that is generally of the same type and does not vary in CBD or THC concentration, such as multiple flavors of an edible item or lotion scents.
- For Wholesalers, these limits are per receiving licensee per originating licensee. For example, this means a Wholesaler carrying marijuana inventory for two licensees could provide up to the above amounts to each recipient for products from each one of those licensees.

A licensee who has received a trade sample can provide those items to their employees for sampling. When doing so, that licensee must record the sample as a package adjustment in CTS and record the employee's name and marijuana worker permit number as it appears on their worker permit.

The OLCC has posted a [Metrc "How-to" Guide for Trade Samples](#). The guide provides examples of "product lines" and how to correctly create, transfer, and adjust down trade samples in CTS.

OLCC Metrc guides can be found at [oregon.gov/olcc/marijuana/Pages/OLCCCTS.aspx](https://oregon.gov/olcc/marijuana/Pages/OLCCCTS.aspx) under the "Additional Resources" header.

### Quality Control Samples for All Licensees 845-025-1360

In addition to trade samples, Producers, Processors, and Hemp Handler Certificate holders may provide samples of marijuana or hemp items (based on their privileges) to employees for the purpose of internal quality control.

The quantities of quality control samples that a licensee may provide are limited to no more than the following amounts ***in total, regardless of the number of the licensee's employees (including the licensee) who receive them:***

- For Producers:
  - o Usable marijuana:
    - 28 grams of usable marijuana per strain harvested in a 72-hour period
  - o Cannabinoid concentrates:
    - 5 grams of the cannabinoid concentrate "kief" per process lot; or
    - 5 grams of cannabinoid concentrates per process lot if the Producer holds a concentrate endorsement.
- For Processors:
  - o 5 grams of cannabinoid or hemp concentrates or extracts per process lot.
  - o 12 units of sale of a cannabinoid product or industrial hemp cannabinoid product per process lot.

## Video Surveillance for All Licensees 845-025-1430 and 845-025-1450

New language in OAR 845-025-1430 through -1450 clarifies that:

### **Surveillance Equipment:**

- A video monitor is required as part of surveillance equipment at the licensed premises, but does not necessarily need to be within the surveillance room or enclosure.
- A licensee must have a method of accessing and viewing surveillance recordings at the premises, such as a touch-screen interface or mouse/keyboard.
- Access methods, as described above, must be within the surveillance room or enclosure, except for remote viewing and access devices, which must be secured to prevent unauthorized access.

### **Video Recording:**

- For areas where video recording is required, all cameras must record at least 10 frames per second and at a resolution of 1280x720 (720p) or better.
- Video recording requirements apply to all license types, including laboratory licensees.
- Notification to the Commission is required when shutting down cameras temporarily, and licensees must provide proof that marijuana is removed from those areas prior to camera shutdown.
- Licensees may not exercise any license privileges in areas that do not have required camera coverage or where cameras are inoperable, whether due to a planned camera shutdown or an unexpected outage. This includes storage of marijuana in those areas.
  - o When considering violations of this rule, the Commission will consider whether a licensee complied with the existing requirement to notify the Commission immediately for any security or surveillance system outage of 30 minutes or more.

## Packaging & Labeling 845-025-7030 (6)(b)

OAR 845-025-7030(6)(b) now requires that for any hemp or marijuana item tested on or after February 1, 2020, the item label may not list “0% THC,” “0% CBD,” “0mg THC,” or “0mg CBD”. The label must include “<LOQ” identifying that the item tested below the minimum level detectable by the lab, which may be greater than zero percent. This applies to all labels, including generic labels printed by POS systems. Licensees should verify label potency claims based on what is reported in CTS, including certificates of analysis uploaded by laboratories. [Compliance Bulletin CE2019-09](#) also addresses potency verification on labels.

All marijuana compliance bulletins are posted at [marijuana.oregon.gov](http://marijuana.oregon.gov) under the “bulletins” section.

## Changes for Producer Licensees

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### Property Owner Consent for Marijuana Producers OAR 845-025-1030 (6)(g)(E)

Effective January 1, 2020, Producer applicants must submit proof of informed consent from the property owner as part of an application or renewal application that marijuana is produced at that location.

#### **This consent must explicitly state informed consent for “marijuana.”**

This requirement is added to the application process under OAR 845-025-1030 and implements [House Bill 3200 \(2019\)](#). This consent may come in the form of a clause in a lease, other access document, or by completing a signed form available on the Commission website at [https://www.oregon.gov/olcc/marijuana/Pages/Forms\\_Publications.aspx](https://www.oregon.gov/olcc/marijuana/Pages/Forms_Publications.aspx)

A Producer licensee that owns their own property is not subject to this requirement.

### Canopy Area Designation by Producer Licensees 845-025-2040

#### **Defining Canopy Areas:**

Previous rule language required that Producer licensees must separate canopy areas by physical barriers or eight feet of space. The rules have been amended to remove the physical boundary requirement. For any licensees who have canopies that are adjacent to each other or that are separated by less than eight feet of space, no physical boundary is required. However, licensees must physically mark the outermost edges of each canopy space.

Where required, demarcation can be a wall, corner posts, fencing, or other clearly identifiable physical marker so that one canopy area may be clearly differentiated from another.

#### **Increasing Canopy Sizes:**

Producers may now request an increase in their tier size at times other than renewal, as long as they have been licensed for at least one year and did not increase their tier size within the previous license year. If this change is approved at a time other than renewal, the Producer licensee must pay the difference in license fee prior to approval.

### Kief Production by Producer Licensees 845-025-2020

Implementing a statutory change from [House Bill 2098](#), Producer licensees may now possess, retain, and transfer the cannabinoid concentrate **kief**. This includes kief that is a byproduct of trimming and kief that is intentionally manufactured by a Producer licensee.

Kief is considered a cannabinoid concentrate and is subject to testing rules for that type of item.

Producers may transfer kief to any licensee to whom they can transfer usable marijuana.

## Changes for Retailer Licensees

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### Marijuana Security for Retailers 845-025-1410 (3)(c)

OAR 845-025-1410 has been amended to allow greater flexibility in Retailer security. A vault or safe is no longer explicitly required under this section for Retailer licensees, although such enclosures may still be used. Instead, Retailer licensees must store all marijuana items except for immature plants as follows:

- During all non-operating hours, marijuana items must be in a locked, secured location or enclosure within the premises.
- Marijuana within that area must not be visible from the exterior of the premises.

Storage examples that the Commission will consider to meet the standard of a “locked, secured area or enclosure” include, but are not limited to:

- Glass or wooden display cabinets with a lock.
- Wire security cage with a lock.
- Roll-up security shutters that lock over products on a shelf.

Storage examples that would not meet the requirement in rule include, but are not limited to:

- Leaving marijuana items behind the counter that are not secured in a container or behind a secondary lock.

### Prohibited Actions for Retailer Licensees 845-025-2800 (4)(g) and 845-025-2900 (2)(a)

The amended rules clarify that a Retailer **may not** charge tax on marijuana items sold to either a medical marijuana patient or caregiver who provides proof of registration with the Oregon Medical Marijuana Program. This prohibition applies **regardless** of whether or not the Retailer has registered to carry medical-grade cannabinoid items.

Previous rule language led some retailers to believe that selling marijuana tax-free to patients and caregivers was a privilege that required specific registration in addition to the license. ORS 475B.707 (2)(a) and 845-025-2890 explicitly prohibit any Retailer from collecting tax on a person who provides proof of a valid patient or caregiver card.



## Changes for Laboratory Licensees and Hemp Certificate Holders

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### Reporting Test Results by Laboratory Licensees 845-025-5045

In addition to entering testing information for any cannabis items tested and tracked within CTS, Laboratory licensees must also upload a copy of the report provided under OAR 333-064-0110 into CTS.

### Prohibited Testing for Laboratory Licensees 845-025-5075

Laboratory licensees are prohibited from performing testing for industrial hemp growers or handlers if the Laboratory licensee has a financial interest in that hemp business.

### THC Concentration & Testing Limits for Commission-Certified Hemp Growers & Handlers 845-025-2760

Hemp growers and handlers who are certified to transfer hemp to licensees of the Commission must use a laboratory licensee for THC testing that is capable of detecting THC at the applicable concentration limits. This means a laboratory must be capable of detecting whether tested hemp exceeds:

- 1% total THC for harvested hemp.
- 1% total THC for a hemp item other than a hemp concentrate or extract.
- 5% total THC for a hemp concentrate or extract.
- 1 mg total THC per serving for a hemp item other than a hemp tincture that is intended for human consumption.
- 10 mg total THC per container for a hemp item other than usable hemp or a hemp concentrate, extract, or tincture.
- 50 mg total THC per container for a hemp concentrate, extract, or tincture.

In addition, rule clarifies the following THC quantity limits in addition to the above:

- A hemp concentrate, extract, or tincture may now contain up to 50 mg total THC per container. Previously these items were limited to no more than 10 mg total THC per container.