Batch Tracking Agreement Reached for Maine's Adult Use Cannabis Program (AUCP)

Information on the development of the nation's first batch tracking system and additional goals achieved through the State's amended contract with Metrc

The 130th Legislature passed *An Act To Allow the State's Adult Use Marijuana Tracking System To Track Plants and Products by Group*, P.L. 2021, ch. 628 mandating that the Office of Cannabis Policy (OCP) amend its contract with the Adult Use Cannabis Program's (AUCP) inventory tracking vendor, Metrc, to implement batch tracking for cultivators. **An agreement with Metrc has now been finalized, with "Flexible Standardized Batch Tracking" (FSBT) serving as the final product of the extensive contract amendment negotiations.**

While OCP is pleased with the FSBT system and the value it will bring to Maine's cannabis industry, the transition to a batch tracking system admittedly presented several challenges that made for a slow pace of negotiations between OCP and Metrc. These challenges included:

- The initial development of a batch tracking system, as this is a first-in-the-nation tool for the cannabis industry
- A lack of financial resources for the development of a true batch tracking system (one tag per batch, regardless of batch size)
- Ensuring that the system would not increase licensees' monthly user fees or product tag costs and would not create inherent advantages for larger operators over smaller operators
- Ensuring that the system would maintain the integrity of cannabis industry compliance

Despite those challenges, OCP and Metrc came to an agreement on the FSBT system which will be the nation's first batch tracking solution and will significantly reduce time and labor costs for AUCP participants without increasing their monthly Metrc user fees or overall product tag costs. Key components of the FSBT system include:

- Four initial sizes of batch tags: 5 plants, 10 plants, 25 plants, and 50 plants
- Individual plant tags remain an option and can be used in combination with batch tags
- OCP, with feedback from licensees, can request additional batch tag sizes in increments of 5 plants (such as a 40-plant tag or a 75-plant tag) even prior to launch and without the need for a renegotiation of the contract
- Batches of different numbers can use a combination of multiple, different tags (for 35 plants, a cultivator can use one 25-plant tag and one 10-plant tag, etc.)
- Batches significantly larger than 50 plants per batch can use multiple batch tags (for 300 plants, a cultivator can use six 50-plant tags, etc.)
- The costs of batch tags in the FSBT system are commensurate with the costs of individual plant tags (for example, 25 individual plant tags currently cost $11.25, and a 25-count batch tag will cost $11.25)

Licensees will be provided ample training by Metrc on FSBT and will have the ability to order batch tags in advance of the system going live in September 2023.

The FSBT system and the amended contract with Metrc achieve a number of additional goals, including but not limited to small, standardized batch tags that reflect Maine's cultivation market; a linear cost structure that levels the playing field across cultivation tiers; flexibility within the system; enhancements to Metrc's customer service; a sandbox environment for users; Metrc-provided training for the batch tracking software; maintained compliance integrity for OCP; and better sustainability practices.

This document expands upon (1) some of the potential challenges and benefits to a batch tracking system, (2) the basic contours of the FSBT program, and (3) the key goals achieved through the FSBT program.

Potential Challenges and Benefits to a Batch Tracking System

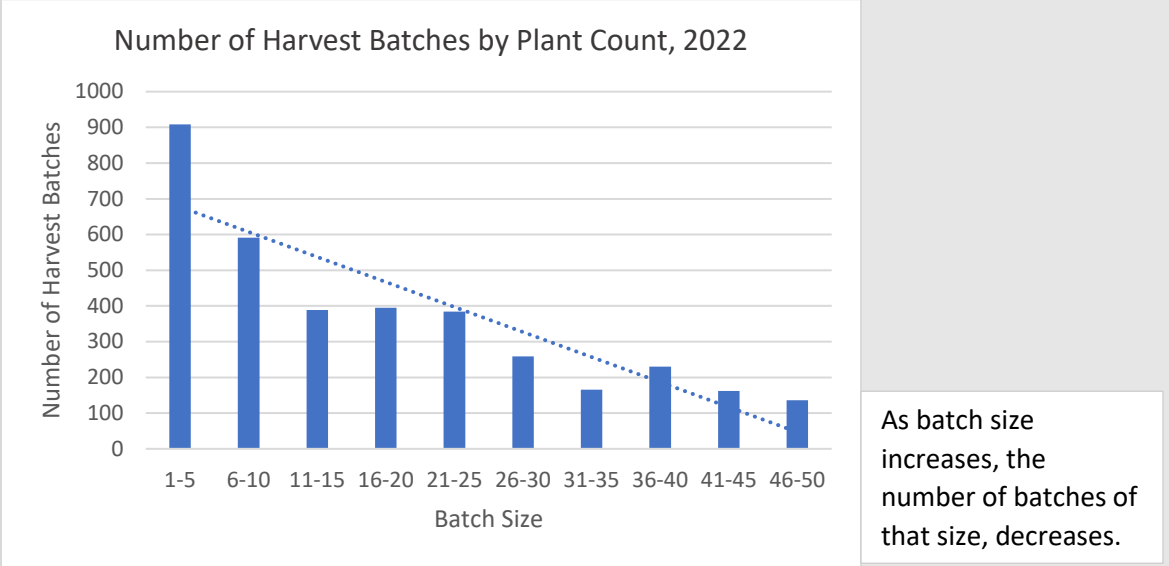
Seed-to-sale tracking of cannabis serves as the foundation for state regulation. It allows a safe supply chain that prevents both diversion (product from the regulated market being sold in the illicit market) and inversion (illicit supply entering the regulated market). It also allows the state to take strides in protecting public health and safety. OCP took these important aspects of inventory tracking into consideration while examining the potential challenges and benefits to a batch tracking system, some of which include:

- **Currently, there is no effective alternative to Metrc that serves the needs of OCP in ensuring compliance in the AUCP.** Building an original software system would be cost prohibitive for the State of Maine. Eliminating a track-and-trace system would neuter the state's ability to combat the illicit market, to ensure compliance within the AUCP, and to meet the agency's mandate under statute.
- **Batch tracking can create a series of potential challenges.** Done poorly, batch tracking can cripple the integrity of the compliance system, become costly to industry and/or the State of Maine, and can benefit large cultivators/multi-state operators (MSOs) relative to small/craft cultivators. None of these situations is desirable. OCP's negotiations sought to minimize these challenges and their effects.
- **Despite those challenges, batch tracking can provide some benefits to the system.** First, it significantly reduces time and labor costs for industry, as compared to the individual plant tracking program. Second, it can also reduce the number of plastic tags in the system, a solution that can advance sustainability practices. Third, it can better reflect how significant portions of the cannabis industry cultivate plants in Maine: in small batches.

In designing the batch tracking program, OCP first sought to conduct research on exactly what cultivation in the AUCP looks like, how it functions, and what data on batch sizes could tell us. We wanted to design a system that was not a clunky, one-size-fits-all approach, but one that works specifically for Maine's program. To understand the nature of FSBT, it is important to see and evaluate these data.

AUCP Harvest Batch Data	2022	Inception – 1/17/2023
Total harvest batches cultivated	4,710	8,349
Average number of plants per harvest batch	36	33
Total harvest batches <50 plants per batch	3,620 (76.9%)	6,695 (80.2%)
Total harvest batches <100 plants per batch		7,796 (93.4%)

The following chart breaks down the AUCP harvest batches from calendar year 2022 in greater detail.



The distribution of harvest batch sizes shows a general trend. As the number of plants in a harvest batch increases, the amount of harvest batches of that size tends to decrease. In 2022, 19.3% of harvest batches contained 5 plants per batch or fewer, 31.8% of batches contained 10 plants or fewer, and 56.6% of batches contained 25 plants or fewer. Also, as a point of reference, the AUCP produced 169,560 plants in 2022, each of which was individually tagged.

Key Takeaways

1. Harvest batches in Maine are relatively small in nature, in terms of plants per batch.
2. Small batch sizes reflect a diversity of strains and products being produced and cultivated.
3. Small and craft cultivators are a critical cohort within the AUCP. The presence and significance of small and craft cultivators demonstrates the importance of a batch tracking system that does not disadvantage those industry participants.
4. For batch tracking to work, the system must be flexible and able to accommodate the nature and diversity of Maine's cultivators.

Flexible Standardized Batch Tracking (FSBT)

To ensure the system works for all participants and to maintain the integrity of cannabis industry compliance, OCP and Metrc are providing a system in which batch tracking (tagging) is standardized. As currently designed, batch tags will initially be available in four sizes: 5 plants, 10 plants, 25 plants, and 50 plants. These standardized batch tag sizes will serve the vast majority of cultivators and harvest batch sizes in the AUCP. At the same time, the system will allow cultivators who are uninterested in batch tracking to maintain individual plant tagging. The system allows further flexibility, as OCP, in consultation with licensees, can request additional batch tag sizes in intervals of five plants. We are committed to working closely with licensees to develop additional batch tags and further right size the FSBT system for Maine's cultivators.

Operators who produce batches significantly larger than 50 plants per batch can use multiple batch tags. Similarly, cultivators with batches of different numbers can use multiple, different tags. For example, if a batch has 35 plants, the cultivator can use one 25-plant tag and one 10-plant tag. This means that they would simply use two tags for that batch rather than 35 individual tags as required by the current plant tracking system.

The flexibility in the FSBT system emerges from the several ways licensees can use the inventory tags. As a recap, this initially includes:

1. Individual plant tags
2. 5-count batch tags
3. 10-count batch tags
4. 25-count batch tags
5. 50-count batch tags
6. Use of multiple batch tags
7. Use of different and/or multiple batch tags and/or individual plant tags
8. Future expansions of batch tag sizes, based on input from licensees

Within the Metrc interface, licensees will note which and how many tags (batch and/or individual) were used. For batch tags, they will note how many plants are being cultivated under each batch tag. This is another element of the flexibility in the system. For example, if a licensee cultivates a harvest batch with 48 plants, they can use a 50-plant batch tag and simply enter "48 plants" into the Metrc interface for that specific 50-plant batch tag. Cultivators will not be required to have 50 plants to be eligible to use a 50-count batch tag.

The FSBT system will also help maintain compliance integrity. Members of OCP's compliance team need to be able to confirm plant counts relative to tags (and counts listed under tags) efficiently and accurately. Elevating the sizes of standardized batches could potentially create undue challenges for the compliance team to perform their jobs. To avoid a threat to the integrity within the system, standardizing batch tags is both effective and accommodating of the average batch sizes for the vast majority of cultivators.

To further ensure compliance and the integrity of inventory tracking, Metrc's system and the technology behind that system require further development to remain significant and complex with FSBT. However, our desire in implementing batch tracking was not to shift costs for the development of the new software on to licensees. As a result, OCP has negotiated a system that is revenue neutral to industry, while OCP absorbed the costs of the software buildout.

While the legislative conversations and deliberations around the batch tracking bill focused significantly on the time and labor costs licensees faced and not the costs of physical tags, we wanted to be sure that batch tracking was not cost prohibitive. To ensure that, the batch tagging program costs are as follows:

Cost of Tags in Existing Program			Cost of Tags in FSBT Program	
Individual Plant Tag	$0.45		Individual Plant Tag	$0.45
Tagging 5 individual plants	$2.25		5-count batch tag	$2.25
Tagging 10 individual plants	$4.50		10-count batch tag	$4.50
Tagging 25 individual plants	$11.25		25-count batch tag	$11.25
Tagging 50 individual plants	$22.50		50-count batch tag	$22.50

Under the revised agreement with Metrc, the monthly user fee for licensees will not increase. Additionally, OCP included language in the contract amendment that required Metrc to improve the customer service experience and develop a sandbox environment for licensees. We used feedback provided in the Metrc User Workgroup sessions and crafted language to be responsive to many of those concerns. The details of that language are available in the next section of this document.

Ultimately, the Metrc system is funded through three buckets of funding: a monthly fee paid by OCP, a monthly user fee paid by licensees, and fees paid based on cultivation sizes (the tagging/tracking system). OCP will pay fully for the software buildout. However, changes needed to be made to ensure the system is paid for. The monthly state appropriation is immovable because of budget and appropriations limitations. That left a choice between dramatic increases in licensees' monthly user fees, or a revenue system based on cultivation size. By building costs into tagging, so that batch tracking costs reflect cultivators' production size, costs are distributed equitably, rather than through dramatically increased monthly fees hurting small producers at the expense of larger ones.

When Director Hudak started in his role at OCP at the beginning of the year, he knew that restarting amendment negotiations with Metrc regarding batch tracking was an important and urgent priority as previous rounds of negotiations had stalled. This newly negotiated system is one that works most effectively for all parties and most importantly, lowers production costs without disadvantaging small and craft cultivators. But because the FSBT software is a new build and a first-of-its-kind product, it will take some additional time to deliver. The expected completion date of the new system is September 1, 2023. While we acknowledge concerns about delay and timing, and we are sensitive to the reality that interactions between Metrc and program participants have been challenging in the past, what we do not want is to rush a product that fails to be workable for industry or for OCP. We want to continue to get this right, and getting it right requires a bit of time.

Goals Achieved Through the FSBT Program

Savings in staff time and labor costs for industry

Licensees provided significant feedback through the Metrc User Workgroup, legislative testimony, and other informal avenues about the time and labor costs involved in individual plant tagging. In the FSBT program, individual plant tagging is preserved for those cultivators who wish to continue it. However, the use of batch tags will provide significant savings in staff time for licensees, as tagging will be reduced by up to four, nine, 24, or 49 tags per batch.

A fiscally responsible program for the State of Maine

The development of any new program comes with costs, and the software to implement batch tracking is no different. Although the state sought not to pass costs on to licensees, we needed to develop a program that minimized state costs as much as possible, particularly given that P.L. 2021, ch. 628 did not include a fiscal note. OCP is pleased that the FSBT program is fiscally responsible while providing the software necessary to implement the legislative mandate for a batch tracking program.

A revenue neutral program for industry

Ultimately, the batch tracking program will provide the same inventory tracking capability as individual plant tracking, but developing new technology comes with costs. In negotiating the FSBT program, OCP sought to make the new program revenue neutral for licensees. The costs for batch tracking under the FSBT will remain the same for licensees as for individual plant tracking. At the same time, OCP negotiated with Metrc to ensure that monthly licensee fees and product tag costs do not change with the new technology. OCP also remained committed to absorbing the costs of building the new batch tracking software, without passing those costs along to licensees or their customers.

Access for small and craft cultivators

Batch tracking has the potential to benefit larger growers and multistate operators disproportionately, while providing minimal benefits for small and craft cultivators. Batch sizes, pricing models, and other factors can simultaneously help large producers will disincentivizing smaller operators from accessing a batch tracking program. Under FSBT, smaller standardized batch tags and the broader flexibility within the system allow small and craft growers access to the program, while providing a linear cost structure that levels the playing field across cultivation tiers. The FSBT system also reflects the size and structure of Maine's cannabis cultivation market, including the outsized role of small batch production in Maine.

Flexibility for users

The program allows for significant flexibility that recognizes that each cannabis cultivator has unique needs, and those needs can change over time and across harvests. This flexibility also allows cultivators to have significantly varying batch sizes and batch tracking needs within the same harvest cycle. Allowing cultivators to retain individual plant tracking, use varying standardized batch tags, and combine different batch tags and tag types will provide greater cost stability for licensees, without forcing cultivators to make batch size choices based on the structure of the program. The system allows further flexibility as OCP, in consultation with

licensees, can request additional batch tag sizes in intervals of five plants to further right size FSBT for Maine's cultivators.

Enhancements to Metrc's customer service

In response to widespread complaints from users about the quality and consistency of Metrc's customer service support, OCP prioritized codifying customer service delivery expectations into the contract. Unlike the original contract, this amendment now includes explicit industry service level agreement (SLA) language to ensure Metrc performs better in meeting the functional and technological needs of Maine licensees. There are several provisions to ensure greater responsiveness from Metrc to the current and future needs of our licensees, including 30-minute response times for helpdesk messages and toll-free calls; Tier 1 ticket resolution in 24 hours or less; faster overall resolution times for Tier 2/complex tickets which require OCP input; and enhanced requirements for prompt implementation of approved resolutions. Metrc will also be required to track their response and resolution times providing a new, but necessary, layer of accountability. Lastly, Metrc will no longer be able to make changes to the industry SLAs without written consent from OCP.

Software changes and training with minimized disruptions to existing workflows

OCP worked closely with and will continue to work closely with Metrc to ensure that the software changes to accommodate the FSBT program are easy to use and understand, interface effectively with other parts of the Metrc system, and meet the needs of both cultivators and regulators. Part of the Metrc programing changes will include in depth testing to ensure that the many application programming interfaces (APIs) used by industry to link third-party software systems will continue to function properly. Metrc is also required to provide sufficient training for cultivators on how to use the new FSBT software elements, which will begin in advance of FSBT going live to ensure licensees are able to immediately utilize this functionality. Lastly, once additional details are configured, Metrc will be developing a sandbox environment for Maine licensees to help improve the user experience. Part of the Metrc programing changes will include in depth testing to ensure API's (application programming interfaces) linking many third-party software systems used by industry will continue to function properly.

Maintained compliance integrity

A batch tracking system that interrupts the integrity of inventory tracking is one that is unworkable for OCP. The FSBT program provides industry with batch tracking capacity, while ensuring that OCP can carry out its charge under statute. We worked with our compliance division to ensure that their efforts to ensure a safe, protected, and compliant supply chain would continue with this new program.

Reduced plastic waste

Under the individual plant tracking system, licensees were required to use a non-reusable plastic tag for every plant in the system. In 2022, Maine's adult use cannabis cultivators produced 169,560 plants, which required just as many plastic tags. The FSBT program provides a more sustainability-friendly alternative, and OCP estimates that the number of tags in the system will be reduced by 90-96%, dependent on licensees' interest in embracing batch tracking.