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This guidance is provided by the Office of Marijuana Policy (OMP) in response to inquiries regarding reporting of mandatory test results by marijuana testing facilities and guidance provided by marijuana testing facilities to their clients (specifically, adult use licensees) regarding collection of samples for mandatory testing.

Frequently Asked Questions

Question: How should marijuana testing facilities report failed test results to OMP?

Answer: Testing facilities should be reporting test results to clients and OMP in accordance with the adult use and certification rules (18-691 CMR, ch.1 and 5, respectively).

Section 8.3.3 of the *Adult Use Marijuana Program Rule* addresses the timing of reporting of failed test results to the client and OMP. OMP must receive the certificate of analysis for any failed test batch within two business days of the testing facility’s issuance of its final quality control review.

OMP requires all marijuana testing facilities to send copies of the Certificate of Analysis via e-mail to: TestingResults.OMP@maine.gov. For failed batches the testing facility must use a uniform subject line in the following format:

From:	[Testing Facility Email Address]
To and/or Bcc:	TestingResults.OMP@maine.gov
Subject:	Notice of Failure: [Test Batch #], [client name]

A real-world example may appear in the following format:

From:	david@mainetestingexcellence.com
To and/or Bcc:	TestingResults.OMP@maine.gov
Subject:	Notice of Failure: 1A4FF0300000001000000686, Pierce’s Botanicals, LLC.

Q: How should marijuana testing facilities report results for cannabinoid content testing?

A: Cannabinoid content testing includes results of tests for individual cannabinoids, homogeneity and total THC/CBD. Maine law requires that marijuana products sold to consumers in the adult use market not exceed 10 mg of THC/serving and 100 mg/package, but there are no such limits for marijuana flower, trim or concentrates sold to consumers.

Q: How should marijuana testing facilities report cannabinoid content for marijuana products?

A: Cannabinoid content for marijuana products is reported in mg/serving and mg/package. METRC will be configured to capture these amounts and testing facilities will be responsible for reporting the amount of THC/serving (not to exceed 10 mg/serving) and THC/package (not to exceed 100 mg/package).

Marijuana testing facilities must provide the following instructions to products manufacturing facilities submitting samples of marijuana products for mandatory testing. Products manufacturing facilities must submit samples of marijuana products either:

- Pre-packaged in individual retail units which include all required label information (including serving size and servings/container).
- Unpackaged samples of marijuana products, in which case one sample increment = one serving size. The products manufacturing facility must provide the following information to the marijuana testing facility:
 - The size of an individual serving of the marijuana product.
 - The number of servings packaged together into an individual retail unit.

If a products manufacturing facility licensee does not provide this information to the marijuana testing facility, the marijuana testing facility must fail the batch. This information should be recorded on the marijuana testing facility’s chain of custody form and should be recorded in the certificate of analysis.

For example:

Item	Example
Pre-packaged batches	Licensees creates a production batch of 10,000 gummies and packages the batch into 200 retail units containing 50 gummies per retail unit, with 5 servings of gummies per retail unit. A licensee must submit 5 sample increments for a production batch with a size of 200 units. Because the production batch units are pre-packaged, each sample increment is one pre-packaged retail unit, so the licensee will submit 5 randomly selected pre-packaged retail units to the marijuana testing facility for mandatory testing. The marijuana testing facility will use the label information provided on the retail unit packaging to determine whether the batch sampled is in compliance with serving and package potency limits.
Unpackaged batches	Licensee creates a production batch of 10,000 gummies. In order to determine that the per serving potency is below 10 mg/serving, the testing facility will need to know the number of gummies per serving. In order to determine the per package potency, the testing facility will need to know the number of servings to be packaged together, and the potency in one serving.

	<p>Each gummy is supposed to have 2 mg of THC and one serving size is 10 mg of THC (5 gummies). Each retail unit will have 50 gummies (100 mg of THC). For a batch of 10,000 gummies, the licensee must submit 20 sample increments. For unpackaged production batches, each sample increment must be one serving size. Therefore, the licensee would submit 100 (5 gummies/serving) randomly selected gummies from the production batch for testing.</p>
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Q: How should testing facilities report pass/fail for cannabinoid content for marijuana flower, trim, and concentrate test batch?

A: Marijuana testing facilities will report in Metrc the mg/g of THC in test batches of marijuana flower, trim or concentrate and will check “pass” for THC content for these test batches. For flower, trim, and concentrate, these values should be reported but these matrix types should not fail for THC content since there are no reporting limits on these matrix types.

Q: Should a testing facility account for laboratory uncertainty in determining whether a sample falls below the 10 mg/serving and 100 mg/package threshold?

A: Yes. A testing facility should account for laboratory uncertainty in determining whether a sample of marijuana products passes or fails testing for THC per serving and per package.

Q: Should a testing facility fail a batch of marijuana products that is found to have less than the licensee-reported amount of THC per serving or package?

A: No. A testing facility should report the concentration of THC per serving and per package in mg/serving and mg/package and if the values are less than 10 mg/serving and 100 mg/ package, the sample should pass. OMP will take appropriate enforcement action if a licensee is found to have mislabeled a marijuana product or otherwise misrepresents mandatory test results.

Q: How should marijuana testing facilities determine and advise their clients of which matrix type certain marijuana items fall under for the purposes of mandatory testing?

A: Generally, marijuana testing facilities should advise their clients to determine which marijuana items fall under which matrix type by referring them back to the definitions in the Adult Use Marijuana Program Rule. Based on inquiries received by OMP, there is some confusion regarding what is a marijuana product and what is a marijuana concentrate delivery system. There are also questions regarding whether some marijuana products should be considered solid, semi-solid or liquid. To address these concerns OMP has developed the following guidance for marijuana testing facilities assisting licensees in determining which matrix type is being sampled:

- Has the client reviewed the definitions in the rules of “marijuana concentrate” and “marijuana product”? Have they reviewed the definitions of “edible marijuana product” and “topical marijuana product”? Have they reviewed the definitions of “tincture” and “marijuana drink”?
 - For instance, the definition of “topical marijuana product” includes examples like salves, creams, lotions, transdermal patches and balms.

- What state (solid/semi-solid/liquid) is the marijuana product to be sold to consumers? For instance: ice cream can be liquid at room temperature, but it is not sold to consumers in liquid form, it is frozen and will be sold in semi-solid/solid form to consumers, therefore, ice cream should be tested as a solid/semi-solid marijuana product.
- Is the item being sampled a “delivery device” for marijuana concentrate or is it a marijuana product comprised of marijuana concentrate and other ingredients?

Q: Which set of rules will be in effect at the time the adult use market launches next week?

A: The emergency versions of the *Adult Use Marijuana Program Rule* and *Rules for the Certification of Marijuana Testing Facilities* (18-691 CMR, ch. 1 and 5, respectively) are in effect until September 22, 2020 unless OMP adopts its routine technical rules sooner than that.

Included in those updated rules is a distinction regarding which marijuana flower and trim is subject to mandatory testing for water activity and moisture content. OMP requires only marijuana flower and trim that has been dried, cured, or otherwise prepared in a manner to reduce or eliminate water to be subject to testing for water activity and moisture content. Effective immediately, OMP will not require marijuana flower and trim that has not been dried, cured or otherwise prepared in a manner to reduce or eliminate water (e.g. “fresh frozen” marijuana flower and trim) to be tested for water activity and moisture content.