

Rulemaking Cover Sheet

MAPA-1

TO: **Secretary of State**
ATTN: **Administrative Procedure Officer,
State House Station 101, Augusta, Maine 04333.**

1. **Agency:** Office of Cannabis Policy, Department of Administrative and Financial Services
2. **Agency umbrella and unit number:** 18-691
(2 digit umbrella # and 3 digit unit #)
3. **Title of rule:** Rules for the Administration of the Adult Use Cannabis Program
4. **Chapter number assigned to the rule:** Chapter 10
(must be 3 digits or less)
5. **Date(s)/method(s) of notice:** E-mail and social media notice to interested parties list on August 15, 2023; Official SoS Notice of Rulemaking Published in Newspapers August 15, 2023.
6. **Date(s)/place(s) of hearing(s):** Wednesday, September 6, 2023; 10:00 a.m.; Office of Cannabis Policy, 19 Union St., Augusta, Maine, 3rd Floor, Room 325.
7. **Type:** new rule partial amendment(s) of existing rule
 suspension of existing rule repeal of rule emergency rule
 repeal and replace: complete replacement of existing chapter, with former version simultaneously repealed.
8. **Name/phone of agency contact person:** Gabi Pierce; Office of Cannabis Policy, 162 State House Station, Augusta, ME 04333; Phone: (207) 530-0507; Fax (207) 287-2671; e-mail: Gabi.Pierce@maine.gov
9. **If a major substantive rule under Title 5, c. 375, sub-CII-A, check one of the following**
 Provisional adoption **Final adoption**
(prior to Legislative review)
 emergency adoption of major-substantive rule

10. **Certification Statement:** I, Kirsten LC Figueroa hereby certify that the attached is a true copy of the rule(s) described above and lawfully adopted by

the Dept. of Administrative + Financial Services on 01-08-2024.
(name of agency) (date)

I further certify that all portions of this rule are adopted in compliance with the requirements of the Maine Administrative Procedure Act.

Signature: Kirsten LC Figueroa
(original signature, personally signed by the head of agency)

Printed name & title: Kirsten LC Figueroa, Commissioner

11. Approved as to form and legality by the Attorney General on 1/2/2024.
(date)

Signature Nancy Maciowski
(original signature, personally signed by an Assistant Attorney General)

Printed Name: Nancy Maciowski

Notice of Agency Rulemaking Adoption

AGENCY: Office of Cannabis Policy

CHAPTER NUMBER AND TITLE: 18-691 CMR, chapter 10
Rules for the Administration of the Adult Use Cannabis Program

ADOPTED RULE NUMBER: 20xx.xxx
(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY

The Department of Administrative and Financial Services, Office of Cannabis Policy, is promulgating the *Rules for the Administration of the Adult Use Cannabis Program*, along with the *Rules for the Licensure of Adult Use Cannabis Establishments*, 18-691 CMR, ch. 20, *Compliance Rules for Adult Use Cannabis Establishments*, 18-691 CMR, ch. 30 and the *Rules for the Testing of Adult Use Cannabis*, 18-691 CMR, ch. 40 in anticipation of fully repealing the *Adult Use Cannabis Program Rule*, 18-691 CMR, ch. 1, once those four rules have been finally adopted. The Office of Cannabis Policy (OCP) has the authority to “promulgate rules necessary to implement, administer and enforce [the Cannabis Legalization Act].” 28-B MRS § 104.

This rule is compromised of the administrative provisions, definitions and program fees from the original *Adult Use Cannabis Program Rule*, and incorporates statutory changes since the last time that rule was revised, specifically, PL 2021, ch. 628, PL 2023, ch. 6, Emergency (Signed March 15, 2023), PL 2023, ch. 408 and PL 2023, ch. 396. This rule also incorporates changes identified by the Office during its process of regulatory lookback and those identified by stakeholders through public comments during the public comment period for this rule.

EFFECTIVE DATE:
(TO BE FILLED IN BY SECRETARY OF STATE)

AGENCY CONTACT PERSON: Gabi Pierce

AGENCY NAME: Office of Cannabis Policy

ADDRESS: 162 State House Station, Augusta, ME 04333

TELEPHONE: 207-530-0507

Notice of Agency Rulemaking Proposal

AGENCY: 18-691 – Office of Cannabis Policy, Department of Administrative and Financial Services

CHAPTER NUMBER AND TITLE: Ch. 10 – Rules for the Administration of the Adult Use Cannabis Program

TYPE OF RULE (*check one*): Routine Technical Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY: This rulemaking updates the definitions, fees and other administrative requirements necessary to implement statutory changes made to the Cannabis Legalization Act, 28-B MRS, including PL 2023, ch. 6, Emergency (Signed March 15, 2023), and PL 2023, ch. 408, PL 2023, ch. 396, specifically changes to the authorized activity of tier 1, tier 2, and nursery cultivation facilities and products manufacturing facilities allowing for the sales of cannabis and cannabis products to consumers by delivery (except that nursery cultivation facilities may sell only immature cannabis plants, seedlings, cannabis seeds and agricultural or gardening supplies relating to the cultivation of cannabis); permitting the delivery of cannabis and cannabis products by authorized licensees to consumers at hotels or other private businesses, provided that the delivering licensee has obtained written consent from the owner or other authorized agent of the business to conduct such deliveries; permitting the return of cannabis or cannabis products from licensee to the licensee that transferred the cannabis or cannabis products to the returning licensee and provides for the testing of such returned cannabis or cannabis products; permitting the use of vehicle wraps by licensees; increasing the per package limit for edible cannabis products from 100 mg per package to 200 mg per package and increasing the possession limit for cannabis concentrates from 5 grams to 10 grams; creation of new definitions for the terms “permitted premises for a specified event,” “specified event,” and “specified event permit”; amendments to the application requirements for the issuance of a permit for cannabis stores to conduct sales at specified events; amendments to the limitations and conditions for cannabis stores to conduct sales at events – including repealing the prohibition on the sale of “smokable” cannabis or cannabis products at specified event; establishment of criteria for suspension/revocation of permit to conduct sales at an event; established criteria for DAFS’s approval or denial of a permit application for cannabis stores to conduct sales at a specified event to allow denial of such applications for “good cause”; and amendments to the requirements that the Department issue guidance to cannabis stores.

This rulemaking is being conducted in preparation to repeal the Adult Use Cannabis Program Rule, 18-691 CMR, ch. 1, once this rule, and 18-691 CMR, chapters 20, 30 and 40 are finally adopted.

Date, time and location of PUBLIC HEARING (*if any*): September 6, 2023; 10:00 a.m.; Office of Cannabis Policy, 19 Union Street., Augusta, Maine, 3rd Floor, Room 325.

COMMENT DEADLINE: Sunday, September 17, 2023 at 11:59 p.m.

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, email*): Gabi Pierce; Office of Cannabis Policy, 162 State House Station, Augusta, ME 04333; Phone: (207) 530-0507; Fax: (207) 287-2671; gabi.pierce@maine.gov.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): None

BASIS STATEMENT FOR
RULES FOR THE ADMINISTRATION OF THE ADULT USE CANNABIS PROGRAM
18-691 CMR, CH. 10

The Department of Administrative and Financial Services, Office of Cannabis Policy, is promulgating the *Rules for the Administration of the Adult Use Cannabis Program*, along with the *Rules for the Licensure of Adult Use Cannabis Establishments*, 18-691 CMR, ch. 20, *Compliance Rules for Adult Use Cannabis Establishments*, 18-691 CMR, ch. 30 and the *Rules for the Testing of Adult Use Cannabis*, 18-691 CMR, ch. 40 in anticipation of fully repealing the *Adult Use Cannabis Program Rule*, 18-691 CMR, ch. 1, once those four rules have been finally adopted.¹ The Office of Cannabis Policy (OCP) has the authority to “promulgate rules necessary to implement, administer and enforce [the Cannabis Legalization Act].” 28-B MRS § 104.

This rule is comprised of the administrative provisions, definitions and program fees from the original *Adult Use Cannabis Program Rule*, and incorporates statutory changes since the last time that rule was revised, specifically, PL 2021, ch. 628, PL 2023, ch. 6, Emergency (Signed March 15, 2023), PL 2023, ch. 408 and PL 2023, ch. 396. This rule also incorporates changes identified by the Office during its process of regulatory lookback and those identified by stakeholders through public comments during the public comment period for this rule.

In addition, the Office has attached to this basis statement a complete list of all comments received by the Office during the public comment period and the agency’s response to the same.

Statutory Changes

An Act To Allow the State's Adult Use Marijuana Tracking System To Track Plants and Products by Group, PL 2021, ch. 628, amended the *Cannabis Legalization Act*, Title 28-B, ch. 1, to allow adult use cannabis cultivation facility licensees to track cannabis plants by group, as opposed to tracking each plant individually. As a result, this rule includes a definition of “group of cannabis plants” that reflects the statutory changes to 28-B MRS § 105 that describe a “group of cannabis plants” for the purposes of inventory tracking.

An Act to Clarify State Policy Regarding Cannabis Paraphernalia in the Maine Medical Use of Cannabis Act and the Cannabis Legalization Act, PL 2023, ch. 6, Emergency (Signed March 15, 2023) amended the *Cannabis Legalization Act* (and the *Maine Medical Use of Cannabis Act*, Title 22, ch. 558-C) to include a definition of “cannabis paraphernalia” and distinguished that “cannabis paraphernalia” from “tobacco products” as defined in 22 MRS § 1551. As a result, this rule contains a definition of “cannabis paraphernalia” that mirrors the one added to statute.

¹ With the exception of the *Rules for the Testing of Adult Use Cannabis*, 18-691 CMR, ch. 40, all other rules, Chapters 10, 20, and 30, are designated “major substantive” under the *Cannabis Legalization Act*, Title 28-B, ch. 1. 18-691 CMR, ch. 40 is exclusively related to mandatory testing in the Adult Use Cannabis Program, and those rules are designated “routine technical”. The Office intends to finally adopt Chapter 40 in late 2023 and will finally adopt Chapters 10, 20, and 30 following action by the 131st Legislature in 2024. Following final adoption of all four rules, the Office will take the steps required under the *Maine Administrative Procedures Act*, Title 5, ch. 375, necessary to repeal 18-691 CMR, ch. 1, the *Adult Use Cannabis Program Rule*.

An Act to Clarify the Requirements for Off-Premises Sales by Cannabis Store Licensees, PL 2023, ch. 408, amended the *Cannabis Legalization Act* to update the requirements applicable to the conduct of off-premises sales by cannabis store licensees at “specified events” outside of the licensed premises of cannabis stores. That law created definitions of “permitted premises for a specified event”, “specified event”, and “specified event permit” that have been integrated into the definitions section of this rule. Changes included in that law also necessitated amendment of the definition of “limited access area” and “premises” originally included in the *Adult Use Cannabis Program Rule*, to accommodate the extension of retail sales to consumers at a location not within the licensed premises of a cannabis store. A fee for a specified event permit was also added to the fees section of the rule.

An Act to Amend the Adult Use Cannabis Laws, PL 2023, ch. 396, amended the *Cannabis Legalization Act* in a number of ways, including expanding the authorized activities for tier 1, tier 2 and nursery cultivation facilities and products manufacturing facilities, changes to the advertising and marketing restrictions of the law, and changes to the potency limits for packages of edible cannabis products and an increase in the amount of cannabis concentrate an adult consumer may possess; however, the only provision that necessitated additions to this rule was a new requirement that the Department specify in rule limitations on signs, advertising and marketing necessary to limit the appeal of such materials to individuals under 21 years of age. In response, OCP included in this rule a definition of “appealing to individuals under 21 years of age” to be used throughout the rules governing the adult use cannabis program. In order to accommodate the expansion of the kinds of cannabis establishments permitted to make retail sales by delivery to consumers, OCP also updated the definitions of “sales delivery manifest” and “sales order” to include those newly authorized establishment types.

Changes Identified Through Regulatory Lookback

In order to clarify program requirements and reduce compliance costs for program participants, the Office engaged in a process of regulatory lookback before drafting these rules. Through that process, OCP identified a number of terms that were commonly used within the program by OCP staff and program participants, but that had not been previously defined, or that had definitions in the *Adult Use Cannabis Program Rule* that did not align with the implementation of those terms in practice.

Specifically, the Office added the following terms to this rule in order to ensure a shared understanding between regulators and program participants of the requirements of the adult use cannabis program “indoor”, “outdoor”, and “principal”, and added to the existing definition of “seedling” the commonly use terms “clones” and “tissue cultures”.

The definitions of “indoor” and “outdoor” were added to this rule in order to address longstanding confusion among program participants regarding whether non-permanent outbuildings like sheds, hoop houses and the like were considered “indoor” or “outdoor” for the purpose of cannabis cultivation. Definition of these terms is important because cultivation facility licensees are subject to different licensee fees and compliance requirements based upon whether a cultivation facility is an indoor, outdoor, or indoor and outdoor cultivation facility. In developing these definitions, OCP sought to incorporate both the common meaning of these

terms and the shared understanding of the regulator and program participants regarding the same. The resulting definitions did not receive any public comments, indicating to OCP that the definitions proposed in the draft rule accurately reflected both the legislative intent for these terms and program participants' understanding of the same.

The definition of "principal" was identified through the regulatory lookback process as a term that is commonly used within the program, but heretofore undefined. Because of the various vetting and disclosure requirements (e.g. review of tax compliance, child support obligations, criminal history records, etc.) applicable to individuals with direct or indirect financial interests or management or other fiduciary roles within a licensee's business structure, OCP has used the term "principal" to identify those individuals required to undergo the most rigorous vetting requirements, and obtain from the Department an individual identification card, as opposed to those individuals and entities requiring only disclosure. As a result, OCP defined the term "principal" in this rule, and revised that proposed definition (as well as the definition of "direct or indirect financial interests") based upon feedback from attorneys Hannah King, Esq. and Jill Polster, Esq., who represent a number of cannabis businesses operating in Maine's market.

The Office also struck from this rule the definition of "resident" used in the Adult Use Cannabis Program Rule and the Cannabis Legalization Act, because the decision in *United Cannabis Patients & Caregivers of Me. v. Me. Dep't of Admin. & Fin. Servs.*, No. 1:20-cv-00388 (D. Me. Oct. 19, 2020) found that the residency requirement included in Title 28-B, ch. 1, is unconstitutional, and therefore unenforceable by the Department, under the Dormant Commerce Clause. As a result, the definition of "resident" is no longer needed for the administration of the rules governing the adult use cannabis program.

Changes Based Upon Public Comments

OCP received a total of 18 public comments regarding this rule, requesting generally modest revisions to the definitions section of the rule. As a result, OCP revised the definitions of "appealing to individuals under 21 years of age", "direct or indirect financial interests", "pre-packaged retail unit". Specifically, OCP narrowed the scope of the definition of "appealing to individuals under 21 years of age" in order to reduce ambiguity in interpreting the same, adopting a version of the 5% equity interest threshold for equity and other financial interest holders proposed by Attorney King, and removed the opacity and tamper evident requirements from the definition of "pre-packaged retail unit" in response to comments on other proposed rules governing the adult cannabis program related to the elimination (and subsequent reinstatement in response to those comments) of exit packaging.

Conclusion

These rules reflect changes to the *Cannabis Legalization Act* impacting the definitions and fees applicable to licensees included in the Adult Use Cannabis Program Rule, as well as efforts to standardize common terminology used since the program's inception but identified through the regulatory lookback process as previously undefined. This rule, along with the other rules governing the adult use cannabis program, is intended to replace the Adult Use Cannabis

Program Rule, which will be repealed following final adoption of all rules affecting the adult use cannabis program.

Small Business Impact Statement required pursuant to 5 MRS § 8052(5-A):

The following businesses may be impacted by the requirements of this rule: All adult use cannabis licensees. As of November 2023, that includes: 88 cultivation facility licensees, 67 products manufacturing facility licensees, 132 cannabis store licensees, and 4 cannabis testing facility licensees.

The projected reporting and record-keeping costs of this rule are not applicable, this rule is not expected to require any additional reporting or record-keeping costs for licensees.

The probable impact of these costs is not applicable.

Name	Source	Affiliation	Company name	Comments - Ch. 10, Sec. 1, Admin.
Vivian Cote	Email	OCR		<p>Child-resistant: "Child-resistant" means, with respect to packaging on a container:</p> <p>(1) Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseat; (ADD: including</p> <p>a. Packages that have been certified as child-resistant under the requirements of the Poison Prevention Packaging Act (PPPA), 16 CFR 1700.15(b)(1))</p> <p>Verify correct cite</p> <p>b. A bottle sealed with a pry-off metal crown cork-style bottle cap; (for packages containing only a single serving);</p> <p>c. An aluminum or metal can with a child-resistant cap or cover over any stay, tab mechanism opening; and)</p> <p>(2) With respect to any product intended for more than a single use or that contains multiple servings: resealable (add: and remaining child-resistant).</p> <p>Borrowed from CA CFP flyer:</p> <p>Types of child-resistant packaging:</p> <ul style="list-style-type: none"> • Single Use ("Initial CRP") -- the package is initially child-resistant, but once opened, it is no longer child-resistant. If used, the package's label must say "This package is not child-resistant after opening." • Multiple Use ("Lifetime CRP") -- the package maintains its child-resistance throughout the life of the package. It can be opened and closed, but still remains child-resistant. <p>Regulation: 18-691 C.M.R., Chapter 10, Section 1. Definitions</p> <p>Appealing to individuals under 21 years of age: "Appealing to individuals under 21 years of age" means having the characteristics of media, advertising or marketing typically used to engage individuals under the age of 21 including the use of, or explicit or implicit reference to images, fonts, bright colors, cartoons, characters, creatures, humans, animals, fruit, themes, social media platforms, music, sports, literature, educational institutions, games, activities or businesses or professions that are commonly marketed to, associated with, or otherwise primarily engaged in by individuals under 21 years of age.</p> <p>Comment: There is concern that the list is overbroad, including, e.g., colors, fonts, humans, themes, music, sports, activities. Rules for sale or giving away products that appeal to children under 21 years of age.</p> <p>Who determines that certain sports, music, or themes etc. are "primarily engaged" by children?</p>
Lynsi Shecker	Online		Acreage Holding	<p>APPEALING TO INDIVIDUALS UNDER 21 YEARS OF AGE</p> <p>The proposed definition for "appealing to individuals under 21 years of age" is more restrictive than any advertising/marketing restriction we have seen in any other state. It is difficult to imagine what would not fall under this category. It is overly broad and vague and seems like it would be difficult for licensees to know what is and what is not allowed. We recommend replacing the proposed definition of "appealing to individuals under 21 years of age" with the definition of "cartoon" that was included in the Tobacco Master Settlement Agreement. That definition is as follows:</p> <p>[a] drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria: (1) the use of comically exaggerated features; (2) the attribution of human characteristics to animals, plants or other objects; or the similar use of anthropomorphic technique; or (3) the attribution of unnatural or extrahuman abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.</p> <p>This definition was intended to prohibit tobacco advertisements that were appealing to minors, precisely what this rule is intended to accomplish in the cannabis context. The amendment to the statute requires the Department to impose "specific limitations on signs, advertising and marketing to minimize the appeal of adult use cannabis and adult use cannabis products to persons under 21 years of age." By defining "appealing to individuals under 21 years of age" as specifically as a cartoon was defined in the tobacco context to protect children will be sufficient. This will allow for more predictability and will avoid unnecessarily stifling creativity and differentiation between businesses in the industry.</p>
Hannah King	Online	Dentons		<p>Chapter 10, Section 1(4) - Administrative Definitions</p> <p>Accept in part</p> <p>See revised definition of "appealing to individuals under 21 years of age"</p>

Hannah King	Online	Dentons	<p>DIRECT AND INDIRECT FINANCIAL INTEREST HOLDERS</p> <p>Given the broad definition of a "direct or indirect financial interest," we recommend disclosure requirements as outlined below to make this practicable for businesses so that they can enter into strategic partnerships and secure investments from well capitalized private funds and companies while still achieving the state's policy objectives. The disclosure requirements that Maine is proposing and has already started implementing are among the most expansive in the country. We have found that if these rules are strictly enforced, Maine businesses will be precluded from partnerships, investment, and marketing opportunities that other cannabis businesses across the country enjoy. This will set Maine businesses up for a competitive disadvantage if and when cannabis one day becomes federally legal. In the same way that it is simply not possible to obtain and keep up-to-date information about individuals that own less than 5% of the total shares in a publicly traded company, with this information changing on a daily basis, it is also not possible or practicable to obtain this information for individuals that have invested in a venture capital fund or other pooled investment fund.</p> <p>We recommend taking an approach similar to Colorado, which also has broad disclosure requirements. For a private fund, the applicant could provide a chart that identifies the names and ownership percentages of the fund's Executive Officers, Investment Advisers, Investment Adviser representatives, any trustee or equivalent, and any other Person that controls the investment in, or management or operations of, the cannabis business. This disclosure should only be required for funds that hold 5% or greater of the total equity in the business entity. The key to meeting the state's policy goals is to ensure that the individuals that actually have control and would know how the money is being invested and/or would possibly be in a position to influence the business that actually holds the cannabis license, are captured in this review.</p>	Chapter 10, Section 1(a)-Administrative Definitions	Accept in part	See revised definition of "direct and indirect financial interest"
Hannah King	Online	Dentons	<p>PRINCIPAL</p> <p>From a corporate law perspective, we have concerns with adding a new definition for "principal" into the regulations that is detached from the requirements in the adult use cannabis statute and significantly more expansive. Directors (Title 13-C, Chapter 8 (Corporations)), Officers (Title 13-C, Chapter 8(Corporations)), Managers (Title 13, Chapter 21 (LLCS)) and General Partners (Title 31, Chapter 19 (limited partnerships)) are positions defined by statute relating to specific entities, and the persons serving in those positions are readily identifiable via each entity's organizational documents (or in the case of corporate officers, minutes and annual reporting with the Secretary of State). For each of these positions, there should be no ambiguity as to who is serving in such position at any given time. The adult use cannabis statute includes requirements for individuals in these specific positions, and we strongly urge the Department to sign the regulations with the statute. We continue to believe that the Department does not have the authority to require employees to go through the principal approval process if they are not an officer, director, manager, or general partner as defined in state law.</p> <p>The proposed definition is ambiguous. What does it mean to have controlling authority or a leading position in the company? Would, for example, a director of human resources fall into this category? Would a deputy director of human resources? What about head of IT? Our guess would be that any entity, on the side of caution, would say, "yes" in all cases. The cautious interpretation—that anyone above the position of shift manager—is simply, "is going to put an impossible administrative burden on cannabis companies, requiring them to go through the principal process every time there is a change in middle management (this will also likely place an increased burden on OCR's staff, in processing all of these changes).</p> <p>While we expressed these same concerns in the past when a similar definition was proposed in a prior rule update (and that definition was later removed), the stakes are even higher now. The rule states that the Department can impose up to a \$100,000 penalty on a licensee that changes "principal" without receiving pre-approval, if it is the Department's position that a CFO, for example, is necessarily considered a "principal" of the business, and the CFO resigns from their position suddenly so that the licensee cannot possibly file an application and get that approval in advance, the licensee is faced with a penalty that could put them out of business entirely. If this type of change is going to be included in the category of a major license violation, it is critical to have clarity and predictability on this point, and to make sure that a licensee will not go out of business over something they cannot control. Like an executive-level or even mid-level employee of the company quitting without providing sufficient notice or having some kind of issue with their paperwork during a renewal period or otherwise.</p> <p>It is our understanding that OCR's current internal policy has been that the licensing division has up to 90 days to approve a transfer of ownership application, which includes changes in principals. It is rare to have any application approved within two weeks, and not all employees will provide even that level of notice when leaving a company.</p>	Chapter 10, Section 1(a)-Administrative Definitions	Accept in part	See revised definition of "principal"
Jill Cohen	Online	Cohen Law Maine PLLC	<p>"Appealing to individuals under 21 years of age". This expansive ambiguous definition pretty much eliminates all branding, marketing, and advertising. "Themes"? "Brands"? "Bright colors"? "Social Media"? What is left that would not be included in this proposed definition? I recommend OCR adopt the definition used for "cartoon" in the Tobacco Settlement Claims Act for use in defining "appealing to individuals under 21." "(a) drawing or other depiction of an object, person, animal, creature or any similar caricature that satirizes any of the following criteria: (1) the use of comically exaggerated features; (2) the attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or (3) the attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation."</p>	Chapter 10, Section 1(a)-Administrative Definitions	Accept in part	See revised definition of "appealing to individuals under 21 years of age"
Jill Cohen	Online	Cohen Law Maine PLLC	<p>"Principal": Please include a carve-out for equity owners who have no management authority over the applicant's/licensee's operations. Traditionally non-managing members of corporate entities have been excluded from having to be vetted and added as principals.</p>	Chapter 10, Section 1(a)-Administrative Definitions	Accept in part	See revised definition of "principal"
Richelle Bossi	Online	Highrow	<p>The definition of Appealing to individuals under 21 is very restrictive and all encompassing. It includes so many facets that could be considered appealing to under 21 which will prevent us from doing much of the charity work we are asked to do on a weekly basis for fear of being under scrutiny and non-compliant. We receive many requests all year from a variety of organizations, Youth organizations for sponsorship, Veterans organizations events that are family friendly, local parades for the communities we operate within and we decline due to them being a "gray" area. With this new definition, it removes any of these opportunities to work within our communities, yet it's ok for a local pub or bar to sponsor a little league team.</p>	Chapter 10, Section 1(a)-Administrative Definitions	Accept in part	See revised definition of "appealing to individuals under 21 years of age"

Alex McMahan	Email		MedCo.	1.4. The definition for "appealing to individuals under 21 years of age" is concerning due to its ambiguous nature.	Chapter 10, Section 1(4) – Administrative Definitions	Accept in part	See revised definition of "appealing to individuals under 21 years of age"
Alex McMahan	Email		MedCo.	1.4 The new definition of "principal" includes members and partners, whereas in the previous rules minority members/partners with no management authority/control were not regulated exactly the same as officers, directors, managers, and employees. Example: In the previous rules, members/partners with no management authority/control were not required to have IIC cards, whereas in the new rules they are required to.	Chapter 10, Section 1(4) – Administrative Definitions	Accept in part	See revised definition of "principal"
Alex McMahan	Email		MedCo.	1.4. The new definition of "Pre-packaged retail units" requires individual containers to be child resistant, which is inconsistent with the statute and was not requested by the legislature.	Chapter 10, Section 1(4) – Administrative Definitions	Accept in part	See 28-B MRS sec. 701(2)(A) – Labeling and packaging. Packaging requirements. "Adult use cannabis and adult use cannabis products must be prepackaged in child-resistant and tamper evident packaging or must be placed in child-resistant and tamper-evidence packaging at the final point of sale to a consumer." Opacity and tamper evident requirements may be achieved with exit packaging. See also, 18-591 CMR, ch. 30
Alex McMahan	Email		MedCo.	1.4. The definitions of "sales delivery manifest" and "sales order" are inconsistent with statute and the rest of the new rules. Both definitions are missing hotels and businesses.	Chapter 10, Section 1(4) – Administrative Definitions	Accept	
Alex McMahan	Email		MedCo.	1.4. The definition of "unpacked cannabis or cannabis products" includes child resistance on individual packages which is inconsistent with the statute and was not requested by the legislature.	Chapter 10, Section 1(4) – Administrative Definitions	Accept in part	See 28-B MRS sec. 701(2)(A) – Labeling and packaging. Packaging requirements. "Adult use cannabis and adult use cannabis products must be prepackaged in child-resistant and tamper evident packaging or must be placed in child-resistant and tamper-evidence packaging at the final point of sale to a consumer." Opacity and tamper evident requirements may be achieved with exit packaging. See also, 18-591 CMR, ch. 30

Administrative Procedure Act

CHECKLIST

Agency: Office of Cannabis Policy, Department of Administrative and Financial Services

Chapter Number and Title of Rule: Ch. 10 – Rules for the Administration of the Adult Use Cannabis Program

PROPOSED RULE:

1. Was this rule listed on the last regulatory agenda? Yes
2. Date of notification of:
Anyone on mailing list: August 15, 2023
Any trade, industry or professional group _____
Any trade publications _____
3. Date Notice of Rulemaking Proposal (MAPA-3) sent to Secretary of State: August 8, 2023
4. Date Fact Sheet sent to Executive Director of Legislative Council: August 9, 2023
5. Date of publication in Secretary of State's rulemaking ad.: August 16, 2023
6. Date of hearing(s): September 6, 2023 7. Comment deadline: September 17, 2023

ADOPTED RULE:

8. Was comment deadline extended or comment period reopened? No.
If yes, date of second notice publication in Secretary of State's rulemaking ad: _____
9. Is adopted rule consistent with what was proposed? See comments and responses.
(If not, please address the changes in the comments and responses section of your filing.)
10. Is the person signing the Certification Statement (MAPA-1, #9) authorized to do so as stated in your statutes or in 5 MRSA, c.71? Yes.
11. Was the rule adopted within 120 days of the comment deadline? Yes.
12. Was the rule approved and signed by the Office of the Attorney General within 150 days of the comment deadline? Yes.
13. Is a Basis Statement included? Yes. Is a copy of the Fact Sheet included? Yes.
Are comments, with names and organizations, and your responses included? Yes.

Rulemaking Fact Sheet
(5 MRSA §8057-A)

AGENCY: 18-691 – Office of Cannabis Policy, Department of Administrative and Financial Services

NAME, ADDRESS, PHONE NUMBER, EMAIL OF AGENCY CONTACT PERSON: Gabi Pierce; Office of Cannabis Policy, 162 State House Station, Augusta, ME 04333; Phone: (207) 530-0507; Fax: (207) 287-2671; gabi.pierce@maine.gov.

CHAPTER NUMBER AND RULE TITLE: Ch. 10 – Rules for the Administration of the Adult Use Cannabis Program

TYPE OF RULE (*check one*): Routine Technical Major Substantive

STATUTORY AUTHORITY: Title 28-B, Chapter 1 (Cannabis Legalization Act)

DATE, TIME AND PLACE OF PUBLIC HEARING: September 6, 2023; 10:00 a.m.; Office of Cannabis Policy, 19 Union Street., Augusta, Maine, 3rd Floor, Room 325.

COMMENT DEADLINE: Sunday, September 17, 2023 at 11:59 p.m.

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)]

This rulemaking updates the definitions, fees and other administrative requirements necessary to implement statutory changes made to the Cannabis Legalization Act, 28-B MRS, including PL 2023, ch. 6, Emergency (Signed March 15, 2023), and PL 2023, ch. 408, PL 2023, ch. 396, specifically changes to the authorized activity of tier 1, tier 2, and nursery cultivation facilities and products manufacturing facilities allowing for the sales of cannabis and cannabis products to consumers by delivery (except that nursery cultivation facilities may sell only immature cannabis plants, seedlings, cannabis seeds and agricultural or gardening supplies relating to the cultivation of cannabis); permitting the delivery of cannabis and cannabis products by authorized licensees to consumers at hotels or other private businesses, provided that the delivering licensee has obtained written consent from the owner or other authorized agent of the business to conduct such deliveries; permitting the return of cannabis or cannabis products from licensee to the licensee that transferred the cannabis or cannabis products to the returning licensee and provides for the testing of such returned cannabis or cannabis products; permitting the use of vehicle wraps by licensees; increasing the per package limit for edible cannabis products from 100 mg per package to 200 mg per package and increasing the possession limit for cannabis concentrates from 5 grams to 10 grams; creation of new definitions for the terms “permitted premises for a specified event,” “specified event,” and “specified event permit”; amendments to the application requirements for the issuance of a permit for cannabis stores to conduct sales at specified events; amendments to the limitations and conditions for cannabis stores to conduct sales at events – including repealing the prohibition on the sale of “smokable” cannabis or cannabis products at specified event; establishment of criteria for suspension/revocation of permit to conduct sales at an event; established criteria for DAFS’s approval or denial of a permit application for cannabis stores to conduct sales at a specified event to allow denial of such applications for “good cause”; and amendments to the requirements that the Department issue guidance to cannabis stores.

This rulemaking is being conducted in preparation to repeal the Adult Use Cannabis Program Rule, 18-691 CMR, ch. 1, once this rule, and 18-691 CMR, chapters 20, 30 and 40 are finally adopted.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? YES NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)]

This rulemaking updates the definitions, fees and other administrative requirements necessary to implement statutory changes made to the Cannabis Legalization Act, 28-B MRS, including PL 2023, ch. 6, Emergency (Signed March 15, 2023), and PL 2023, ch. 408, PL 2023, ch. 396, in preparation to repeal the Adult Use Cannabis Program Rule, 18-691 CMR, ch. 1, once this rule, and 18-691 CMR, chapters 20, 30 and 40 are finally adopted.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]

Previous guidance issued by OCP

Review of legislative hearings and work sessions for , PL 2023, ch. 6, Emergency (Signed March 15, 2023), and PL 2023, ch. 408, PL 2023, ch. 396.

Public comments

ESTIMATED FISCAL IMPACT OF THE RULE: This rule should have no fiscal impact on existing state resources.

FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:
[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

Note: If necessary, additional pages may be used.