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OFFICE OF CANNABIS POLICY

JOHN HUDAK
DIRECTOR

To: Current and Prospective Adult Use Cannabis Program Participants
From: John Hudak, Director
Date: October 7, 2024
Re: Final Adoption and Implementation of New Rules Governing the Adult Use Cannabis Program

Background

Today, October 7, 2024, the Office of Cannabis Policy (OCP) completed the process of finally adopting the following rules:

- *Rules for the Administration of the Adult Use Cannabis Program*, 18-691 CMR, ch. 10
- *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

These rules, along with *Rules for the Testing of Adult Use Cannabis*, 18-691 CMR, ch. 40, **will go into effect Wednesday, November 6, 2024**. Collectively, these rules, along with *Rules for the Certification of Cannabis Testing Facilities*, 18-691 CMR, ch. 5, will be known as “the rules governing the Adult Use Cannabis Program”. Effective November 6, OCP will be enforcing the requirements of the rules governing the Adult Use Cannabis Program and will no longer be enforcing the *Adult Use Cannabis Program Rule*, 18-691 CMR, ch. 1 that has been in effect since 2019.

Licensees are reminded that they may not engage in the newly authorized activities of off premises sales at specified events or sales to consumers via delivery by cultivation and products manufacturing facilities until these rules go into effect on November 6, 2024.

OCP is providing the following information and reminders to current and prospective adult use program participants as a courtesy. This document is not a complete summary of the changes included in the new rules and should not be construed as a substitute for reviewing and understanding the rules governing the Adult Use Cannabis Program. This guidance should not be construed as legal advice and program participants are encouraged to contact their own attorney for guidance regarding how the rules and laws governing the adult use program impact their particular business operations. Licensees are also encouraged to review [guidance previously issued by the Office](#) regarding recent changes to the laws governing the adult use program.

Guidance

As explained in previous communications, the new rules governing the Adult Use Cannabis Program divide the previous Adult Use Cannabis Program Rule, 18-691 CMR, Chapter 1 into four chapters and update those rules to reflect changes to the laws governing the adult use

program since 2023. As a result, **program participants are encouraged to [review the four new chapters of rules](#) and consult their attorney or other business advisor regarding the impact of the changes contained therein on their particular business operations.** However, OCP is providing this guidance to address questions received by licensees throughout the rulemaking process on the following topics:

1. Plans of record
2. Minors within licensed cannabis establishments
3. Licenses required for food sales
4. New warning statement required
5. Packaging, labeling, marketing, and advertising review and approval
6. Consumer samples
7. Testing reminders
8. Inventory tracking for delivery, specified events, and returns

1. Plans of record

Current licensees are reminded that changes to the licensed premises of a cannabis establishment or changes to the authorized activities conducted by a licensee may require a change to the licensee's facility plan of record on file with OCP. In accordance with 18-691 CMR, ch. 30, § 1(4)(D), a licensee shall submit to OCP an updated facility plan of record and obtain approval for those changes from OCP prior to implementing such changes. **Licensees must submit the most up to date facility plan templates [on OCP's website](#), with the revision date of 10/2024**, to address any of the following changes authorized by the new rules governing the Adult Use Cannabis Program:

- Delivery of adult use cannabis or cannabis products to a consumer by a tier 1, tier 2 or nursery cultivation facility or a products manufacturing facility;
- Use of a DACF-licensed food establishment within a licensed products manufacturing facility to manufacture foods that do not contain cannabis or hemp;
- Changes to visitor policies and policies regarding minors in limited access areas;
- Removal of a controlled, indoor entry area at a cannabis store or any changes to the licensee's policy regarding consumer ID checks and age verification, including any policies regarding entry of minors into the cannabis store with a parent, guardian or custodian;
- Elimination of the single, lockable door between co-located adult use cannabis establishments; or
- Any other changes to a licensee's facility or operations that will change the licensee's answer on their existing plan of record will require an updated plan of record and OCP approval of the change prior to the licensee's implementation of the change.

2. Minors within licensed cannabis establishments

Licensees are reminded that in accordance with [recent statutory changes](#), cannabis stores may permit a minor (individual under 21 years of age) to enter the licensed premises of a cannabis store if they are accompanying their parent, guardian, or custodian. While licensees are not required to permit accompanied minors to enter a store, those that do are reminded that following

a plan of record change and pursuant to [28-B MRS § 504\(4\)](#), "A person must be 21 years of age or older to make a purchase from a cannabis store. A cannabis store may not sell any item to a minor." Therefore, a minor accompanying their parent, guardian, or custodian into a cannabis store is not permitted to purchase any item nor receive consultation in a cannabis store.

Additionally, adult use cannabis stores should not permit any person who is, or appears to be, a minor to loiter within the cannabis store without verifying that the individual is in fact at least 21 years of age or a minor accompanied by their parent, guardian, or custodian. A cannabis store licensee is not permitted to allow any minor to enter the limited access areas of the licensed establishment at any time.

Also included in the updated rules governing the Adult Use Cannabis Program are provisions governing the entry of minors into the licensed premises of cultivation, testing, and products manufacturing facilities. Individual identification cardholders are permitted to bring a minor into the licensed premises of a cultivation, testing, or products manufacturing facility only in the event of an emergency and must notify OCP within 48 hours of the emergency that necessitated a minor accompanying their parent, guardian, or custodian into the cannabis establishment. For the purposes of this exception to the general prohibition on minors entering a cannabis establishment, an "emergency" is "a serious and unexpected situation that requires immediate action to prevent or mitigate damage to, or destruction of, inventory, equipment or the licensed premises of a cannabis establishment, or a medical emergency."

3. Licenses required for food sales

Licensees that will be engaged in the manufacture or sale of edible cannabis products, whether at a retail store, at a specified event, or by delivery to consumers, are reminded to obtain from the Department of Agriculture, Conservation and Forestry (DACF) the appropriate license(s) for the manufacture, sale, or delivery of edible cannabis products. Licensees should contact DACF's division of [Quality Assurance & Regulations](#) for more information regarding the food licenses necessary to sell edible cannabis products.

4. New warning statement required

Licensees are reminded that the updated rules governing the Adult Use Cannabis Program include changes to the general warning that must be affixed to all packages of adult use cannabis and cannabis products offered for sale to consumers. In accordance with 18-691 CMR, ch. 30, § 5(1)(B)(13), the new warning statement reads "WARNING: Keep out of reach of children and pets. Do not drive or operate machinery while intoxicated. This product can be addictive. Use of this product may be harmful, especially if you are under 21, inexperienced with cannabis, pregnant, breastfeeding, or at risk for psychiatric problems." As OCP indicated at the time it proposed this new warning statement, in order to give licensees an opportunity use up any existing stock of labels with the original warning statement, licensees will have one year from the date that these rules go into effect to ensure that all packaging and labels used on cannabis and cannabis products for retail sale includes this new warning. This means that all labels on cannabis or cannabis products sold to consumers **must display the updated warning statement no later than November 6, 2025.**

5. Packaging, labeling, marketing, and advertising review and approval

Beginning November 6, 2024, licensees can voluntarily submit to OCP packaging, labels, marketing, or advertising materials for review and approval by OCP's Compliance Team.

Licensees can **access the webform to submit requests for review and approval [here](#)**, however please note that OCP may require a licensee to submit physical samples of proposed packaging and labeling for review in addition to providing all information required by the application for review.

Please note that nothing in this guidance should be construed to exempt licensees from compliance with all other packaging and labeling requirements of the rules governing the Adult Use Cannabis Program when those rules go into effect on November 6, 2024. That includes requirements applicable to labeling requirements for cannabis flower or trim that has been remediated using radiation, ozone, or carcinogenic gases, as well as labeling requirements for packages of cannabis or cannabis products that are not child resistant or tamper evident at the time the packages are transferred for retail sale to consumers.

6. Consumer samples

Effective November 6, 2024, cannabis store licensees may offer samples of cannabis or cannabis products to consumers making purchases at the cannabis store. **Samples offered to consumers must be tracked, tested, packaged, and labeled** in accordance with the rules governing the Adult Use Cannabis Program. Samples may *not* be offered to consumers for sales conducted via curbside pickup, delivery, or at the permitted premises of a cannabis store conducting sales at a specified event.

Licensees are advised to review the new rules governing consumer samples prior to manufacturing, testing, or packaging consumer samples. Cultivation and products manufacturing facility licensees may begin to manufacture, test, package, and transfer consumer samples of cannabis or cannabis products prior to November 6, 2024, but **such samples may not be transferred by a cannabis store to a consumer until the rules go into effect on November 6.**

Licensees are also reminded that:

- Consumer samples must be tested for harmful contaminants and cannabinoid content in accordance with the rules governing the Adult Use Cannabis Program;
- Consumer samples must be pre-packaged into individual units prior to transfer a cannabis store;
- Consumer samples must be labeled as a consumer sample in accordance with the rules governing the Adult Use Cannabis Program;
- A cultivation facility or products manufacturing facility that is creating packages of consumer samples shall track those packages in Metrc as consumer samples by adding "CS" to the end of the package name in Metrc as illustrated in the "Name" field on the next page:

Add Items
×

Item # 1
(clear)

Name

Category

Unit of Measure

+ (ingredient)

+ (item)

Why is there no multi-Facility create such as that available in Employees, Strains, and Locations?

Certain Item Categories require the selection of a pre-existing Strain. Verifying and informing that the specified Strain exists in all of the selected Facilities would be convoluted and complex to inform. For this reason we have opted to not add the ability to create Items in multiple Facilities at the same time.

Create Items
Cancel

- A cannabis store licensee that gives samples of cannabis or cannabis products to a consumer shall deduct each sample from their inventory by recording a sale amount of \$0.00;
- A cannabis store licensee may not give a consumer more than two samples of cannabis or cannabis products during a 24-hour period, and such samples must be no more than 1/2 gram of flower; no more than 10 milligrams of an edible; and no more than one 1/2 gram vape cartridge; and
- A cannabis store may not offer a consumer a combination of cannabis and cannabis products and consumer samples in excess of the individual possession limits identified in the *Cannabis Legalization Act*.

7. Testing reminders

Licensees are reminded that they are permitted to request retesting for potency of the original composite sample of cannabis or cannabis products that was submitted for mandatory testing. A licensee may not submit a new sample for the purposes of retesting a batch of cannabis or cannabis products for potency. The cannabis testing facility must report both the original potency result and the result of the retest, and the licensee that requested the potency retest shall use the potency results from the retest on the label of the cannabis or cannabis product that was retested for potency.

In addition, effective November 6, 2024, any licensee submitting cannabis flower or trim for mandatory testing, including cannabis flower or trim that was “fresh frozen”, shall ensure that

the batch of cannabis flower or trim has been dried before samples of the batch are taken for mandatory testing.

8. Inventory tracking for delivery, specified events, and returns

Beginning November 6, 2024, tier 1, tier 2 and nursery cultivation facilities, as well as products manufacturing facilities will be permitted to conduct sales to consumers by delivery. Licensees conducting sales to consumers by delivery are reminded that consumer samples cannot be delivered to consumers. Nursery cultivation facility licensees are reminded that they may deliver to consumers only immature cannabis plants, seedlings, cannabis seeds, and related agricultural or gardening supplies. A Metrc bulletin will be available in the coming weeks on [Metrc's State of Maine landing page](#) with more information on how nurseries, cultivators, and products manufacturers should record deliveries.

Cannabis store licensees are reminded that beginning November 6, 2024, a store can obtain from OCP a permit to conduct sales of cannabis or cannabis products at a specified event outside of the licensed premises of a cannabis store. Interested cannabis store licensees can apply for a permit by paper application available on [OCP's website](#), and soon through the existing [online licensing portal](#). Licensees will also be required to create a new location in Metrc that is labeled with the permit number listed on the specified event permit issued by OCP. For instance, if a cannabis store licensee is issued specified event permit #ASE1234, it will label the inventory location in Metrc as "ASE1234" for the duration of the specified event. Interested licensees should plan to review the Metrc training video on how to track inventory and record retail sales of cannabis and cannabis products at a specified event which will be available in the coming weeks through [Metrc Learn](#).

All licensees are reminded that beginning November 6, 2024, returns of cannabis and cannabis products from one licensee to the licensee who originally transferred the cannabis or cannabis products to that licensee are permitted. In addition to the testing and excise tax implications of this change, licensees are reminded that returned cannabis or cannabis products may be further processed, combined, or otherwise manufactured into new packages of cannabis or cannabis products, and those new packages must be recorded and tracked in Metrc with a new batch number.

Conclusion

Today, October 7, 2024, the Office of Cannabis Policy (OCP) completed the process of finally adopting the new rules governing the Adult Use Cannabis Program, including:

- *Rules for the Administration of the Adult Use Cannabis Program*, 18-691 CMR, ch. 10
- *Rules for the Licensure of Adult Use Cannabis Establishments*, 18-691 CMR, ch. 20
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will no longer be enforcing the *Adult Use Cannabis Program Rule*, 18-691 CMR, ch. 1 that has been in effect since 2019.

Licensees should review all four chapters of these new rules prior to the November 6th effective date and may contact OCP's Policy Director, Gabi Pierce, at Gabi.Pierce@maine.gov with questions regarding these rules. As a reminder, OCP cannot provide legal advice to program participants regarding the application of these rules, or the laws governing the adult use program, to any licensee's particular circumstances. Please contact your own attorney or business advisor for such advice.