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To: Current and Prospective AUMP License Holders
From: Director Erik Gundersen, Office of Marijuana Policy
Date: Tuesday, November 3, 2020
Subject: AUMP Post-launch Reminders and Clarifications

Background

The Office of Marijuana Policy's (OMP) priority heading into the launch of the adult use industry was for this milestone to come and go as safely as possible, and it was—and continues to be—a success from our vantage point.

Despite the successful first few weeks, OMP continues to see certain issues arise with varying degrees of regularity. While we have and will continue to correct these issues individually with licensees, we are using this opportunity to provide guidance to maintain the high standards we hold for the adult use program and to ensure consistent understanding and ongoing application of program regulations.

Discounts and Promotions

Marijuana store licensees are reminded of Section 3.9.3 of the Adult Use Marijuana Program (AUMP) rule (18-691 C.M.R., ch.1). Specifically, paragraphs 'M' and 'N', which address prohibited pricing practices of marijuana and marijuana products:

- M. Discount marijuana or a marijuana product if the retail sale is made in conjunction with the retail sale of any other items including other marijuana or marijuana products;
- N. Sell marijuana or marijuana products at a nominal price for promotional purposes;

An example of permitted pricing would include offering a discount to customers who sign up for a loyalty program, provided the item(s) purchased are sold at a price which a reasonable person would conclude is at or near the fair market value of the product.

Prohibited pricing would include—but is not limited to—"two-for-one" or so-called "buy one, get one" sales, where a consumer purchases an item(s) at an agreed upon price in return for a free or substantially reduced price on another product(s). Additionally, the sale of merchandise bundled with "free" marijuana would also be prohibited.

Metrc Data Entry – Licensed Transfers

When conducting transfers from one licensee to another licensee, except authorized transfers of *samples* to a marijuana testing facility or *trade samples* to another licensee, 'Unaffiliated Wholesale Transfer' must be chosen as the type for the new licensed transfer between two establishments that are not affiliated. An establishment is considered affiliated when they share

the same ownership entity or entities. Please remember that the wholesale price for each package must be listed within the manifest.

Metrc Data Entry – Employee Samples

Logistically, samples given to employees by licensees are recorded as package adjustments in Metrc. The proper “Reason” for this adjustment is “R&D Sample”, with licensees listing a negative amount in the “Adj. Quantity” field. The receiving employee’s individual identification card number and name should be entered into the “Required Note” field in Metrc. Adult use marijuana cultivation and manufacturing facilities and marijuana stores may provide to their employees samples of marijuana or marijuana products in accordance with this guidance.

Testing – Representative Sample Sizes

To ensure accurate results for mandatory testing within the AUMP and to protect public health, there are sample size requirements written into program rule. These requirements exist to ensure an accurate representation of the batch of marijuana that will be made available—either to another adult use licensee or a consumer—when testing is successfully completed.

Licensees are reminded of the standard operating procedure that is included as Appendix A of the AUMP rule, which specifies in Section 11 the required sample amounts necessary to produce a sample representative of the entire batch. Similarly, Table 5.5-A. in the Rules for the Certification of Marijuana Testing Facilities (18-691 CMR, ch.5) includes the minimum representative sample size for each matrix-type and batch size sampled. Marijuana testing facilities are directed to reject any samples for mandatory testing that do not contain enough marijuana or marijuana products to be considered representative pursuant to Department rules. A marijuana testing facility may require licensees to provide the testing facility with information required to determine whether the samples provided are representative of the batch sampled, including, without limitation: Department-required sample collection records or specific information regarding the size (weight or units) of the batch sampled.

Labeling for Retail Sale

Section 11.1.2 of the AUMP rule provides the general requirements for labeling of marijuana and marijuana products in a retail setting. OMP would draw your attention to paragraph ‘E’, which states:

- E. The marijuana store that conducted the retail sale of the marijuana, marijuana concentrate or marijuana product must affix its license number to the marketing layer of the marijuana, marijuana concentrate or marijuana product on a separate label or sticker that may be applied following the retail sale but before placing the marijuana, marijuana concentrate or marijuana product in an exit package.

This language exists to ensure a product can be traced back to the store where it was sold, if necessary. Please be advised this paragraph should not be construed to prevent a cultivation facility or products manufacturing facility from pre-printing the license number of the receiving marijuana store or including a location on the marketing layer for the receiving marijuana store to add this information.

Paragraph 'F' requires the unique identification number of the final batch subject to mandatory testing to be included on a retail label. OMP has identified isolated instances where confusion has existed about the proper unique identification number to be included on the retail label. The unique identification number referred to in rule is the Metric tag number associated with the package from which the mandatory testing sample was taken.

Universal Symbol

Finally, Paragraph 'H' requires all adult use marijuana and marijuana product labels to display on the front or most prominently displayed area of the marketing layer the Department's required universal symbol. The universal symbol is available in several file formats on the OMP website (<https://www.maine.gov/dafs/omp/resources/universal-symbol>). The universal symbol may not be altered or stylized in any way.