

MAINE STATE LEGISLATURE

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Adult Use Marijuana Program

January 1, 2020 – December 31, 2020

Annual Report to the Maine State Legislature

Maine Department of Administrative and Financial Services
Office of Marijuana Policy

February 2021

Background

The Office of Marijuana Policy (OMP) was established within the Department of Administrative and Financial Services on February 4, 2019. This significant milestone—occurring one month after Governor Mills was sworn into office—was the first concrete step towards implementing the voter-approved and legislatively-amended Marijuana Legalization Act.

One of the first tasks the Office undertook was to develop a mission statement, a vision statement, and five guiding principles to define what OMP aimed to accomplish as the newest agency of state government. If you are not familiar with them, you can view them on our website: <https://www.maine.gov/dafs/omp/about/mission-vision-values>.

There are several key themes contained in our mission, vision, and values. Most notable among these are protecting the public's health and safety, the importance of transparency and communication, and the goal of developing a good faith partnership with those we license and regulate.

Since our creation, OMP has worked diligently to foster an environment of mutual respect. The Office has aimed to listen and be respectful to anyone with ideas that may contribute to the success of Maine's marijuana programs. Most importantly, we have kept our promises to a public and industry that waited nearly four years for an avenue to legally access and sell adult use marijuana and marijuana products.

For example, in early 2019, OMP committed to submitting administrative rules for the Adult Use Marijuana Program (AUMP) to the legislature before their scheduled adjournment in June. We did. With that important step complete, OMP operationalized those rules and promised to begin accepting adult use applications by the end of 2019. We did. With that key milestone successfully attained, the Office's attention shifted to launching Maine's adult use industry in spring 2020.

OMP announced the issuance of Maine's first conditional licenses for adult use marijuana establishments in early March 2020, just as the world was coming to terms with the then-emerging global health pandemic. In response to COVID-19, several communities preparing for local authorization and to opt-in for adult use postponed those actions due to closed city halls, canceled town meetings, and delayed planning board and council meetings. In April, citing the ongoing pandemic and sheer amount of unknowns, OMP decided to indefinitely postpone the launch of the adult use program.

While this decision marked the first time OMP was unable to keep a promise to the public, and the first delay related to the implementation of the adult use program, the Office understood that its ongoing commitment to the public's health and safety superseded any internal goal for introducing this new industry.

Throughout the spring and summer months, OMP staff worked closely with industry stakeholders and municipal partners, particularly as it related to local approval and licensure of marijuana testing facilities. In addition, the Office collaborated with the Maine Department of Economic and Community Development (DECD) and the Maine Department of Health and Human Services' Center for Disease Control and Prevention (Maine CDC) to develop COVID-19 protocols for adult use licensees to follow. The result was a checklist that provided important public health guidance and business considerations for both public and non-public facing establishments.

Following the completion of these efforts, in August, OMP announced two specific dates relating to the launch of the adult use program:

- 1.) The first batch of adult use active licenses being issued on September 8, 2020.
- 2.) Retail sales to consumers 21 years of age or older beginning on October 9, 2020.

To ensure the debut of Maine's adult use industry went as planned, OMP facilitated conversations between retail shops and local law enforcement to coordinate their approach to the opening of their businesses. We encouraged these business owners to designate key points of contact for their openings, share non-public contact information with OMP staff and local law enforcement, and to utilize local law enforcement as a resource to assist in managing traffic and large crowds, particularly as it related to concerns resulting from the ongoing health pandemic.

OMP field investigators also conducted pre-license compliance inspections with licensees to ensure their establishments complied with the safety and security requirements of the AUMP statute and rule. We also used these interactions as an opportunity to better understand the plans and contingencies these businesses had in place to manage crowds, lines, traffic, and more to mitigate any potential threat to public health.

As the adult use launch neared, the Office drew attention to these efforts in media availabilities, while using interviews with members of the media to stress the importance of interested consumers wearing face coverings, observing appropriate social distancing, and encouraging them to demonstrate patience with marijuana retailers as they implemented safety measures necessitated by the health pandemic. OMP appreciated the commitment our licensees demonstrated to enact COVID-related protocols to ensure a safe launch and their ongoing commitment to these efforts.

OMP is pleased to report that the adult use system continues to operate as planned, testing capacity remains more than adequate, and only minor adjustments have been needed from a regulatory perspective to ensure the continued success of Maine's newest commercial industry.

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The rules and statute governing the AUMP may be found at:

- Adult Use Marijuana: [Title 28-B](#)
- Rules: [18-691 C.M.R. ch. 1](#)
- Rules: [18-691 C.M.R. ch. 3](#)
- Rules: [18-691 C.M.R. ch. 5](#)

Executive Summary

In accordance with 28-B M.R.S. § 113(1), the Department shall submit to the joint standing committee of the Legislature having jurisdiction over adult use marijuana matters, an annual report that contains, at a minimum:

- The number of applications for each type of license submitted to the department including, if applicable, the number of applications for license renewals, and the number of each type of license conditionally approved by the department;
- The total number of each type of active license issued by the department following local authorization of a conditionally approved licensee;
- The total square footage of plant canopy approved by the department for active cultivation facilities, the percentage of active cultivation facility licenses by cultivation tier and, if applicable, the number of approved increases in the maximum plant canopy allowed under a tier 4 cultivation facility;
- The total amount of application fees and license fees collected, and the total amount of the excise and sales tax revenue collected on the sale of adult use marijuana and adult use marijuana products;
- An overview of current adult use marijuana-related staffing at the department and the cost to the department to regulate the adult use marijuana industry in the State during the prior fiscal year and cost projections for the upcoming fiscal year;
- The total reported volume and value of adult use marijuana cultivated and sold by all cultivation facilities, when available;
- The total reported volume and value of adult use marijuana and adult use marijuana products sold by all marijuana stores, when available;
- The number of inspections of the licensed premises of licensees performed by the department and the results of those inspections, including, but not limited to, the number of inspections resulting in license violations and the percentage of all licensees inspected;
- The number of license violations committed by licensees and a breakdown of those violations into specific categories based on the type of violation and the outcome of the violation, including, but not limited to, the total amount of monetary penalties imposed and collected by the department and the percentage of total license violations resulting in the imposition of a monetary penalty, license suspension or license revocation;
- Public health and safety data collected, received or analyzed by the department; and
- Recommendations, including any suggested legislation, to address any issues with the regulation of the adult use marijuana industry in the State encountered by the department.

The data in this report reflects calendar year periods unless otherwise noted.

Licensing Applications

All principals of a licensed marijuana establishment and individuals working in or for a licensed marijuana establishment who possess, cultivate, manufacture, package, test, dispense, transfer, serve, handle, or transport marijuana or marijuana products are required to have an OMP-issued Individual Identification Card (IIC).

IIC applications are available through the InforME online application portal. Approximately 97.5 percent of applicants applied via the online portal, with a select number of applicants requesting paper applications. Late in 2020, OMP began receiving their first renewal applications. A total of 9.8 percent of the IIC applications submitted prior to the conclusion of 2020 were renewals.

Many of the submitted applications are still in process, usually pending receipt of additional information. Through 2020, OMP has only denied four IIC applications; however, many more are abandoned by individuals whose employment plans have changed or who do not complete their submission in a timely manner. A total of 1,514 applications were approved in 2020, with 10.96 percent of approved applicants residing out-of-state.

	Submitted	Approved
Individual Identification Card (IIC)	2,016	1,514

Marijuana Testing Facility applications were available via printable applications on the OMP website. As of December 31, 2020, three testing facilities have applied to become licensed with OMP. In addition to these three establishments, several other testing facilities are actively exploring the required certification process with the Maine CDC. At the conclusion of 2020, OMP had one adult use marijuana testing facility operating with an active license. A second testing facility received their active license in January 2021. OMP continues to engage in discussions and meetings with prospective testing facility operators to better understand their plans, potential challenges they face, and how OMP can assist them in navigating the application process.

Marijuana cultivation, manufacturing and store applications were available through the InforME online application portal throughout 2020. As of December 31, 2020, a total of 450 applications had been received across all license types.

	Submitted
Testing Facility	3
Cultivation – Nursery	8
Cultivation – Tier 1 (Canopy)	9
Cultivation – Tier 1 (Plant Count)	8
Cultivation – Tier 2	55
Cultivation – Tier 3	62
Cultivation – Tier 4	35

Products Manufacturing	67
Retail Store	203
Total	450

Status of Establishment Licenses

At its highest level, the process of becoming licensed in the AUMP takes three steps: 1.) Conditional Licensure, 2.) Local Authorization, and 3.) Active Licensure.

This approach was designed by the legislature to ensure that prospective adult use licensees would be vetted by OMP prior to receiving approval from a host community. This ensures that our state’s municipalities have the benefit of reviewing the material that led to OMP’s conditional licensure before acting at the local level. Once local authorization is obtained, a prospective licensee returns to OMP to obtain an active license.

A licensee that has been issued a conditional license by the department may not engage in the cultivation, manufacture, testing or sale of adult use marijuana or adult use marijuana products until the department has issued an active license.

As of December 31, 2020, there were 266 licensees that had obtained a conditional license from OMP, 52 that obtained local authorization from a host municipality, and 39 that obtained active licenses.

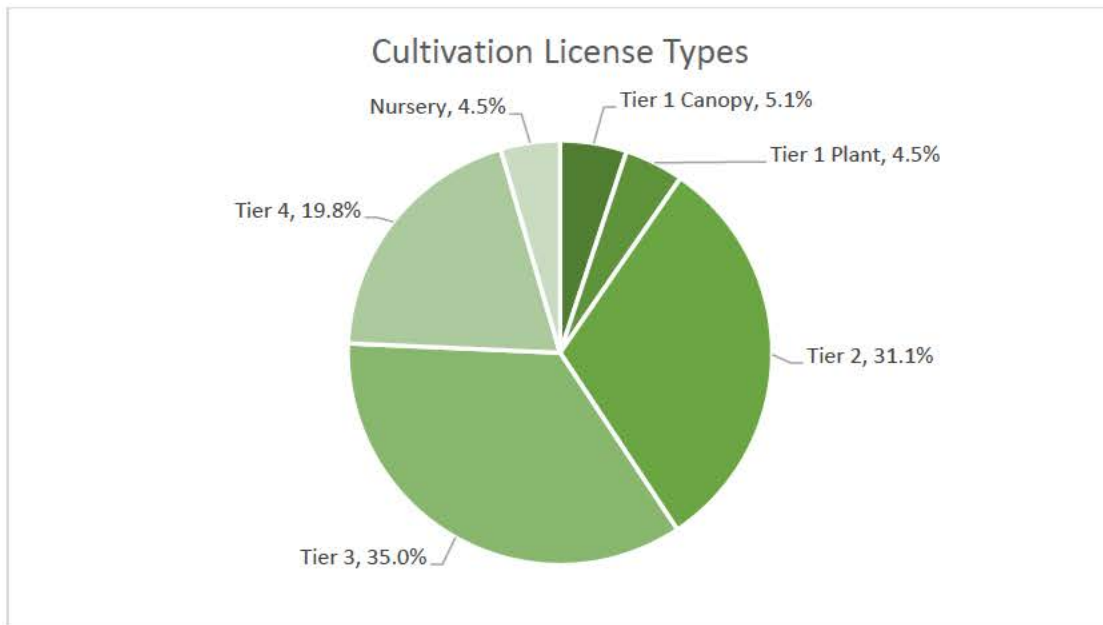
	Conditional	Conditional, Jurisdiction Approved	Active	Total
Testing Facility	0	2	1	3
Cultivation – Nursery	3	1	0	4
Cultivation – Tier 1 (Canopy)	5	0	0	5
Cultivation – Tier 1 (Plant Count)	3	2	0	5
Cultivation – Tier 2	32	4	6	42
Cultivation – Tier 3	31	9	7	47
Cultivation – Tier 4	16	5	1	22
Products Manufacturing	36	11	9	56
Store	140	18	15	173
Total	266	52	39	357

Industry Capacity

As of December 31, 2020, there were 14 cultivation establishments with active licenses with a total of 42,723 square feet of plant canopy. The square footage totals are based on each active establishment's approved square footage as specified through the application process.

Cultivation Type	Maximum Square Feet Allowed	Active Establishments	Total
Tier 1 (Plant Count)	30 mature plants/ unlimited immature and seedlings	0	n/a
Tier 1 (Canopy)	500	0	0
Tier 2	2,000	6	8,193
Tier 3	7,000	7	26,530
Tier 4	20,000	1	8,000
Nursery	1,000	0	0
Total	n/a	14	42,723

The majority of cultivation facility applications received by OMP are for Tier 2, Tier 3 and Tier 4 facilities, accounting for 31.1 percent, 35 percent and 19.8 percent, respectively.



Based on licensees which had obtained either a conditional license from OMP or local authorization from a host municipality, there is the potential for up to 778,500 square feet of additional plant canopy in the AUMP. This assumes all establishments with these license statuses at the conclusion of 2020 obtain an active license during 2021. The potential square footage estimate is based on the maximum square feet allowed by cultivation tier.

Cultivation Type	Maximum Square Feet Allowed	Licenses	Total
Tier 1 (Plant Count)	30 mature plants/ unlimited immature and seedlings	5	n/a
Tier 1 (Canopy)	500	5	2,500
Tier 2	2,000	36	72,000
Tier 3	7,000	40	280,000
Tier 4	20,000	21	420,000
Nursery	1,000	4	4,000
Total	n/a	111	778,500

Cultivation Tier 4 licensees are allowed, in accordance with 28-B M.R.S. § 304 to request an increase in their plant canopy capacity during the renewal process, not more than once every two years. There were no renewal applications during 2020.

Industry Volume and Value by Cultivation Facilities

For the year 2020, 10,230.4 kilograms (wet weight prior to drying process) of marijuana were harvested by marijuana cultivation facilities.

As of December 31, 2020, 1,498.6 kilograms of marijuana have been distributed. A total of \$941,048 was collected from the state's excise tax on adult use marijuana. According to data entered into the state's inventory tracking system, wholesale earnings for the year were \$1,144,502.

Product Category	Total Product Distributed	Total Excise Amount	Total Wholesale Amount
Usable Marijuana	1,498.6 kilograms	\$941,048	\$1,144,502

Usable Marijuana include Buds/Flower, Shake/Trim, and Pre-Rolls.

Source: OMP's inventory tracking system and Maine Revenue Services' Office of Tax Policy.

Please note: Vertically integrated companies do not record wholesale amounts on their transfers. Additionally, data entered into the state's inventory tracking system may contribute to errors in the classification of transfers.

As December 31, 2020, marijuana cultivation inventory consisted of 683.5 kilograms of packaged useable marijuana and 2,196 plants for future wholesales.

Industry Volume and Value by Manufacturing Facilities

As of December 31, 2020, marijuana manufacturing facilities processed and wholesaled 56.9 kilograms of usable marijuana, 6.8 kilograms of concentrates, 26,300 units of concentrates, and 34,711 units of infused products. Wholesale earnings for the year were \$831,426. Worthy of note, manufacturers may be vertically integrated and charge flat rates and/or additional fees for their services that affect the wholesale estimation.

Product Category	Total Product Distributed	Total Wholesale Amount
Usable Marijuana	56.9 kilograms	\$552,404
Concentrates	6.8 kilograms 26,300 units	\$105,256
Infused Products	34,711 units	\$173,766

Usable Marijuana include Buds/Flower, Shake/Trim, and Pre-Rolls. Concentrates include Concentrates, Infused Pre-Rolls, Kief, and Vape Products. Infused Products include Drinks, Edibles, Capsules, Suppositories, and Topicals.

As of December 31, 2020, marijuana manufacturing facilities inventory consisted of 375.4 kilograms of usable marijuana, 26.96 kilograms of concentrates, 1,186 units of concentrates, and 111,009 units of infused products for future wholesales.

Product Category	Inventory
Usable Marijuana	375.4 kilograms
Concentrates	26.96 kilograms 1,186 units
Infused Products	111,009 units

Industry Volume and Value by Marijuana Stores

As of December 31, 2020, marijuana stores sold 186.5 kilograms of usable marijuana, 1.51 kilograms of concentrate, 12,774 units of concentrates, and 23,991 units of infused products. This has yielded gross sales of \$4,706,160, inclusive of the state's 10 percent sales tax on adult use marijuana.

Product Category	Total Product Sold	Total Sales with Tax
Usable Marijuana	186.5 kilograms	\$3,272,674
Concentrates	1.51 kilograms 12,774 units	\$919,496
Infused Products	23,991 units	\$513,990

Usable Marijuana include Buds/Flower, Shake/Trim, and Pre-Rolls. Concentrates include Concentrates, Infused Pre-Rolls, Kief, and Vape Products. Infused Products include Drinks, Edibles, Capsules, Suppositories, and Topicals.

As December 31, 2020, Marijuana Stores inventory consisted of 125.7 kilograms of usable marijuana, 1.96 kilograms of concentrates, 10,905 units of concentrates, and 8,833 units of infused products for future sales.

Product Category	Inventory
Usable Marijuana	125.7 kilograms
Concentrates	1.96 kilograms 10,905 units
Infused Products	8,833 units

Compliance Inspections

As of December 31, 2020, there were 44 compliance inspections with 100 percent of all active licensees being inspected within the calendar year. Most of these inspections were security inspections that must be completed and be passed prior to a marijuana establishment receiving their active licensure to conduct business. To facilitate marijuana establishments meeting the security requirements of the AUMP administrative rules, technical assistance was provided by the Office of Marijuana Policy Compliance Team leading to the 39 active establishment licenses. Two post-active compliance inspections resulted in license violations.

Compliance Violations

As of December 31, 2020, there were two compliance violations. Both compliance violations fell into the Minor License Violations category of 18-961 C.M.R., ch. 1, § 12.2 resulting in total monetary penalties totaling \$12,500. An appeal of both compliance violations is ongoing.

No licenses violations resulted in the license suspension or revocation.

Public Health and Safety Data

Health and safety are at the forefront of every decision made by OMP. The Office's mission statement and guiding principles both speak to the importance of the public's health and safety in everything OMP does.

OMP has taken significant steps to interact with and involve the public health community in its work. OMP has engaged in several public speaking engagements throughout 2020, most notably presenting to the University of New England/Maine Prevention Services annual grantee training and Maine Public Health Association's annual conference. In addition, the office participates in multiple taskforces including both the marijuana workgroup and tobacco laws workgroup hosted by Maine CDC, the Pregnancy Risk Assessment Monitoring System (PRAMS) Steering Committee, the State Epidemiological Outcomes Workgroup biannual meetings, and the Maine Impaired Driving Task Force. The groups are comprised of public health and public safety officials from both state government and nonprofits throughout Maine.

In addition to this work, OMP has partnered with the Maine CDC related to their existing "Good to Know" Maine public service advertising campaign. The campaign and content—which is focused on educating the public on compliance with state law, preventing youth use and diversion, and responsible use among interested consumers—is borrowed from the State of Colorado and is managed, on behalf of Maine CDC, by Rinck Advertising.

Through these collaborations, data exchanges have been initiated. The data exchanges with agencies include the Maine CDC Maine Integrated Youth Health Survey program (MIYHS), Maine Emergency Medical Services (EMS), Maine CDC Behavioral Risk Factor Surveillance System (BRFSS), Northern New England Poison Control, and Maine Department of Education. The data collected will become the foundational metrics and indicators for OMP to monitor.

Program/Agency	Key Indicators
District Attorney: All Prosecutorial Districts	<ul style="list-style-type: none"> • Number of convictions/dismissals relating to the use of marijuana
Maine Bureau of Highway Safety	<ul style="list-style-type: none"> • Number of motor vehicle accidents relating to the use of marijuana • Number of citations relating to the use of marijuana
Maine CDC: Behavioral Risk Factor Surveillance System Program	<ul style="list-style-type: none"> • Percentage of adults using marijuana or marijuana products
Maine CDC: Maine Prevention Services: Domain 1	<ul style="list-style-type: none"> • Activities being implemented to reduce the use and misuse of marijuana and marijuana products
Maine CDC: Maine Integrated Youth Health Survey Program	<ul style="list-style-type: none"> • Percentage of youth using marijuana and marijuana products • Perception of use, perception of harm, and perception of parental view on use of marijuana captured
Maine CDC: Pregnancy Risk Assessment Monitoring Program	<ul style="list-style-type: none"> • Percentage of women using marijuana and marijuana products prior, during, and post pregnancy
Maine Department of Education	<ul style="list-style-type: none"> • Number of students receiving disciplinary action relating to marijuana
Maine Emergency Management Services	<ul style="list-style-type: none"> • Number of ambulance services needed related to the use of or exposure to marijuana and marijuana products
Northern New England Poison Control	<ul style="list-style-type: none"> • Number of calls related to the use of or exposure to marijuana and marijuana products • Types of marijuana products that are the cause of poison center calls
Office of the Attorney General: Criminal Division	<ul style="list-style-type: none"> • Number of convictions/dismissals relating to the use of marijuana

Public health and safety data will continue to play an important role in OMP’s decision-making processes in 2021. The Office will continue surveying its partner state agencies for marijuana-specific data and explore the development of an internal data warehouse. It is the hope that with these efforts, and the corresponding data generated in our licensing system and the track and trace system, data will be available to aid OMP and legislators in making informed policy decisions.

Revenue

Below is a summary of revenue received for Calendar Year 2020. Excise tax and sales tax figures include actual amounts paid to Maine Revenue Services for transactions occurring in Calendar Year 2020.

	CY 2020
Revenue	
IIC Application Fees	\$ 85,074
Establishment Application Fees	\$ 129,380

License Fees	\$ 181,000
Excise Tax	\$ 941,048
Sales Tax	\$ 215,830

Source: OMP's Agency Licensing Management System and Maine Revenue Services' Office of Tax Policy.

Staffing and Expenses

OMP staff share responsibilities for both the Maine Medical Marijuana Use Program (MMMP) and the AUMP. While the majority of OMP's authorized positions are tied to the adult use program, we have focused on cross-training staff to minimize the likelihood of similar tasks and responsibilities being siloed by program type. This approach has proven effective, allowing office staff to serve the needs and answer the questions of licensees participating in both the adult use and medical marijuana programs.

Throughout 2019 and 2020, OMP staff have focused on the measured growth of the Office, bringing staff on when appropriate to meet the operational needs of the office rather than simply choosing to fill positions because vacancies exist. This approach to recruitment has been strategically important, ensuring staff are occupied with their daily tasks but not overwhelmed with work so OMP can focus on the delivery of top-notch customer service to interested stakeholders. The success of this approach is demonstrated by the exceedingly low level of turnover among OMP staff.

As of the end of December, OMP is now home to 28 fulltime employees. The office's two vacancies, newly created Field Investigator Supervisors, are expected to be filled in early 2021.

	FTE Headcount	Vacant Positions
Administration	5	0
Policy Division	1	0
Engagement and Community Outreach	1	0
Compliance Division	9	2
Data Analytics Division	3	0
Licensing Division	9	0

Please note: The positions listed in the above table are inclusive of both programs.

The State of Maine operates on a fiscal year that runs from July 1 through June 30. Accordingly, revenue and expense information from state fiscal year 2020 covers the period from July 1, 2019 through the conclusion of the fiscal year on June 30, 2020.

	FY 2020
Expense	
Personnel	\$ 1,402,891
All Other	\$ 685,260

Please note: These figures do not include costs incurred by the medical program during this same time period.

Cost projections for fiscal year 2021 are estimated below:

	FY 2021
Cost Projections	
Personnel	\$ 2,024,703
All Other	\$ 407,491

The estimated growth in personnel costs reflect the natural growth of OMP as an agency bringing staff on board in support of the normal business operations of the office.

Legislative Recommendations

The work of the Office of Marijuana Policy has benefitted significantly from the positive working relationship established early on between OMP and the legislative branch. As we turn our attention to the First Regular Session of the 130th Maine Legislature, OMP looks forward to working closely with the Joint Standing Committee on Veterans and Legal Affairs (VLA), and other committees as may be appropriate, on marijuana-related legislation.

OMP has proposed two adult use marijuana-related pieces of legislation for consideration:

- 1.) LR 159, An Act to Amend the Marijuana Legalization Act
- 2.) LR 160, An Act to Clarify Provisions Regarding the Marijuana Excise Tax

LR 159 would make an important change to the Marijuana Legalization Act aimed at addressing inventory supply issues that have arisen during the implementation of the adult program. Specifically, the bill would allow for the unlimited transfer of marijuana plants, marijuana seeds, marijuana flower and marijuana trim from registered caregivers and registered dispensaries to cultivation facility licensees until January 1, 2022 or beyond that date if the department extends that date by rule.

The second bill OMP is proposing, LR 160, seeks to ensure predictability and consistency in the application and receipt of excise taxes in light of novel practices in the adult use program that have emerged since the enactment of the excise tax provisions of the Marijuana Legalization Act. A new trend in marijuana cultivation and manufacturing has developed not only in Maine's well established MMMP but across the country: "fresh freezing" marijuana plants, including marijuana flower and trim, before the marijuana is "dried," "cured" or otherwise processed to reduce or eliminate water weight before transfer and extraction.

LR 160 would seek to make adjustments to the excise tax on adult use marijuana to account for these practices and ensure the state's tax code does not unintentionally, unnecessarily discourage cultivation and products manufacturing facilities from engaging in activity they would otherwise pursue. The proposal codifies in statute the Department's emergency rulemaking on the same topic.

The Office looks forward to the opportunity to discuss both of these proposals during the current legislative session.

As the Office has drafted regulations, implemented its licensing and compliance programs, and made policy decisions, OMP staff have been guided by its mission statement: "To ensure the health and safety of all Mainers by effectively and responsibly licensing and regulating

marijuana establishments.” We hope that lawmakers will view any policy proposals with the same lens, and OMP looks forward to engaging with industry stakeholders, public health and safety-related stakeholders, municipalities, and the public over the coming months and years to bring forward changes to better Maine’s adult use marijuana program.