



Adult Use Cannabis Program

Annual Report to the Maine State Legislature
January 1, 2022 – December 31, 2022

Maine Department of Administrative and Financial Services
Office of Cannabis Policy

Spring 2023

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1. Background

The Office of Cannabis Policy (OCP) was established within the Department of Administrative and Financial Services on February 4, 2019. The establishment of the Office—occurring one month after Governor Mills was sworn into office—was the first concrete step by the State of Maine’s executive branch towards implementing the voter-approved and legislatively-amended Cannabis Legalization Act, authorizing adult use cannabis.

OCP is pleased to share that since the launch of adult use retail sales in October 2020, Maine’s Adult Use Cannabis Program (AUCP) has continued to grow and thrive. As the contents of this report¹ will reveal, more than 250 businesses, consisting of several thousand new employees, are now operating in the AUCP. The second full year of retail sales nearly doubled the first, generating \$158,865,720² in 2022 compared to \$81,962,949 in 2021.

In addition, testing capacity remains more than adequate, more municipalities are opting to permit AUCP establishments in their cities and towns, and only minor adjustments have been necessary, from a regulatory perspective, to ensure the continued success of this new cannabis program. This is all a result of the hard work of both industry and government to develop an effective system for cannabis regulation and commerce in Maine.

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

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

OCP also regulates the Maine Medical Use of Cannabis Program, for which a separate annual report is forthcoming in accordance with 22 M.R.S. § 2425-A(13)(B).

¹ The data in this report reflect calendar year periods unless otherwise noted.

² This figure is subject to change as users can retroactively edit data in the State’s inventory tracking system. The figure used throughout this report for the 2022 retail sales amount was calculated on January 31, 2023.

2. Executive Summary

Through the Adult Use Cannabis Program (AUCP), Maine's Office of Cannabis Policy (OCP) licenses cultivators, manufacturers, retail stores, and testing facilities to ensure that adult residents and visitors to Maine, who choose to consume cannabis, have access to Maine grown, Maine made, tested products with clear and accurate labeling. In 2022, the AUCP further proved its ability to meet the demand for legal, regulated cannabis while creating jobs and contributing to the economy.

This report to the Maine Legislature provides an overview of the AUCP's performance during calendar year 2022, and it serves to fulfill OCP's reporting requirements under 28-B M.R.S. § 113(2).³ It highlights several measurements that demonstrate robust consumer demand, effective regulations, increased revenue generation, and ongoing efforts to protect public health and public safety. Such information includes:

- Industry capacity and volume, by establishment type
- The value of cannabis produced, and the tax revenue generated
- Data about OCP's license application volume and processing
- The size of the industry, by cannabis establishment type
- The number and results of compliance inspections and the types of violations identified within the system
- OCP's revenue, staffing, and expenditures
- Data providing insight into public health and safety and OCP's efforts to promote each
- Legislative changes in 2022 and recommendations for the 131st Legislature

In addition to increased capacity and growth in the areas listed above, other successes pertaining to the AUCP in 2022 included the implementation of the municipal reimbursement fund to help municipalities defray the costs of opting in to permit adult use establishments in their city or town; and OCP's Community Listening Tour which brought dialogue about Maine's cannabis programs to municipal officials and members of the public in five different counties. More detailed metrics are available on the next page.

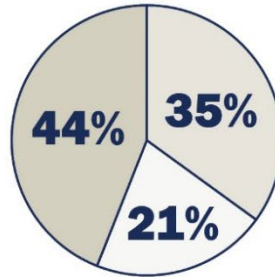
Ultimately, the success of the cannabis regulatory system depends on a basic construct: track it, test it, tax it. By combining inventory tracking technology with in-the-field compliance and mandatory testing, OCP ensures that product is not diverted to the illicit market, that unregulated cannabis from outside the system does not enter the regulated market, and that the state has a growing and dependable stream of tax revenue. As the industry continues to expand and more consumers transition from illicit or non-regulated sources to the regulated market, significant yearly growth will continue for some time, and the work of OCP will grow with it.

³ A copy of the statutory requirements is attached to this report as Appendix A.

2022 AUCP Highlights

258

Active adult use cannabis establishments in 2022, increased from 159 in 2021



44% of new license applications received in 2022 were for retail stores; 35% were for cultivation; and 21% were for manufacturing

Adult use retail sales for 2022, a 93.8% increase from 2021:

\$158,865,720

Excise tax collected:

\$9,886,333

Sales tax collected:

\$17,463,328

17

Municipalities reimbursed for costs incurred from opting in to permit adult use cannabis establishments



Zero

AUCP compliance violations resulted in a license suspension or revocation

Key Policy Changes

- Municipal reimbursement (see P.L. 2021, ch. 645)
- Batch tracking of plants (see P.L. 2021, ch. 628)
- Limited delivery services and curbside pickup (see P.L. 2021, ch. 667)
- The Office's name change from the "Office of Marijuana Policy" to the "Office of Cannabis Policy" (see P.L. 2021, ch. 669)

2

Public health and safety campaigns were launched by OCP: the *Let's Talk Cannabis* campaign for young adults and the *Unclouded* campaign for teenagers



Counties were visited by OCP as part of a Community Listening Tour; 146 community members attended in total as well as 75 municipal officials

3. Licensing in the AUCP

3.1 Applications

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

IIC applications are available through the InforME online application portal. Approximately 98.5% of applicants applied via the online portal, with a select number of applicants requesting paper applications. Over a third of the IIC applications submitted in 2022 were renewals.

Many of the applications submitted at the end of the year are reported below as pending, usually awaiting receipt of additional information or payment of the application fee. OCP only denied five IIC applications in 2022, included in the total applications submitted in Table 1; however, many other applications are abandoned by the applicant for a variety of reasons. Individual identification card applications with outstanding requirements that are not completed within 90 days of submission are considered abandoned as well.

Table 1: 2022 Individual Identification Cards (IIC) Applications

Application Type	Submitted	Approved	Abandoned	Pending as of 12/31/22
New applications	2,807	2,076	335	396
Renewal applications	1,611	1,403	136	72
Total	4,423	3,479	471	468

OCP licenses four types of adult use cannabis establishments: cultivation facilities, products manufacturing facilities, cannabis stores, and testing facilities. Individuals or entities may obtain licenses in three of the four establishment types if they wish to cultivate, manufacture, and engage in retail sales their own adult use cannabis and cannabis products. Cannabis testing facilities are excluded as they must be owned and operated by individuals who, to ensure public confidence in the validity of their results, are prohibited from having any direct or indirect financial interest in any other AUCP license type.

A total of 370 applications were received across all license types in 2022.⁴ Of the applications submitted prior to the end of the year, 41.6% were renewals. However, it is important to note that

⁴ Notably, there were 200 more cannabis retail store applications submitted in 2021 than 2022. Prospective operators in one municipality accounted for a particularly large portion of applications in 2021 in advance of the town's

the application process can, and often does, take over a year due to facility build outs and local authorization, so new applications submitted in 2021 may not have been issued that year and thus not renewed in 2022.

Table 2: AUCP License Applications Received in 2022

License Type	Submitted	New	Renewals
Cultivation – Nursery	4	3	1
Cultivation – Tier 1 (Canopy)	9	8	1
Cultivation – Tier 1 (Plant Count)	3	2	1
Cultivation – Tier 2	39	22	17
Cultivation – Tier 3	54	33	21
Cultivation – Tier 4	17	7	10
Products Manufacturing	75	45	30
Cannabis Retail Store	164	94	70
Testing Facility	5	2	3
Total	370	216	154

Like IIC applications, AUCP cultivation facility, products manufacturing facility, and cannabis store applications are available through the InforME online application portal. Cannabis testing facility applications are available via printable applications on the OCP website.

It is important to note that the licensing of testing facilities requires approval from two state regulators. Facilities must complete the required laboratory certification process with the Maine Center for Disease Control and Prevention (Maine CDC) as well as obtain a separate license to operate from OCP. As of December 31, 2022, three testing facilities are active in the AUCP. Two other prospective testing facilities are moving through the application process.

3.2 Status of Establishment Licenses

At its highest level, the process of becoming licensed in the AUCP 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 OCP prior to receiving approval from a host community. It also ensures that municipalities have the benefit of reviewing the material that led to OCP’s conditional licensure

license lottery. Due to this and other circumstances, many applications submitted in 2021 were deemed abandoned, which happens if the applicant has not taken any action to complete the application for a conditional license for one year.

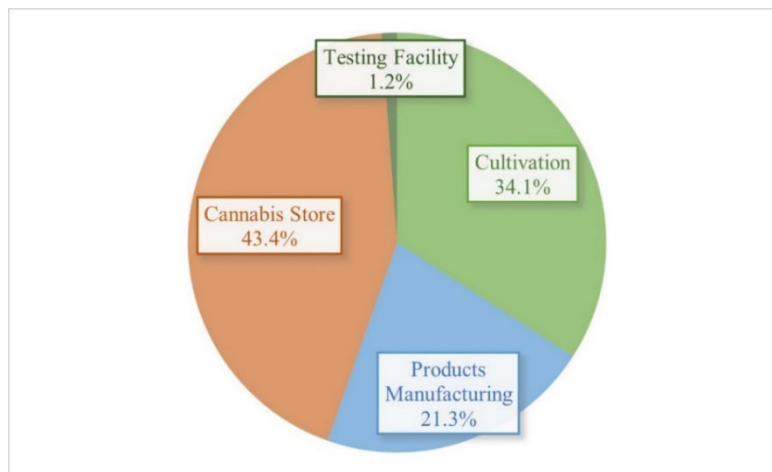
before acting at the local level. Once local authorization is obtained, a prospective licensee returns to OCP to obtain an active license.

Table 3 and Chart 1 provide more information on the status of AUCP licenses in 2022.

Table 3: AUCP Licenses as of December 31, 2022

License Type	Conditional ⁵	Conditional, Jurisdiction Approved	Active	Total
Cultivation – Nursery	1	0	3	4
Cultivation – Tier 1 (Canopy)	4	0	5	9
Cultivation – Tier 1 (Plant Count)	1	0	2	3
Cultivation – Tier 2	12	3	32	47
Cultivation – Tier 3	15	4	34	53
Cultivation – Tier 4	12	0	12	24
Products Manufacturing	22	15	55	92
Cannabis Retail Store	53	12	112	177
Testing Facility	1 ⁶	1	3	5
Total	121	35	258	414

Chart 1: Percentage of Active AUCP Establishments by License Type

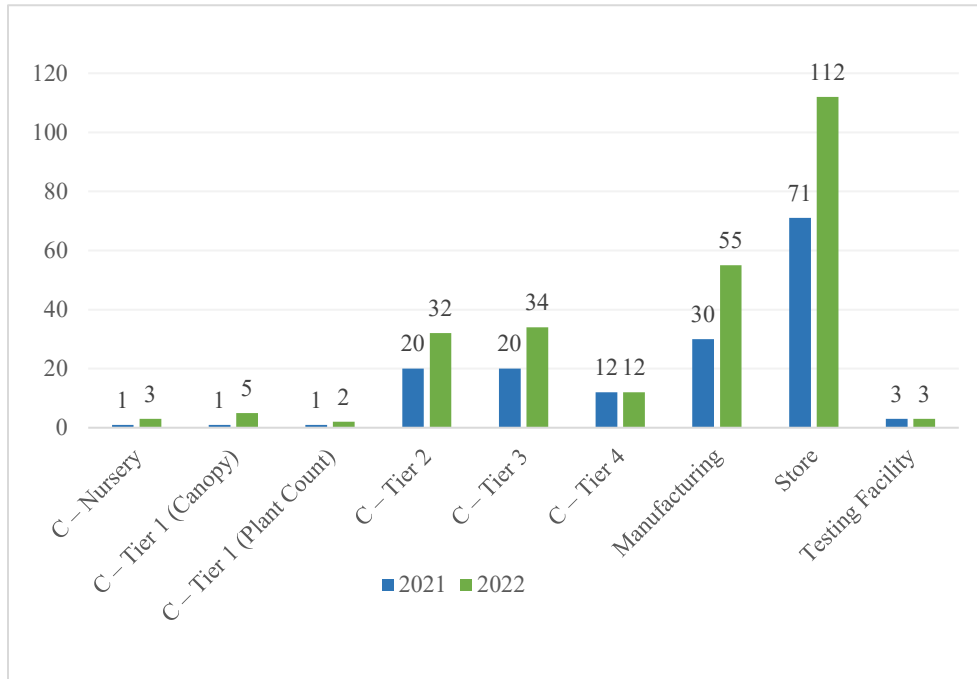


⁵ A licensee that has been issued a conditional license by the department may not engage in the cultivation, manufacturing, testing, or sale of adult use cannabis or adult use cannabis products until the licensee obtains an active license.

⁶ This applicant’s status is “pending conditional” meaning that OCP has received an initial application for this establishment, and it has been assigned a prospective license number.

Chart 2 depicts the number of active establishments by license type in in 2022 compared to the number of active establishments in 2021. Overall, there were 159 active licensees in 2021 and 258 in 2022.

Chart 2: Active AUCP Establishments in 2021 vs. 2022



4. Industry Capacity, Volume, and Value

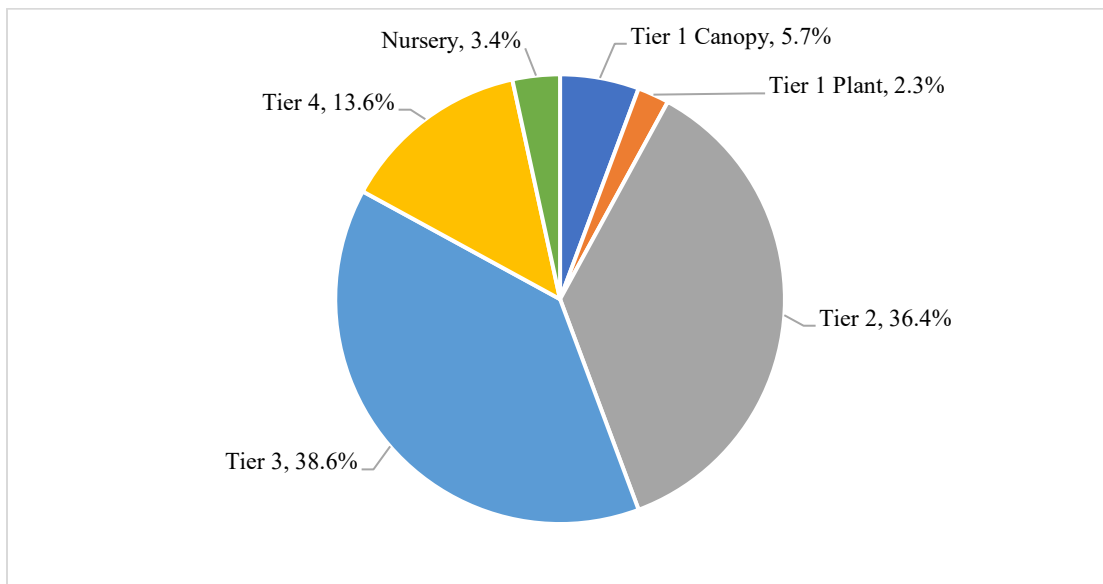
4.1 Existing Capacity

As of December 31, 2022, there were 88 adult use cultivation establishments with active licenses representing a total of 396,734 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.

Table 4: Active AUCP Cultivation Establishments and Capacity

Cultivation Type	Maximum Square Feet Allowed	Active Establishments	Total
Tier 1 (Plant Count) ⁷	n/a	2	n/a
Tier 1 (Canopy)	500	5	2,452
Tier 2	2,000	32	45,738
Tier 3	7,000	34	143,406
Tier 4	20,000	12	205,138
Nursery ⁸	1,000	3	n/a
Total	n/a	88	396,734

Chart 3: Distribution of Active Cultivation License Types



⁷ Tier 1 licensees are allotted 30 mature plants, unlimited immature plants, and seedlings. They are not assigned an approved square footage amount.

⁸ Nurseries are included in the number of active establishments but excluded from the total plant canopy calculation as they cannot sell mature cannabis plants, flower or trim.

Cultivation licensees were operating at 73% capacity in 2022. If all active establishments were operating at full capacity, the maximum plant canopy in the AUCP would be 544,500 square feet.

An additional 72 cultivators obtained either a conditional license from OCP or local authorization from a host municipality in 2022, meaning there is the potential to add up to 490,000 more square feet of plant canopy to the AUCP. This assumes all establishments with these license statuses at the conclusion of 2022 obtain an active license during 2023. The potential square footage estimate is based on the maximum square feet allowed by cultivation tier.

Table 5: Conditional AUCP Cultivation Establishments and Capacity

Cultivation Type	Maximum Square Feet Allowed	Conditional Licenses	Total
Tier 1 (Plant Count) ⁹	n/a	1	n/a
Tier 1 (Canopy)	500	8	4,000
Tier 2	2,000	22	44,000
Tier 3	7,000	26	182,000
Tier 4	20,000	13	260,000
Nursery ¹⁰	1,000	3	n/a
Total	n/a	72	490,000

If the conditional licensees listed above all obtained active licenses and operated at maximum capacity, and if the current active licensees all operated at maximum capacity, there would be a total of 1,034,500 square feet of canopy in the AUCP. If all conditional licensees obtained active licenses and followed the current trend of operating at approximately 73% capacity, there would be 754,435 square feet of canopy in the AUCP. OCP is monitoring these numbers closely to determine whether system capacity exceeds consumer demand for regulated cannabis and to inform any future policy recommendations regarding inventory management interventions.

In accordance with 28-B M.R.S. § 303, cultivation facility licensees are permitted to request a change in their license tier upon renewal and can ask for either an increase or decrease in tier. In 2022, two licensees reduced their cultivation capacity from tier 4 to tier 3; their approved canopy size decreased from 20,000 to 7,000 square feet for each of the two licensees.

Additionally, 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

⁹ Tier 1 licensees are allotted 30 mature plants, unlimited immature plants, and seedlings. They are not assigned an approved square footage amount.

¹⁰ Nurseries are included in the number of conditional licenses but excluded from the total plant canopy calculation as they cannot sell mature cannabis plants, flower or trim.

every two years. In 2022, no cultivation tier 4 licensees requested an increase in their plant canopy during the renewal application process.

4.2. Industry Volume and Value by Cultivation Facilities

For calendar year 2022, a total of 231,146.8 kilograms (wet weight prior to drying process) of cannabis was harvested by cannabis cultivation facilities. This is a 136% increase from the amount harvested in 2021.

It is important to note that the wet weight recorded at the point of harvest gets reduced by a number of factors including moisture loss, waste, failed mandatory testing, and stockpiled inventory. As a result, cultivation facilities distributed a total of 13,245.7 kilograms of usable cannabis¹¹ to other licensees in 2022, and a total of \$9,886,333 was collected from the state’s excise tax on adult use cannabis.

As of December 31, 2022, cannabis cultivation inventory consisted of 14,756.6 kilograms of packaged usable cannabis and 201,024 plants available for future harvests, sales, and their subsequent wholesale transactions.

4.3. Industry Volume and Value by Manufacturing Facilities

AUCP product manufacturing facilities process and wholesale usable cannabis (buds/flower, shake/trim, and pre-rolls), concentrate (concentrate, infused pre-rolls, kief, and vape products), and infused cannabis products (drinks, edibles, capsules, suppositories, and topicals). The total product distributed in 2022 for each of these categories is reflected below.

Table 6: Product Distributed by AUCP Manufacturing Facilities in 2022

Product Category	Total Product Distributed
Usable Cannabis	1,314.8 kilograms
Concentrate ¹²	434 kilograms 675,993 units
Infused Cannabis Products	1,257,553 units

A snapshot of the manufacturing facility inventory available for future wholesale transactions can be seen in Table 7.

¹¹ This only includes usable cannabis that has passed testing, been packaged, been transferred to another licensee, and, with the exception of fresh frozen plant material, been dried.

¹² When concentrate is in a batch, it is recorded by weight. When it is distributed as part of another product for retail sales, it is recorded as a unit.

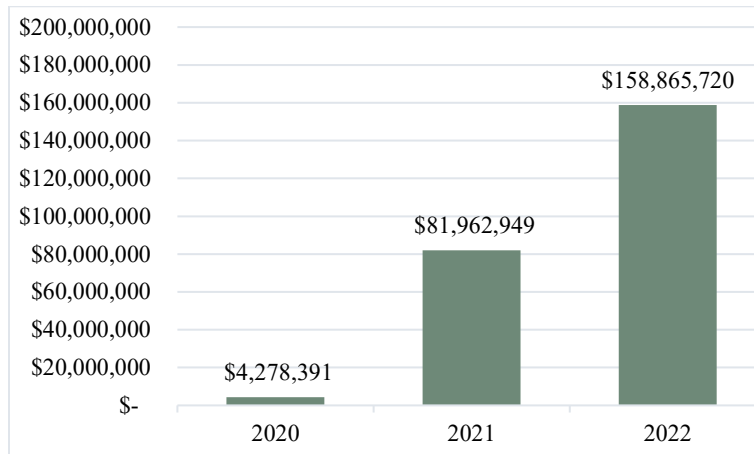
Table 7: AUCP Manufacturing Facility Inventory as of December 31, 2022

Product Category	Inventory
Usable Cannabis	5,160.4 kilograms
Concentrate	896.4 kilograms 229,865 units
Infused Products	1,229,034 units

4.4. Industry Volume and Value by Cannabis Retail Stores

Gross annual sales by adult use cannabis retail stores reached \$158,865,720 in 2022 through a total of 2,476,781 sales transactions. The chart below demonstrates the growth of adult use sales since the first retail stores opened in October 2020.

Chart 4: AUCP Retail Sales – Annual Trend

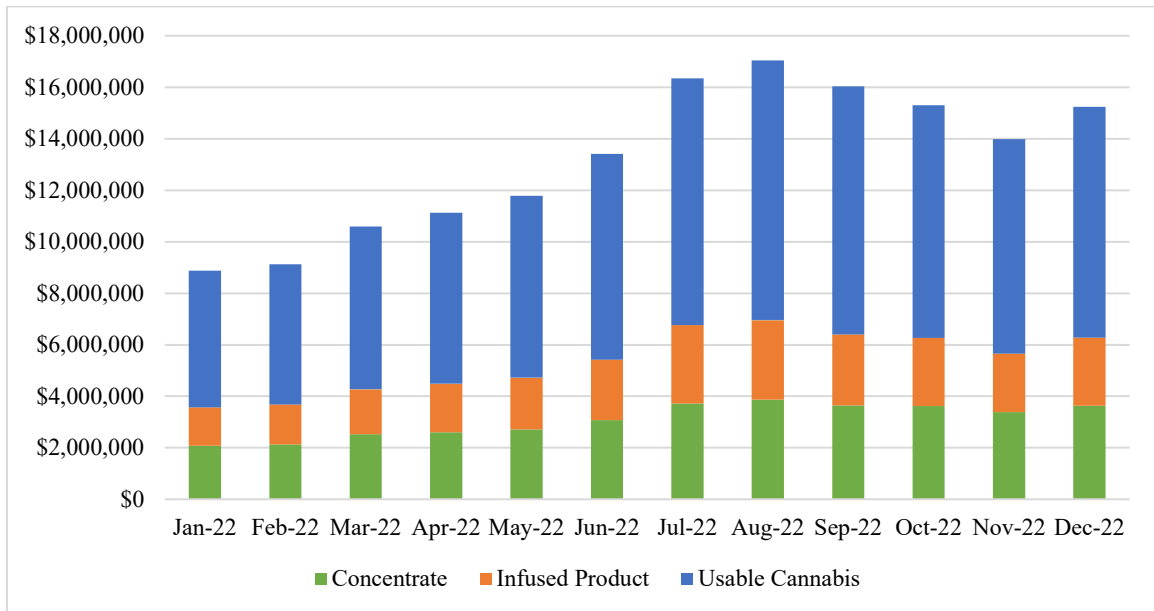


The following visuals offer a breakdown of sales by product category throughout 2022. Usable cannabis includes buds/flower, shake/trim, and pre-rolls; plants include immature plants and seeds; concentrate includes concentrate, infused pre-rolls, kief, and vape products; and infused products include drinks, edibles, capsules, suppositories, and topicals.

Table 8: 2022 AUCP Retail Sales by Product Category

Product Category	Total Product Sold	Total Gross Sales
Usable Cannabis	9,711.3 kilograms	\$94,339,038.16
Plants	2,031 units	\$79,020.14
Concentrate	10.5 kilograms 874,314 units	\$37,007,944
Infused Products	1,411,228 units	\$27,439,717.27

Chart 5: Monthly AUCP Retail Sales by Item Category¹³



As of December 31, 2022, the inventory of cannabis retail stores consisted of 1,102.5 kilograms of usable cannabis, 1,063 units of plants, 3.3 kilograms of concentrate, 134,698 units of concentrate, and 141,094 units of infused products for future sales.

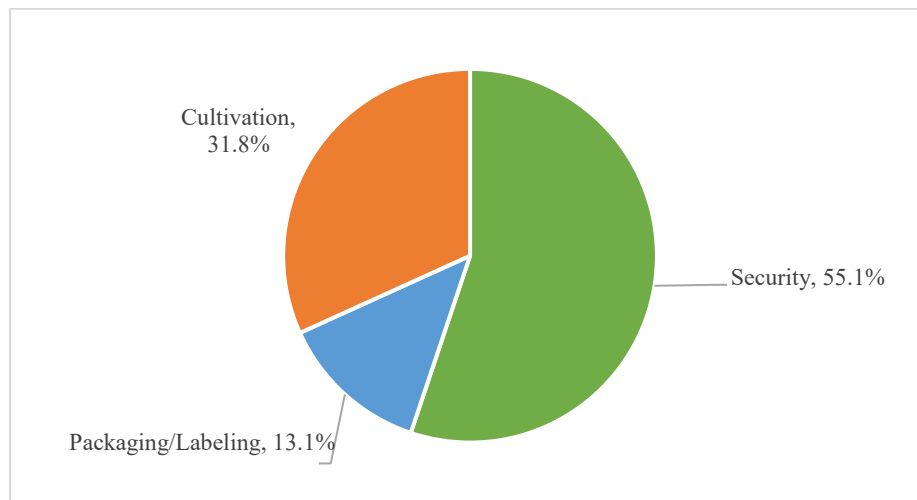
¹³ Plants are not reflected in this chart due to their limited amount in comparison to the other item categories.

5. Compliance in the AUCP

5.1 Compliance Inspections

OCP completed 214 compliance inspections in 2022 with 92% of all active licensees being inspected within the calendar year, including 100% of all new licensees. Of these inspections, 118 were security inspections, 68 were cultivation inspections, and 28 were packaging and labeling inspections.

Chart 6: 2022 AUCP Compliance Inspections



Security inspections are always conducted prior to active licensure and are also completed as necessary as part of change to a plan of record. The security inspections completed in 2022 revealed that the three most common areas needing improvement were video surveillance, limited access areas, and alarm systems. In 39% of the inspections, it was found that video surveillance systems did not meet the required standards. Limited access areas were found not to be posted properly or secured in 31% of the inspections, and 22% of the inspections revealed insufficient alarm systems. The majority of these deficiencies were identified and resolved prior to the issuance of an active AUCP license.

The most serious violations identified during cultivation inspections were that two licensees significantly exceeded their plant canopy. A tier 2 cultivator was found to have exceeded their canopy limit by over 180% and a tier 4 cultivator exceeded their canopy limit by 90%. Both licensees destroyed excess plants; however, the cases remain under investigation and no final outcome has been determined at this time.

Many licensees reach out to OCP seeking guidance on packaging and labeling before production, which is part of the reason that the vast majority of products inspected were found to be compliant. Of those that were found to not be compliant, the most common violation involved alterations to the universal symbol, which was noted 15 times. Next, failure to include the

required inventory tracking batch number was observed 12 times, and labels that depicted images of human, animals, or fruits were noted two times. Technical assistance was provided in every instance of non-compliant labeling, and in most cases, licensees were able to use stickers or print other labels to become compliant very quickly. In rare instances where packaging was found to be lacking necessary tamper evident or child resistant features, licensees made the adjustments necessary to meet these important standards.

5.2. Compliance Violations

In 2022, OCP investigated 36 complaints against adult use licensees. After investigation, 15 complaints were deemed not a compliance violation. Of the 21 remaining complaints, 19 were resolved with technical assistance while two resulted in monetary penalties. No compliance violations resulted in license suspension or revocation.

The two complaints resulting in monetary penalties involved two separate licensees. One adult use cannabis store was facing a \$4,500 fine for selling medical cannabis and tracking violations, but the business' license expired and was not renewed before fines were paid. Next, an adult use cultivation facility was found to be in serious violation of the plant tracking and testing requirements, but the business was sold before fines were imposed and the operators are no longer licensed.

6. Public Health and Safety

6.1 Mandatory Testing

Testing is a hallmark of a well-regulated cannabis program, and it is important for consumer health and safety that only tested adult use cannabis products make it to retail. As of October 1, 2022, the seven required analyte categories for mandatory testing in the AUCP were:

1. Filth and foreign materials;
2. Dangerous molds and mildews;
3. Harmful microbes;
4. THC potency, homogeneity, and cannabinoid profiles;
5. Water activity and moisture content;
6. Other harmful chemicals (metals, including cadmium, lead, arsenic, and mercury); and
7. Residual solvents.

Pesticides are now the eighth required analyte category for mandatory testing, however there is no data reflected in this section as implementation was not complete until 2023. Mandatory testing in the AUCP for these eight analyte categories is critical for protecting the integrity of the supply chain and ensuring all adult use cannabis and cannabis products sold to consumers are free from harmful contaminants.

Mandatory testing occurs at various stages of the production process and prior to cannabis and cannabis products being made available to consumers at retail. For calendar year 2022, the overall initial fail rate for cannabis and cannabis products was 6%. The analytes that failed most often were:

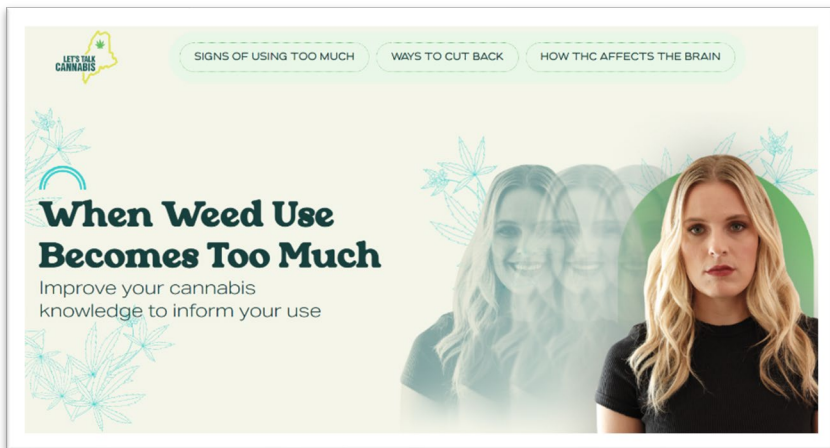
1. Total Yeast & Mold Count (Microbial) at 5.5%¹⁴
2. Potency for Infused Products at 3.9%
3. Metals in Flower/Trim at 1.3%
4. Enterobacteriaceae (Microbial) at 1.0%

6.2 Public Health Collaborations

In addition to the AUCP's mandatory testing regime, OCP has taken significant steps to interact with and involve the public health community in its work. The Office participates in multiple taskforces including both the cannabis workgroup and tobacco laws workgroup hosted by Maine CDC, the Pregnancy Risk Assessment Monitoring System (PRAMS) Steering Committee, the State Epidemiological Outcomes Workgroup, and the Maine Impaired Driving Taskforce. The groups are comprised of public health and public safety officials from both state government and nonprofits throughout Maine.

¹⁴ Batches of cannabis or cannabis products that fail initial mandatory testing for yeast or mold must pass mandatory testing for total yeast and mold and mycotoxins upon retesting. Mycotoxins failed at a rate of 1.6%.

In 2021, OCP developed and conducted a competitive procurement seeking a partner to assist the Office with the implementation of a cannabis public health and safety campaign to be funded by the Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund. Rescue, a health behavior change agency, was awarded the contract, and helped OCP develop and implement two statewide campaigns targeting young adults and teens throughout 2022. The *Let's Talk Cannabis* campaign aims to inform young adults about the signs of a dependence on cannabis. The *Unclouded* campaign works to educate teenagers about the risks of using cannabis while the brain is still developing.



The website homepage for the Let's Talk Cannabis campaign, OCP's public health and safety campaign for young adults.



An Instagram photo from the Unclouded campaign, OCP's public health and safety campaign for teenagers.

More information and data will be available upon the completion of the campaigns in 2023. In the meantime, the *Let's Talk Cannabis* campaign for young adults can be viewed at www.letstalkcannabismaine.com, and more information on the *Unclouded* campaign for teenagers is available at www.uncloudedmaine.com.

With respect to data, through the aforementioned public health collaborations, data exchanges have been initiated. The data exchanges with agencies include the Maine CDC's Maine Integrated Youth Health Survey program (MIYHS), Maine Emergency Medical Services (EMS), Maine CDC's Behavioral Risk Factor Surveillance System (BRFSS), Northern New England Poison Center, and Maine Department of Education. In support of the BRFSS, OCP has provided funding to support a new module which offers public health experts a deeper dive into the use of cannabis products in Maine. The data collected will become the foundational measurements and indicators for OCP to monitor.

Table 9: OCP’s Data Partnerships

Program/Agency	Key Indicators
Administrative Office of the Courts	<ul style="list-style-type: none">• Number of cannabis-related charges
District Attorney: All Prosecutorial Districts	<ul style="list-style-type: none">• Number of convictions/dismissals related to cannabis
Maine Bureau of Highway Safety	<ul style="list-style-type: none">• Number of motor vehicle accidents relating to the use of cannabis• Number of citations relating to the use of cannabis
Maine CDC: Behavioral Risk Factor Surveillance System Program	<ul style="list-style-type: none">• Percentage of adults using cannabis or cannabis products
Maine CDC: Maine Integrated Youth Health Survey Program	<ul style="list-style-type: none">• Percentage of youth using cannabis and cannabis products• Perception of use, perception of harm, and perception of parental view on use of cannabis captured
Maine CDC: Pregnancy Risk Assessment Monitoring Program	<ul style="list-style-type: none">• Percentage of women using cannabis and cannabis products prior, during, and post pregnancy
Maine Department of Education	<ul style="list-style-type: none">• Number of students receiving disciplinary action relating to cannabis
Maine Emergency Management Services	<ul style="list-style-type: none">• Number of ambulance services needed related to the use of or exposure to cannabis and cannabis products
Maine Health Data Organization	<ul style="list-style-type: none">• Number of emergency room encounters that at least one cannabis related diagnosis
National Survey on Drug Use and Health	<ul style="list-style-type: none">• Estimate number of individuals with cannabis use• Perception of risk in consuming combustible forms of cannabis
Northern New England Poison Control	<ul style="list-style-type: none">• Number of calls related to the use of or exposure to cannabis and cannabis products• Types of cannabis 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 cannabis

Public health and safety data will continue to play an important role in OCP’s decision-making processes in 2023. It is the hope that with these efforts, and the corresponding data generated through OCP’s licensing system, inventory tracking system, and surveys, data will be available to assist OCP and legislators in making informed policy decisions.

7. Revenue, Staffing, and Expenditures

7.1 Revenue

Below is a summary of adult use cannabis revenue received by the state for calendar year 2022. Excise tax and sales tax figures include actual amounts remitted to Maine Revenue Services for transactions occurring in calendar year 2022.

Table 10: Adult Use Cannabis Revenue for Calendar Year 2022

Category	Revenue
IIC Application Fees	\$184,946
Establishment Application Fees	\$73,170
License Fees	\$1,143,070
Excise Tax	\$9,886,333
Sales Tax	\$17,463,328
Total	\$28,750,847

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

7.2 Staffing and Expenses

OCP staff share responsibilities for both the AUCP and the Maine Medical Use of Cannabis Program (MMCP). While a majority of OCP's authorized positions and associated responsibilities are tied to the adult use program, the Office has 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 cannabis programs.

Throughout 2020, 2021, and 2022, OCP staff have focused on the measured growth of the Office, bringing staff on when appropriate to meet operational needs rather than filling positions simply because vacancies exist. As of the end of December 2022, OCP has 39 full-time employees, one part-time employee, and three vacant positions.

Table 11: Full-Time OCP Employees by Department

Department	Full-Time Employees	Vacant Positions
Administration	6	0
Policy Division	1	0
Media and Stakeholder Engagement	1	0
Compliance Division	16	2
Data Analytics Division	3	1
Licensing Division	12	0

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

The State of Maine operates on a fiscal year which runs from July 1 through June 30. Accordingly, revenue and expense information from state fiscal year 2022 covers the period from July 1, 2021, through the conclusion of the fiscal year on June 30, 2022. OCP's FY 2022 expenses and FY 2023 cost projections are detailed below.

Table 12: OCP Adult Use Cannabis Program Expenses for Fiscal Year 2022

Category	Expense
Personnel	\$2,401,566
All Other	\$621,186
Total	\$3,022,752

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

Table 13: OCP Estimated Adult Use Cannabis Program Administrative Cost Projections for Fiscal Year 2023

Category	Projected Expense
Personnel	\$3,045,917
All Other	\$1,600,680
Total	\$4,646,597

Please note: These figures do not include costs associated with the administration of the medical cannabis programs.

During the second quarter of fiscal year 2022, the Office entered into a new contract with a vendor to implement the aforementioned cannabis public health and safety campaign. OCP budgeted \$400,000 for the first year (calendar year 2022) of this contract and \$600,000 for the second year (calendar year 2023). Cost projections for this effort are not included in the tables above as they do not align with the fiscal year.

Expenditures for this effort represent the first commitment from the Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund. The Office is currently exploring options for campaigns or training opportunities which could support municipal officials and law enforcement officers throughout Maine.

8. Legislative Changes and Recommendations

8.1 Legislative Changes

The Maine Legislature considered several pieces of legislation related to the AUCP in 2022. The following is a summary of changes enacted by the Legislature which affected Maine's adult use program to varying degrees.

An Act To Assist Qualifying Municipalities To Defray the Costs of Opting In To Permit Adult Use Cannabis Establishments, [P.L. 2021, ch. 645 \(LD 1195\)](#)

- Allows OCP to reimburse municipalities up to \$20,000 for qualifying expenses incurred as a result of opting to permit the operation of at least one adult use cannabis license type in their city or town.

An Act To Allow the State's Adult Use Cannabis Tracking System To Track Plants and Products by Group, [P.L. 2021, ch. 628 \(LD 1817\)](#)

- Allows adult use cultivation facilities to track, as one group, cannabis plants that are at the same stage of growth and the same varietal and/or transplanted in the same specific area at the same time, otherwise known as batch tracking. Also tasked OCP with forming its Metrc User Workgroup.

An Act To Permit Curbside Pickup and Limited Delivery of Adult Use Cannabis, [P.L. 2021, ch. 667 \(LD 1827\)](#)

- Allows licensed adult use retail stores to offer limited delivery and curbside pickup of cannabis products. Staff are required to have training on consumer age verification for 21+ and delivery is not permitted to "drug free safe zones."

An Act To Allow for a Variance Rate in the Amount and Potency of Cannabinoids in Adult Use Edible Cannabis Products, [P.L. 2021, ch. 558 \(LD 1846\)](#)

- Permits the passage of testing for edible cannabis products that have a variance of up to 10% above the defined limit for potency per serving size (10mg) and/or package (100mg).

An Act To Authorize Certain Off-premises Sales of Adult Use Cannabis, [P.L. 2021, ch. 735 \(LD 1927\)](#)

- Allows OCP to issue permits to adult use licensees to conduct temporary off-premises sales of cannabis products. A permit needs municipal approval, property owner approval, age verification processes, and at least 30 days' notice to OCP.

Resolve, Regarding Legislative Review of Portions of Chapter 1: Adult Use Cannabis Program Rule, a Major Substantive Rule of the Department of Administrative and Financial Services,

Office of Cannabis Policy (Emergency), Resolves 2021, [ch. 143 \(Emergency, signed April 7, 2022\) \(LD 1930\)](#)

- Allows OCP to adopt major substantive revisions to the Adult Use Cannabis Program Rule, 18-691 C.M.R., ch. 1, that were submitted for legislative approval during the legislative acceptance period for the second regular session.

An Act To Promote Equity and Increase Opportunities in the Cannabis Industry by Reducing Restrictions Related to Convictions for Drug Offenses and To Replace the Term "Marijuana" with the Term "Cannabis" in the Maine Revised Statutes, [P.L. 2021, ch. 669 \(LD 1957\)](#)

- Excludes cannabis-related crimes that would have been authorized under law from the definition of “disqualifying drug offense” and reduces look-back period for exclusion due to other disqualifying drug offenses from 10 years to 5 years after completion of sentence. Requires terminology change from "marijuana" to "cannabis" in rules, policies, publications, and statutes.

An Act To Improve Testing Requirements for Adult Use Cannabis, [P.L. 2021, ch. 612 \(LD 1985\)](#)

- Exempts adult use cannabis products from further testing when products have already been subject to mandatory testing and further processing would not increase concentration nor introduce contaminants.

8.2 Legislative Recommendations

The Office’s recommendations regarding the 131st Legislature fall into two broad categories: recommending changes through department bills to simplify and clarify legislation enacted by the 130th Legislature; and ensuring that the State is prepared to address potential threats to the health of Maine’s AUCP, including the proliferation of unregulated synthetic cannabinoids, the overproduction of adult use cannabis, and the eventual federal legalization of cannabis markets. To address the first category, OCP has drafted and presented to the Legislature two department bills that address challenges presented by legislation enacted during the second session of the 130th Legislature.¹⁵

LD 48, *An Act to Clarify Provisions of the Cannabis Legalization Act Regarding Labels, Packaging and Testing*, was drafted to address the difficulty of administering the existing labeling prohibition on depictions of humans, animals, or fruit on retail package labels. It also addresses testing-related changes enacted during the past session that have complicated testing requirements and have not achieved the original bill’s goals of reducing redundant testing and

¹⁵ See *An Act To Authorize Certain Off-premises Sales of Adult Use Cannabis*, P.L. 2021, ch. 735 (LD 1927); *An Act To Allow for a Variance Rate in the Amount and Potency of Cannabinoids in Adult Use Edible Cannabis Products*, P.L. 2021, ch. 558 (LD 1846); and *An Act To Improve Testing Requirements for Adult Use Cannabis*, P.L. 2021, ch. 612 (LD 1985).

simplifying the compliance requirements of the mandatory testing program. To address these challenges, OCP's department bill would eliminate the prohibition on depictions of humans, animals, or fruits and replace it with a prohibition on the use of cartoons on retail package labels. It would also specify in statute which mandatory tests are required for cannabis and cannabis products based upon whether they are going to be further manufactured or sent directly to a retail store for sale to consumers. The bill also would eliminate a confusing conflict in the statute regarding the allowable potency variance in excess of statutory limits for a serving and a package of edible cannabis products.

Next, LD 202, *An Act to Clarify the Requirements for Off-premises Sales by Cannabis Store Licensees*, will give OCP the additional information and clarity necessary to complete rulemaking to implement off-premises sales as an authorized activity of cannabis stores. The bill provides clarity regarding at what kind of "specified events" a cannabis store may conduct off-premises sales; creates application requirements for permits to conduct such off-premises sales; and provides OCP and licensees with clear standards for approving or denying permit applications and allowing for the suspension or revocation of permits for good cause. The second category of OCP's recommendations are more proactive and aim to maintain the health of the state's regulated cannabis economy. As the adult use program enters its third full year of sales to consumers, OCP has identified several potential challenges on the horizon that it is confident the Office, in coordination with stakeholders and the Legislature, can proactively mitigate.

While OCP has not proposed any bills to address these challenges during the first regular session, these recommendations are being provided to inform the 131st Legislature's work during both the first and second sessions.

First, over the past few years, Maine, like every other state in the country, has seen a steady and concerning increase in the availability and variety of unregulated synthetic cannabinoids almost exclusively derived from hemp. At present there is little to no federal or state regulation of the production or sale of synthetic cannabinoids, and there is a lack of reliable information regarding the health and safety impacts of these products. What is known is that synthetic cannabinoids—such as hemp-derived delta-8 THC—are intoxicating, generally made through proprietary (undisclosed) chemical manufacturing processes, and packaged and sold without protections for keeping these products out of the hands of children. OCP strongly recommends the Legislature determine whether existing statutory prohibitions on the manufacture or sale of synthetic cannabinoids in the criminal code adequately protect Maine children and businesses from the consequences of these unregulated substances.

The next challenge facing the adult use cannabis market is one that OCP is currently unequipped to address: the overproduction of cannabis, which could lead to plummeting sales prices for producers and an array of consequences for small businesses. While Maine is currently experiencing a healthy decline in the average price per gram of adult use cannabis flower indicative of a maturing cannabis market that poses significant competition for the illicit

cannabis market, issues of oversupply have come on quickly in other states, causing markets to collapse over the course of one or two fiscal quarters. It can take years for cannabis economies to recover from these market shocks. In learning from the lessons of other states, OCP needs the tools necessary for managing the overproduction of the market proactively. For example, commonsense measures such as permitting the Office to limit the issuance of new cultivation facility licenses, or the increase of cultivation facility tiers upon renewal, will give OCP the ability to ensure that the production capacity of the market does not outstrip consumer demand.

Finally, given OCP's unique role in state government of regulating a federally prohibited substance, the Office takes seriously its responsibility to ensure that Maine's regulated cannabis programs, and the small businesses, employees, and consumers that make up those programs, are well positioned to withstand the economic shocks that will come from the federal legalization of cannabis markets. At this time OCP is taking a hard look at the composition of the adult use program and identifying the possible vulnerabilities and opportunities of federal legalization. The Office is committed to keeping the Legislature abreast of these observations and recommendations in the years to come.

In addition to the recommendations detailed above, OCP will be paying close attention to the legislative review of the State's excise tax rate on adult use cannabis and cannabis products this session. The current excise tax rate was set back before any AUCP licenses were issued, so now that the market has matured, many in the industry would like to see it revised. Currently the tax is calculated based on the weight of the product, regardless of the sales price which can vary significantly. OCP looks forward to more discussion with industry leaders and legislators on establishing the best tax policy moving forward.

At the federal level, OCP will continue to watch for any changes to banking accessibility for cannabis-related businesses. The lack of access to banking is an issue for cannabis businesses and regulators nationwide due to federal prohibitions against cannabis and the corresponding federal oversight of banking institutions. At present, many of Maine's adult use cannabis licensees have reported being able to establish deposit relationships with a limited number of Maine-based banks and credit unions. Through the State's inventory tracking program and licensing transparency, these financial institutions are able to verify that the cannabis businesses are operating legally and that the proceeds they are banking are being produced and sold within a regulated industry.

OCP is pleased that the AUCP regulations help businesses gain access to certain banking services as the industry awaits changes at the federal level. Maine's medical cannabis program participants, however, are not as fortunate and banking accounts are more difficult for them to obtain because of strict confidentiality provisions and the lack of an inventory tracking system. OCP is also unable to process electronic payment of fees because of the same regulations that block many cannabis businesses from obtaining full-service banking. Again, these are inherently federal issues and state legislation is not the most appropriate measure for reform; however, it remains another legislative matter that OCP is paying close attention to.

9. Conclusion

This report demonstrates that in 2022, Maine's Adult Use Cannabis Program (AUCP) grew as an industry and took significant strides toward market maturity. More Mainers are starting businesses and working in the industry, and more consumers are choosing to purchase legally from the regulated market. Program participants remain in high compliance with state regulations, and public health and safety measures continue to be effective. Moving forward, the Office of Cannabis Policy (OCP) expects to see continued growth and successes for the AUCP in relation to both commerce and regulation.

Specifically, some of the accomplishments of the AUCP in 2022 were:

- The number of active adult use cannabis establishments increased from 159 in 2021 to 258 in 2022.
- Adult use retail sales nearly doubled, from \$81,962,949 in 2021 to \$158,865,720 in 2022.
- AUCP participants remained in high compliance with no compliance violations resulting in license suspension or revocation.
- OCP launched two public health and safety campaigns, the *Let's Talk Cannabis* campaign for young adults and the *Unclouded* campaign for teenagers.
- Through the Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund, 17 municipalities were reimbursed for costs incurred as a result of opting in to permit adult use cannabis establishments in their city or town. Total reimbursements of \$133,372.71 have gone back into municipal coffers with an average reimbursement of \$7,845.45 per town.

For 2023, OCP has a set of achievable, actionable goals that will strengthen the AUCP, allow industry to thrive, and advance the Legislature's policy goals. The Office will negotiate and implement a contract amendment with the State's inventory tracking vendor to institute batch tracking of plants pursuant to P.L. 2021, ch. 628. If this session's department bills pass, rules will be implemented to improve labeling protections that prevent appeal to youth, allow off-premises sales, and streamline the mandatory testing program to increase compliance and maintain safety. In addition, OCP will engage in regulatory lookback to identify potentially duplicative, redundant, or overly burdensome regulations to maintain safeguards while decreasing licensee operating costs.

To plan for the future, OCP will develop a strategy to examine how federal legalization could and will affect Maine's legal cannabis programs. Next, due to the Office's concerns both about the potential for overproduction in the adult use program and how the affiliated price decreases can destabilize industry, it will examine the risks of this issue in Maine's system and work with partners in states that have experienced this policy challenge to understand what legislative and regulatory recommendations are necessary. Finally, OCP will continue to monitor the proliferation of unregulated, synthetic cannabinoids in Maine's regulated cannabis supply chains. These cannabinoids present potentially toxic public health impacts, so working collaboratively

with the Legislature, public health experts, agency partners, and program participants to guard against potential problems will be critical.

In closing, it is important to note that cannabis is not for everyone. Not every Mainer or visitor to the state chooses to consume cannabis, and OCP works diligently to reduce youth use and close off youth access to legal product in the adult use system. However, for adults over the age of 21 who do choose to use cannabis, Maine's legal and regulated adult use program meets their needs while encouraging responsible use. OCP thanks all the program participants and stakeholders who make this possible.

Appendix A – Report Requirements

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 cannabis 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 cannabis and adult use cannabis products;
- An overview of current adult use cannabis-related staffing at the department and the cost to the department to regulate the adult use cannabis 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 cannabis cultivated and sold by all cultivation facilities, when available;
- The total reported volume and value of adult use cannabis and adult use cannabis products sold by all cannabis 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 cannabis industry in the State encountered by the department.