Introduction

The New York State Office of Cannabis Management (Office or OCM) is issuing updated guidance to Adult-Use Conditional Cultivators (AUCC) and Adult-Use Conditional Processors (AUCP) clarifying cannabis product testing requirements. Specifically, this guidance details:

1. **Cannabis Line Testing –** *A temporary program designed to allow AUCC and AUCP licensees the opportunity to test multiple consistently processed lots of finished cannabis products that meet certain prerequisites to be tested at once, dramatically expanding the testing capacity available for AUCC and AUCP licensees seeking to advance their products through the supply chain, while still testing a statistically significant sample of every product.*

2. **Guidelines to address which cannabis products can be tested now by permitted laboratories and a timeline of testing availability for product forms where approved methods are still under development**

3. **A summary of all tests required under the Office's final product testing requirements**

4. **Updated guidance for the requirement of homogeneity for adult-use cannabis products**

5. **Cannabis Lot Testing Guidance**

Licensees should refer to this guidance, as well as any other regulations and guidance issued by the Office when preparing for final product testing of their adult-use cannabis products. If you have any questions about the guidance, please contact AUCommunications@ocm.ny.gov.

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Cannabis Line Testing Guidance

The Office has recently introduced cannabis line testing, a program designed to expedite the path of compliant adult-use cannabis products navigating through OCM's mandatory laboratory testing protocols. Cannabis line testing will allow licensees the ability to have contaminant testing conducted across (aggregated) multiple lots of adult-use cannabis product. Cannabis line testing authorization is temporary. This guidance will remain in effect unless otherwise determined by the Office.

Definition of a Cannabis Line

For the purposes of this guidance a "cannabis line" encompasses multiple processed cannabis product lots of the same product form or type such as edibles (i.e., beverages, food, gummies, lozenges, and tablets) and concentrates (i.e., vape oil, resin, and wax).

A "cannabis line" can include the following:

- Extract products of the same potency and form that are processed consistently by an AUCP; and
- Extract products of the same potency and form that include different excipients (e.g. gummies with different flavors).

A "cannabis line" cannot include:

- Flower products;
- A mix of different cannabis product forms; and
- Lots of cannabis products that were processed more than 30 days apart from each other.

Tests Performed for the Line

- Samples of cannabis final product lots submitted for testing must be in sealed packaging as it would be sold to the consumer.

Example	How Samples Must Be Packaged
Licensee is processing gummies that will be offered to consumers in a regulatory compliant mylar bag containing 20 gummies. It is determined that 32 samples must be sent for testing to statistically represent the lot.	Each of the 32 samples must contain 20 gummies sealed in the regulatory compliant mylar bags the product will be sold to consumers at retail. One sample = One mylar bag of 20 gummies

- Contaminant testing will be conducted for each cannabis line. The samples from each lot

within the line will be pooled together for contaminant testing. Contaminant testing includes those contaminants found in the Laboratory Testing Limits.

- Potency testing will be conducted for all lines made up of extracted cannabis products (lots in the line must be the same potency and form). To conduct the potency testing, samples for each lot in the line will be pooled together for testing.
- See **Table 1**, on the next page, for common cannabis line testing examples. All cannabis product labeling must include the total THC in milligrams on the cannabis product packaging as required in the Packaging and Labeling Guidance.

Table 1. Cannabis Line Testing Examples

Example	Qualifies for Line Testing?	Testing Performed
AUCP receives harvest batches from multiple AUCCs and all batches will be processed into pre-rolls using uniform processing, manufacturing and packaging.	**No, flower products are no longer permitted to be line tested.**	Not eligible for line testing. Individual lot testing must be conducted for potency and contaminants.
AUCP would like to submit capsule and gummy lots as part of a cannabis line for testing.	**No**, these two products would not qualify for testing as a line because they are not the same product form. An AUCC or AUCP may submit a larger lot of each product lot but may not have these products tested as a line.	Not eligible for line testing. Individual lot testing must be conducted for potency and contaminants.
AUCP processed three different lots of gummies where each lot contains the same concentration of THC (e.g. potency) but with a different flavor and color.	**Yes**	Contaminant Testing – samples pooled from all lots. Potency Testing – samples pooled from all lots.
AUCP manufactured 2 lots of cannabis gummy products with the same concentration of THC, 31 days apart.	**No**, the lots must have been manufactured within 30 days of each other.	Not eligible for line testing. Individual lot testing must be conducted for potency and contaminants.

A specified number of cannabis product samples will be collected for cannabis line testing based on the criteria established in the OCM Sampling Quality System Standards that is statistically representative of the line and proportionally representative of each individual lot within the product line. A laboratory will pool the collected samples from each cannabis product lot included in the line for testing.

Any licensee's cannabis line that passes required laboratory testing, will be allowed to start distribution of its cannabis products immediately to a Conditional Adult-Use Retail Dispensary (CAURD) who is authorized to begin operations.

Any cannabis line that does not meet OCM testing limits will be sent back to the licensee for investigation and to possibly remediate or repurpose the cannabis product lots rather than immediately destroying them. When the licensee resubmits the cannabis products for retesting, the retesting will need to occur at the lot level and not as part of a cannabis line.

Pre-Approval Required for Cannabis Line Testing

A licensee must submit a completed pre-approval form to the OCM to labs@ocm.ny.gov for review and approval before line testing can be conducted. The form includes, but is not limited to the following information:

1. Name, address and phone number of licensee;
2. License number;
3. Name of laboratory/laboratories that will be conducting the line testing;
4. List of cannabis products included for line testing (product name, product form, amount of cannabinoids expected to be marketed (in mg), strain);
5. Size of each lot to be represented within the line;
6. Number of samples taken from each lot within the line (with statistically significant representative samples taken from each lot);
7. Lot numbers for each lot included within the line;
8. Statement of person(s) who will be conducting the sampling and documentation demonstrating how samples will be taken from each lot within a line; and
9. Sampling plan.

OCM will review the information submitted and provide prior written approval to the licensee and notify the laboratory disclosed on the form submitted, or OCM may request additional information from the licensee. After OCM reviews the information submitted in the pre-approval process and approves the line, the licensee will then be able to schedule their testing. Licensees must provide a copy of their approval from OCM to the laboratory when submitting their chain of custody and shipping manifest to the laboratory for testing.

Priority of Testing

Cannabis product testing will be prioritized by permitted laboratories in the following manner:

1. The size of the cannabis line that was submitted, per product form, with the largest lots of (measured by the number of individual units that make up a lot) tested first;
2. The date the cannabis line was submitted; and
3. All non-line lots, in the order in which they were submitted.

Please note:

Pursuant to Section 130.7 (g) of Part 130 laboratory regulations, laboratories are required to dedicate a percentage of its testing capacity to licensees that are businesses with limited resources as determined by the Office, and to Registered Organizations for medical cannabis product testing pursuant to the requirements set forth in Subchapter B of Title 9. As such, laboratories will reserve 40% of their daily capacity for individual lot testing for adult-use cannabis products from AUCC and AUCP licensees, 35% of their daily capacity for individual lot testing for medical cannabis products, and 5% for research and development. The remaining 20% of their daily capacity will be reserved for cannabis line testing. Should a laboratory's reserved capacity not be utilized for each of these categories, they may re-allocate testing slots to fill vacant testing slots.

Laboratories can charge licensees on a lot-by-lot basis, even if those lots are being tested in composite as pooled samples as part of a cannabis line.

Cannabis product sampling and transportation of samples by a licensee to a permitted laboratory is allowed. This is a temporary approval and will expire when cannabis laboratories have received approval by OCM to perform sampling and transportation, or OCM has approved cannabis laboratory sampling firms to perform sample collection and transportation.

Adult-Use Cannabis Product Testing Timeline

As required by Section 82 of Cannabis Law, every processor of cannabis products must contract with an independent cannabis laboratory, permitted pursuant to Section 129 of the Cannabis Law, to test the cannabis products it produces. Currently, permitted cannabis laboratories do not have valid testing methods developed for some types of adult-use cannabis product forms. Those forms will not be allowed until such time that the laboratory methods are established so the products can be tested by a permitted laboratory.

OCM anticipates valid testing methods for additional cannabis product types will be developed by the permitted laboratories over the next several months. If you have any questions about cannabis product testing and the roll out of approved testing methods, please reach out to labs@ocm.ny.gov.

Table 4. Laboratory Status of Various Cannabis Product Types or Forms

Taxed as	Type or Form	Description	Laboratory Status
Cannabis Flower Products ($0.005 per mg THC)	**Cannabis Flower Products**	All cannabis flower products, including whole flower, ground flower, or manufactured flower products (such as a pre-roll or tobacco-free blunt. This also includes pre-rolls dipped in kief).	Currently Testable and Allowed
Concentrated Cannabis ($0.008 per mg THC)	**Oil for Vaporization**	Oil to be used in a vaporizer.	Currently Testable and Allowed
	Topicals	All products intended for topical use containing >3% THC. Some examples are balms, lotions, and body oils.	Currently Testable and Allowed
	Wax or Shatter	Concentrated cannabis extracted using a solvent. Some examples are budder, crumble, sauce, shatter, crystals, and crumble.	Currently Testable and Allowed
	Resin	Concentrated cannabis extracted using a solventless method. Some examples are kief, hash, and rosin.	Currently Testable and Allowed
Cannabis Edible Products ($0.03 per mg THC)	**Gel-based foods**	Any cannabis edible product that is intended to be chewed and relies upon a gelling agent such as, but not limited to, gelatin, agar, or pectin to maintain its shape or texture. Some examples are fruit chews, gummies, and chewable gel capsules.	Currently Testable and Allowed
	Tablets, Capsules, and Lozenges	Includes all tablets, capsules, and lozenges.	Currently Testable and Allowed

Cannabis Edible Products ($0.03 per mg THC)	**Oral Liquids**	Homogeneous oral liquids including tinctures, oral solutions, syrups, and oral emulsions.	Currently Testable and Allowed
	Water-Soluble Edibles	Edible products which are intended to be dissolved in water before consumption. Some examples are dissolving powders and effervescent tablets.	Currently Testable and Allowed
	Solid Chocolates	Includes all solid chocolates.	Currently Testable and Allowed
	Other Foods	Any food that is not a gel-based food or a solid chocolate. Some examples are baked goods, ice cream, and coffee grounds.	Timeline TBD
	Beverages	All beverages and syrups.	Currently Testable and Allowed

Guidance for Required Laboratory Testing of Adult-Use Cannabis Products:

OCM released a timetable for implementation of required cannabis product testing. The timetable is located on the Office's website. Please note, that not all permitted laboratories may have a full scope of required testing. Check the OCM website for the scope of testing of permitted laboratories. The table below summarizes the type of testing that is currently required, as well as additional testing requirements that will be phased in at a future date.

Table 5. Scheduled Rollout of Required Testing

Type of Testing	Currently Required	Additional Requirement after 1/1/2023	Additional Requirement after 03/01/2023
Cannabinoid Profile	X		
Pesticides	X, indole-3-butyric acid (IBA), pyrethrins (as Cinerin I, Cinerin II, Jasmolin I, Jasmolin II, Pyrethrin I, Pyrethrin II), azadiractin, and myclobutanil OR any declared pesticide used by an AUCC used during the cultivation of cannabis. +		X, expanded list
Metals	X		
Mycotoxins	X		
Microbiology	X	++	
Moisture Content		X	
Filth/Foreign Material		X	
Water Activity		X	
Residual Solvents			X
Terpenes			X

+ At this time only the pesticides listed in the table require testing and any pesticide declared by a Conditional Cultivator that was used during the cultivation of cannabis.

++ Total Viable Aerobic Bacteria Count and Total Yeast and Mold Count is not required until January 1, 2023. Other Microbiology testing such as Salmonella species, Shiga toxin-producing Escherichia coli and required Aspergillus species must be tested on lots now.

Please note, that while Total Viable Aerobic Bacteria Count and Total Yeast and Mold Count tests are required beginning on January 1, 2023, there will not be a defined limit for unextracted products (e.g. cannabis flower products) in the adult-use program. Total Yeast and Mold should be used as a general quality indicator. Yeast and Mold growth is a common occurrence in our environment and more prevalent on outdoor grown cannabis. Total yeast and mold tests do not necessarily correlate with the presence or absence of a harmful mold. Molds can potentially be a cause of allergic hypersensitivity reactions in consumers, can be harmful to consumers who are immunocompromised, and affect a cannabis product's shelf stability. It is the responsibility of the licensee to consider these test results and any impact to stability and expiration dating of the product, as well as any risks to the health of consumers. OCM will monitor these laboratory testing results and licensees may be required to conduct further testing where results indicate concerns with product quality or safety.

Homogeneity Testing for Adult-Use Cannabis Products

Except for cannabis flower products, a final cannabis product must be homogenous, with phytocannabinoid content evenly distributed throughout the cannabis product. Unless otherwise approved by OCM, cannabis product shall not be considered homogenous if the concentration of total THC and CBD in milligrams per single serving for five (5) samples of a cannabis product lot/batch submitted for testing is greater than +/- one (1) standard deviation of the mean concentration for total THC and CBD in milligrams per serving for that submitted lot/batch.

Laboratories must test five (5) samples of cannabis product for homogeneity when products submitted for testing are new offerings from a conditional adult-use licensee. Once initial homogeneity testing is completed on three (3) consecutive lot/batches and the results demonstrate the product is homogeneous, all subsequent lots/batches may forego homogeneity unless:

- There is a significant change to the standard operating procedures affecting the manufacturing of a previously produced cannabis product including but not limited to batch/lot size or volume, mixing or handling methods, change in ingredients, change in equipment; or
- Any other instance that may significantly affect homogeneity.

It is the licensee's responsibility to retain homogeneity records for five (5) years and make such records readily available to the OCM upon request, to justify foregoing homogeneity testing. Homogeneity testing is not required for cannabis flower products.

Cannabis Lot Testing Guidance

Each batch/lot of cannabis product must be tested by an OCM permitted laboratory. A representative sample must be used to conduct this testing.

A representative sample is defined in the OCM Sampling Quality System Standard as a sample of cannabis product of the same size and composition that is required for cannabis product testing by a cannabis laboratory that represents a unique lot of cannabis product that is processed. Licensees are

required to retain representative sample(s), and they must be stored on-site at the licensee's facilities to allow for testing in the future if requested by OCM.

Samples of cannabis final product lots submitted for testing must be in sealed packaging as it would be sold to the consumer.

Example	How Samples Must Be Packaged
Licensee is processing whole flower that will be offered to consumers in the amount of 3.5g packaged in a regulatory compliant jar. It is determined that 20 samples must be sent for testing to statistically represent the lot.	Each of the 20 samples must contain 3.5g of whole flower individually sealed in regulatory compliant jars the product will be sold to consumers at retail. One sample = One 3.5g jar of flower
Licensee is processing gummies that will be offered to consumers in a regulatory compliant mylar bag containing 20 gummies. It is determined that 32 samples must be sent for testing to statistically represent the lot.	Each of the 32 samples must contain 20 gummies sealed in the regulatory compliant mylar bags the product will be sold to consumers at retail. One sample = One mylar bag of 20 gummies

All cannabis products must include a lot-unique identifier. The OCM Sampling Quality System Standard for final product testing defines a lot-unique identifier as any distinctive combination of letters, numbers, or symbols, or any combination of them, from which the complete history of production, manufacturing, testing, holding, distribution, or recall of a lot of adult-use cannabis product can be determined.

A cannabis product batch, or lot, is defined in Part 130 laboratory regulations as a uniquely defined quantity of cannabis product; including pre-rolls, that is uniform in processing, manufacture, and packaging within a concurrent time frame. The time frame may extend to more than one shift over a few workdays, provided that the prior criteria is met.

At this time, conditional licensees may conduct the sampling and transportation of cannabis products to laboratories for testing. This is a temporary approval and will expire when cannabis laboratories have received approval by the Office to perform sampling and transportation, or the Office has approved cannabis laboratory sampling firms to perform sample collection and transportation of cannabis products.