

**Office of Cannabis Management****Adult-Use Conditional Processor License****Frequently Asked Questions****Updated: September 1, 2022**

On February 22, 2022, Governor Kathy Hochul signed into law [S.8084-A/A.9283-A](#), creating an adult-use conditional processor license. This license will allow businesses who are already licensed to process cannabinoid hemp in the Cannabinoid Hemp Program to apply for a license to process adult-use cannabis products in the Adult-Use Program. This application opportunity is only available to active cannabinoid hemp processor license-holders who applied for their license before January 1, 2022.

Pursuant to the Cannabis Law, adult-use conditional processor licensees will be permitted to process cannabis products containing over 0.3% THC for the Adult-Use Cannabis Program. The license will also be authorized for the distribution of cannabis products to duly licensed adult-use retail dispensaries until June 1, 2023. After June 1, 2023, conditional processors seeking to distribute cannabis products, will be required to apply for a separate distributor license to engage in this activity.

On June 23, 2022, the Cannabis Control Board (Board) approved the application and opening of the application window for Conditional Processors beginning June 28, 2022 and closing on August 31, 2022. Please be aware that the Office of Cannabis Management (Office) is diligently working on the roll-out of additional license opportunities for the broader Adult-Use Program and will be sharing more information soon.

**If your question is not answered in the FAQs below, e-mail: [licensing@ocm.ny.gov](mailto:licensing@ocm.ny.gov).**

**Eligibility****1. Who is Eligible to Apply for an Adult-Use Conditional Processor License?**

To be eligible to apply for an Adult-Use Conditional Processor License, the applicant must be a Cannabinoid Hemp Processor that is licensed by the Office of Cannabis Management (OCM) and who submitted their application before January 1, 2022.

Cannabinoid Hemp Processor applicants who submitted an application before January 1, 2022, but who have not been approved for their Cannabinoid Hemp Processor license may apply for an Adult-Use Conditional Processor license upon completing their Cannabinoid Hemp Processor application and receiving a license from OCM in the Cannabinoid Hemp Program.

**2. Does the business entity that holds my current OCM issued Cannabinoid Hemp Processor License need to be the same entity that applies for the Adult-Use Conditional Processor License?**

While the business entity holding the OCM issued Cannabinoid Hemp Processor license does not need to be the same entity applying for the Adult-Use Conditional Processor License, the entity or individual that applies for the Adult-Use Conditional Processor license must be the same majority owner (at least 51%) of the entity that holds the OCM issued Cannabinoid Hemp Processor License.

**3. Does it impact my eligibility if my current OCM issued Cannabinoid Hemp Processor License is for manufacturing only?**

There are two processor license types in the Cannabinoid Hemp Program, (1) Extracting and Manufacturing and (2) Manufacturing Only. Both types of cannabinoid hemp processors are equally eligible to apply for and receive an Adult-Use Conditional Processor License. However, Adult-Use Conditional Processor licensees are only authorized to perform the licensed activities allowed under the entities Cannabinoid Hemp Processor license. This means Cannabinoid Hemp Processors licensed for Manufacturing Only are only authorized to purchase cannabis extract or intermediary products to manufacture adult-use cannabis products and not perform any extraction activities. A Manufacturing Only license may also process cannabis flower products including pre-rolls.

Extraction activities include the process of concentrating or isolating one or more phytocannabinoids from cannabis. Common extraction methods include mechanical extraction, CO2 gas extraction or ethanol/alcohol extraction techniques. To conduct these extraction techniques a Cannabinoid Hemp Processor - Extracting and Manufacturing License is required.

If a Cannabinoid Hemp Processor - Manufacturing Only licensee is interested in adding extraction activities to its license, the processor must apply for and receive a Cannabinoid Hemp Processor - Extracting and Manufacturing license in the Cannabinoid Hemp Program to be eligible to apply for an Adult-Use Conditional Processor license with extraction capabilities.

**4. When can I apply for the Adult-Use Conditional Processor License?**

At the June 23, 2022, Cannabis Control Board (“Board”) meeting, the Board approved the opening of the application window for Adult-Use Conditional Processor licenses beginning on June 28, 2022 and remaining open until August 31, 2022.

**5. Where do I apply for the Adult-Use Conditional Processor License?**

Visit OCM’s website at [www.cannabis.ny.gov/licensing](http://www.cannabis.ny.gov/licensing) to learn more about the program and find a link to the application. The application is hosted in New York

Business Express (NYBE). If you already have a NYBE Business Profile, then you will need to apply using the NY.gov login that is linked to the existing NYBE profile.

## 6. What do I need to apply?

Applicants will need to provide information about their business to show that they are eligible to apply and that they meet program requirements. Application requirements include:

- Primary contact information
- Primary address and business location
- Overview of Processor business plan
- Documentation proving the applicant is authorized to process cannabinoid hemp by the Office of Cannabis Management in the Cannabinoid Hemp Program.
- Extraction method (if applicable)
- Planned source of Cannabis
- Workers Compensation verification (if applicable)
- Proof of a valid certificate of occupancy or its equivalent
- Proof of Good Manufacturing Practices (GMP) audit of the processing facilities
- Disclosure of any other businesses or business activities at the processing facility location (if applicable)
- Ownership and management information for the business entity (owners and percent ownership with an associated capitalization table)
- Applicant attestation and agreement to the conditional license's Terms and Conditions and Guidance
- Submission of a non-refundable \$2,000 license and application fee

## 7. How do I find a GMP auditor?

We have a list of approved and accredited GMP auditors on our [website](#). The GMP audit of the cannabinoid hemp processors facility does not have to be one of the auditors on our website. We will accept another auditor however the processor applicant should be prepared to provide additional documentation to ensure the auditor meets the requirements of the program including that the auditor is accredited and qualified to conduct a GMP audit. Before scheduling your audit, it is advised that the applicant reach out to the Office to confirm the auditor meets the requirements of the program.

## 8. What are the specifics for the 3<sup>rd</sup> party lab conducting the testing?

For a Third-Party GMP Audit or Certification to be accepted by the Office, Certification Bodies must be accredited and meet the requirements indicated on the Cannabinoid Hemp Third-Party GMP Auditor Application Form at

<https://www.health.ny.gov/forms/doh-5764.pdf>. Please note, that many certification programs or standards incorporate GMP requirements into their certifications.

Certification Bodies are accredited (approved) by an Accreditation Body, to ensure their internal procedures and audit processes follow strict guidelines for different audit standards. Accreditation Bodies accepted by the Office include but are not limited to:

- International Standards Organization (ISO)
- American National Standards Institute (ANSI)
- ANSI-ASQ National Accreditation Board (ANAB)

## Application Fees and Processing

### 9. How do I pay the application and license fee?

Before an application can be processed, applicants must pay a non-refundable \$2,000 license and application fee.

Payment can be made by mailing a personal or certified check or money order to the Office at:

Attn: Licensing Division  
New York State Office of Cannabis Management  
P.O. Box 2071  
Albany, NY 12220

### 10. What is the expected processing time for an application?

The Office expects application review to take 4 to 8 weeks. After the Office reviews and processes an application, if it meets the requirements, it will then be presented to the Board for final approval. Applicants may only begin processing adult-use cannabis upon final license approval from the Board.

### 11. What is the application window for the Adult-Use Conditional Processor license?

The application window for Adult-Use Conditional Processors closed on August 31, 2022. The window opened on June 28, 2022.

## Ownership of an Applicant

### 12. How do I show ownership information in the application? How exhaustive does this information need to be?

Applicants must upload ownership information in a capitalization table, which is a table listing the first name, last name, type of interest, and percent of interest in the entity applying for the conditional processor license.

This table must list ownership interest totaling to 100%. Applicants must disclose all individuals who have an ownership stake in the entity (at any level, type, or portion of ownership), equity, or profit interest. This includes the ownership of all parent companies of entities who own a portion of the applicant. Applicants must provide ownership information for all individuals, regardless of whether the individual is a responsible party of the applicant entity or parent company.

The Office may ask for additional documentation of the applicant's or licensee's ownership interest, organizational structure, and source of funds, as well as for financial disclosures of owners, to maintain compliance with the Cannabis Law and any future rules, regulations, or guidance.

**13. If the applicant is a publicly traded applicant, how should they provide individual ownership information on shareholders?**

If the applicant is a publicly traded company where the disclosure of all individual ownership interests would be administratively burdensome, please reach out to [licensing@ocm.ny.gov](mailto:licensing@ocm.ny.gov) for direction and assistance.

## Scope of License and Permitted Activities

**14. What activities does an Adult-Use Conditional Processor License permit?**

Adult-Use Conditional Processor licensees are only authorized to perform the same processing activities allowed under their Cannabinoid Hemp Processor License. The two cannabinoid hemp processor license types are: (1) Manufacturing Only and (2) Extraction and Manufacturing.

Cannabinoid Hemp Processors licensed for Manufacturing Only are only authorized to manufacture adult-use cannabis products and not perform extraction activities. Adult-Use Conditional Processor licensees are only authorized to perform the licensed activities allowed under the entities Cannabinoid Hemp Processor license. This means Cannabinoid Hemp Processors licensed for Manufacturing Only are only authorized to purchase cannabis extract or intermediary products to manufacture adult-use cannabis products and not perform any extraction activities.

If a Cannabinoid Hemp Processor - Manufacturing Only licensee is interested in adding extraction activities to its license, the processor must apply for and receive a Cannabinoid Hemp Processor - Extracting and Manufacturing license in the Cannabinoid Hemp Program to be eligible to apply for an Adult-Use Conditional Processor license with extractor capabilities.

Adult-Use Conditional Processor licensees cannot cultivate cannabis but can purchase cannabis from adult-use cultivator licensees. Conditional Processors are also permitted to sell cannabis, cannabis extracts and other intermediary products between Conditional Processors. Conditional Processors must adhere to all of the record keeping, tracking and transportation requirements identified in the Conditional Processor Terms & Conditions Guidance document.

Licensees can also distribute cannabis products until June 1, 2023, without holding a separate adult-use distributor license provided they comply with all the distribution requirements as set out by the Office. If the licensee wants to continue distributing after June 1, 2023, they will need to apply for and receive a distributor license for such activities. The Office will be issuing additional guidance related to the distribution of cannabis products for Adult-Use Conditional Processors.

#### **15. Where can Adult-Use Conditional Processor Licensees operate?**

The processing of adult-use cannabis under a conditional processor license will only be permitted at the same location and facilities where the licensee is authorized to process cannabinoid hemp through their existing OCM issued Cannabinoid Hemp Processor License.

If the Conditional Processor is looking to relocate or add an additional processing location the applicant will have to receive approval for the location change under the Cannabinoid Hemp Program and adhere to any requirements in the Conditional Processor Terms & Conditions Guidance document.

#### **16. Can Adult-Use Conditional Processor Licensees distribute cannabis products?**

Yes, but only until June 1, 2023. Following June 1, 2023, any Adult-Use Conditional Processor licensee seeking to distribute cannabis products will be required to apply for and receive a separate distributor license authorizing such activities.

#### **17. Is there additional program guidance available?**

Yes, adult-use conditional processor program guidance is available on the Office's website at [www.cannabis.ny.gov/licensing](http://www.cannabis.ny.gov/licensing). Please continue to monitor the Office's website at that link for any changes to program guidance.

#### **18. Are there requirements and/or prohibitions regarding marking or shaping edible products (e.g., chocolates, gummies)?**

Symbols or warnings on each individual edible within a package are not required. Cannabis products are prohibited from being produced, packaged, or labeled in ways

that appeal to individuals under 21. Edible cannabis products cannot be in shapes that appeal to individuals under 21, such as symbols, images, characters, public figures, phrases, toys, or games that are commonly marketed to individuals under 21. Additionally, edible cannabis products cannot be packaged or in the shape of a product commonly marketed to individuals under 21, including but not limited to, any imitation of food, candy, soda, drinks, cookies, or cereal that is commonly associated with or marketed to be attractive to individuals under 21.

**19. What terpenes are allowed to be added to a cannabis vaporization cartridge or single-use pen?**

Cannabis derived and botanically derived terpenes are both permitted to be added to cannabis vaporization cartridges and/or single-use pens. Except for cannabis or botanically terpenes, excipients and ingredients must be pharmaceutical grade and appropriate for the cannabis product, unless otherwise approved by the Board.

Please note, cannabis products cannot exceed more than 10% total terpenes. Additionally, licensees must maintain records of all cannabis or botanically derived terpenes used in the cannabis product with full information on the source of botanically derived-terpenes used, and provide this information upon request.

**20. What is a labor peace agreement and when must a Conditional Processor licensee complete one?**

A labor peace agreement (LPA) is an agreement entered into between an employer and a union pursuant to which the employer agrees not to oppose unionization and the union (who is attempting to organize the workforce) agrees to not strike or otherwise stop work. An LPA is not a collective bargaining agreement (union contract). New York's law defines LPAs as an agreement between an entity and a labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the entity.

Conditional Processors must enter into an LPA with a bona fide labor organization within six months of licensure and submit the agreement to the Office. For purposes of this requirement, a "bona fide labor organization" is defined as a labor union: (1) That represents employees in this state with regard to wages, hours and working conditions; (2) In which officers have been elected by secret ballot or otherwise in a manner consistent with federal law, and; (3) That is free of domination or interference by any employer and has received no improper assistance or support from any employer. For more information about The New York State School of Industrial and Labor Relations provides some information about LPAs at the following link: please see: <https://www.cannabisworkforce.org/cannabis-labor-peace-agreement>.

## 21. How does a Conditional Processor participate in the equity mentorship program?

Conditional Processors must participate in a social and economic equity mentorship program aimed at creating pathways for individuals from communities disproportionately harmed by the prohibition of cannabis into New York's Cannabis Industry. The Office is working with a range of partners, including Conditional Processors, to achieve this goal through the development of a mentorship program focused on compliance and processing education as well as exposure to Conditional Processors and their businesses. Conditional Processor licensees are required to complete and submit an equity mentorship response survey, indicating their mentorship capabilities and any specializations. Further information related to the equity mentorship program will become available during the fall of 2022.

## 22. I own an entity with an Adult-Use Conditional Cultivators (AUCC) and Adult-Use Conditional Processor (AUCP) license. Am I allowed to process biomass harvested by other duly-licensed AUCC using my AUCP license?

Yes. An AUCP licensee can process both (a) the cannabis that was cultivated pursuant to its own AUCC license and (b) cannabis that is cultivated by other duly-licensed AUCC. However, licensees should be cautious when entering into agreements to be sure they will not result in a violation of any True Party of Interest rules. More information about True Parties of Interest for AUCCs and AUCPs can be found at: [Adult-Use Conditional Cultivator True Parties of Interest FAQ](#).

## 23. What are the terms and conditions?

The [Terms and Conditions of the Adult-Use Processor License](#) introduces basic program elements, such as ownership limits, sustainability expectations, labor-peace agreement requirements, and equity mentorship participation which is mandated by the Cannabis Law. The Office will be issuing additional program information and guidance on these requirements soon.

Licensees must comply with rules and standards set by the Office, including those in the Terms and Conditions and any current and future state guidance, laws, and regulations. For example, Conditional Licensees agree to inspections by the Office in accordance with the Cannabis Law.

By not meeting the requirements of the conditional license, including complying with the Terms and Conditions and all associated state regulations, laws, and guidance, licensees may lose both their conditional license and the ability to participate in any future licensing opportunities offered by the Office.

## Conditional Period and License Renewal



**24. What makes this license conditional?**

The Adult-Use Conditional Processor License is a temporary license which is valid for up to two years. At the end of that two-year period, if the licensee is found to be in good standing with the Office, the licensee is entitled to apply for and receive a standard Adult-Use Processor license.

Additionally, the licensure is conditioned on the applicant meeting the program eligibility criteria stated above, and maintaining compliance with the program's rules, regulations, guidance, and Terms and Conditions.

**25. How long is the Adult-Use Conditional Processor License valid?**

The Adult-Use Conditional Processor License is valid for up to two years from the date of issuance of the license. All Adult-Use Conditional Processor licenses become invalid after June 30, 2024.

**26. The Conditional Processor License is valid for up to two years. If licensed, do I have to stay as a conditional processor for the full two years? Can I apply for a non-conditional processor when applications become available?**

The Adult-Use Conditional Processor license is valid for up to two years. Licensees who are found to be in good standing are entitled to apply for and receive an Adult-Use Processor License when Adult-Use Processor licensing opens. Adult-Use Conditional Processor licensees will be prioritized in review to ensure a smooth transition to full licensure.

A licensee is not obligated to hold the conditional license for the duration of the license term and can surrender the license to the Office in writing at least thirty days prior to the anticipated date of closure. The written notice must include a plan for closure which is subject to Office approval and must include timetables and describe procedures and actions the licensee will take to properly destroy or dispose of all the licensee's supply of cannabis or cannabis products. Thereafter, a former licensee may apply for another adult-use license type. Such application will not be treated, however, as an application to transition from a Conditional Processor license to an Adult-Use Processor License.

**27. What happens to a conditional processor's distribution capabilities after June 1, 2023?**

Following June 1, 2023, any Adult-Use Conditional Processor licensee seeking to distribute cannabis products will be required to apply for and receive a separate distributor license authorizing such activities. Pursuant to the Cannabis Law, a separate license is required for each activity.

**28. Do any adult-use cannabis taxes or tax registration and remitting requirements apply to Conditional Processors?**

It depends. Pursuant to the Cannabis Law, Conditional Processors are authorized to process and distribute cannabis products. If Conditional Processors act as distributors for their own products, they will be required to register with the Department of Taxation and Finance to collect and remit the per milligram total THC tax imposed on the sale of cannabis products from a distributor to a licensee who sells adult-use cannabis products at retail. The Office will be reaching out to each licensed Conditional Processor to notify them of this tax registration requirement if they indicate they will be distributing cannabis products. Please note, the Adult-Use Cannabis Tax Registration system at the Department of Taxation and Finance is not yet available but is expected to be live soon.

If a Conditional Processor does not distribute cannabis products, there is no tax registration requirement. For more information on adult-use cannabis taxes, please see this [fact sheet](#).

**Question Not Answered Here?**

If your question is not answered here, please contact the Office of Cannabis Management by e-mail at [licensing@ocm.ny.gov](mailto:licensing@ocm.ny.gov).