



## **Introduction**

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The Cannabis Control Board (the Board) has proposed packaging, labeling, marketing, and advertising (PLMA) regulations which are not yet effective. Once adopted and effective, the regulations will serve as the primary rules that all licensees must follow to remain compliant with the Cannabis Law. A copy of the final PLMA regulations will be available on the Office of Cannabis Management’s website. In the interim, this guidance document provides the packaging and labeling framework that licensed Adult-Use Conditional Processors and Adult-Use Conditional Cultivators must use to guide the packaging and labeling of cannabis products and the marketing and advertising framework that all adult-use licensees must use to guide the marketing and advertising of their cannabis business and products before PLMA regulations are formally adopted.

Compliance with any current and future state rules, regulations and laws is required by all licensees to become eligible to transition to a non-conditional license and remain in good standing with the Office of Cannabis Management (the Office). This guidance document provides clarity on what the Office’s expectations are in relation to those regulations and laws.

Adult-use cannabis licensees who are not in compliance risk their license being cancelled, suspended, or revoked or other enforcement actions as authorized by the Marihuana Regulations and Taxation Act (MRTA), Cannabis Law, and Title 9 of the New York, Codes, Rules and Regulations (9 NYCRR).

Changes in the December 19, 2022 revision to this guidance include:

- Guidance on marketing and advertising;
- Additional prohibitions to ensure accuracy in products representing themselves as “kosher” or “vegan”;
- Changes to allow for the use of special branding materials as authorized by the Office;
- New “Frequently Asked Questions” throughout guidance on packaging and labeling;
- **Appendix C: Cannabis Product Packaging & Labeling Checklist**
- Clarification that a processor’s city or zip code must appear on a label (instead of a processor’s city and zip code);
- Clarification that a use by date can be relative to when a product is opened (e.g., “Use within 90 days of opening.”);
- Clarification that a cannabis product intended for vaporization is not required to include the number of servings or recommended size of a serving on the principal packaging display panel; and
- Various formatting, grammatical, and technical changes.



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**Packaging and Labeling & Marketing and Advertising; Key Reporting Deadlines to the Office**

Conditional Cultivators and Conditional Processors who package cannabis products for retail sale shall annually report:

- the total amount of packaging material, by weight, sold, offered for sale, or distributed into the state by the licensee in the prior calendar year;
- the percentage of all packaging material sold, offered for sale, or distributed for sale in the state;
- the total amount of packaging material, by the country of origin where the packaging was manufactured or sourced, sold, offered for sale, or distributed into the state;
- the total number of refillable containers reused for cannabis products sold, offered for sale, or distributed for sale in the state; and
- the total costs of packaging material.

This information shall be reported through a method authorized by the Board and shall begin one year after the date the license is issued. In anticipation of this reporting requirement, licensees should be tracking this information throughout the year.

**Definitions**

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The Office will be using the following terms in describing requirements from Cannabis Law, and in this guidance document. The definitions below represent the Office’s interpretation of these terms:

- 1. Advertising** means the process of disseminating advertisements in any manner or by any means.
- 2. Advertisement** means any publication, video, use of a brand representative, or any other form of media for the purpose of causing, directly or indirectly, the purchase or use of a brand or cannabis product including, but not limited to: websites, social media, print media, broadcast media, TV, radio, streaming media, out of home media, outdoor signs, merchandise, event sponsorship, street art, murals, and digital communications.
- 3. Attractive to individuals under twenty-one** means labeling, packaging, advertising and marketing that is pleasing or appealing to persons under the age of twenty-one by using or including, among other things: Cartoons; bubble-type or other cartoon-like font; bright colors that are "neon" in appearance; similarities to products or words that refer to products that are commonly associated with or marketed in a manner so as to be attractive to individuals under twenty-one, including, but not limited to, any imitation of food, candy, soda, drinks, cookies, or cereal (with the exception of cultivar names or a licensee’s name) in labeling, packaging, advertising, or marketing; terms “candy” or “candies” or variants in spelling such as “kandy” or “kandeez” (with the exception of cultivar names or a licensee’s name); symbols, images, characters, public figures, phrases, toys, or games that are commonly used to market products



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to individuals under the age of twenty-one; or images of individuals who could reasonably appear to be under the age of twenty-one (unless the individual is at least twenty-five years of age).

4. **Board** means the Cannabis Control Board of New York State as established by Article 2 of the Cannabis Law.
5. **Brand or Branding** means the name, entity name, or doing business as name, registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker that identifies one adult-use cannabis licensee or adult-use cannabis licensee's cannabis products as distinct from those cannabis products of other adult-use cannabis licensees and is used in, among other things, any packaging, labeling, advertising or marketing.
6. **Certificate of analysis** means a certified report from a cannabis laboratory that meets the requirements of [9 NYCRR Part 130](#).
7. **Child-resistant** means special packaging for sale to a consumer that is:
  - a. designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly as defined by [16 CFR § 1700.15](#) for Poison Prevention Packaging Standards and [16 CFR § 1700.15](#) for Testing Procedure for Special Packaging, as amended from time to time, and
  - b. follows the packaging standards set forth and the testing procedure set forth in [16 CFR § 1700.20](#).\*
8. **Date of expiration** means the date prior to which an unopened cannabis product meets applicable standards of identity, potency, and quality at time of use, as determined by appropriate stability testing, subject to any storage conditions stated on the labeling.
9. **Edible** means a product, containing either cannabis or concentrated cannabis and other ingredients, intended for use or consumption through ingestion, including sublingual or oral absorption.
10. **Exit package** means a receptacle into which cannabis products within a retail package are placed at the retail point of sale. The exit package is optional.
11. **Health claim** means any claim made on the retail package or marketing layer or in the marketing or advertising of a cannabis product, that expressly or by implication, including, but not limited to, by "third party" references, written statements (e.g., a brand name including a term



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such as "heart"), symbols (e.g., a heart symbol, plus '+' sign, caduceus, or other medical symbols indicating it is a health product), or branding, that characterizes the relationship of any cannabis product to a disease or health-related condition or symptom. Implied health claims include those statements, symbols, branding, advertisements, or other forms of communication that suggest, within the context in which they are presented, that a relationship exists between the presence or level of a substance in the cannabis product to a disease or health-related condition or symptom.

- 12. Licensee** means an individual or an entity who has been granted a license for any activity under Article 4 of the Cannabis Law.
- 13. Lot unique identifier or lot number or bar code** means any distinctive combination of letters, numbers, or symbols, from which the complete history of cultivation, manufacturing, processing, testing, holding, distribution or recall of a lot of a cannabis product can be determined.
- 14. Marketing** means the process of identifying consumers' needs and addressing such needs through advertisements.
- 15. Marketing layer** means packaging in addition to the retail packaging that is the outermost layer visible to the consumer at the point of sale. The Marketing Layer is optional, but if used it must comply with all adult-use labeling requirements.
- 16. Non-consumer package** means any container or wrapping used solely for the transport of cannabis or cannabis products in bulk between licensees and particularly, a package intended solely for wholesale distribution and not final retail sale.
- 17. Office** means the Office of Cannabis Management as established by Article 2 of the Cannabis Law.
- 18. Phytocannabinoids** means any of the chemical compounds, excluding terpenes or any other compounds determined by the Office, that are the active principles of the cannabis sativa, including but not limited to tetrahydrocannabinol (THC) and cannabidiol (CBD), and does not include synthetic cannabinoids as that term is defined in subdivision (g) of schedule I of section thirty-three hundred six of the Public Health Law.
- 19. Plastic** means a synthetic material that is made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal.



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- 20. Post-consumer recycled content** means new material produced using material resulting from the recovery, separation, collection, and reprocessing of material that would otherwise be disposed of or processed as waste and that was originally sold for consumption. It does not include post-industrial content, or material generated by means of combustion, incineration, pyrolysis, gasification, solvolysis, chemical recycling and any high-heat or conversion process.
- 21. Principal packaging display panel** means the panel of the retail package or the marketing layer that the processor intends to be displayed for a cannabis product at retail.
- 22. Resealable** means a package that maintains its child-resistant effectiveness, as well as preserving the integrity of cannabis products for multiple servings.
- 23. Retail package** means a sealed, hard or soft-bodied, child-resistant receptacle in which the cannabis product is offered for retail sale. Retail package does not mean: (1) inner wrapping or lining; (2) an exit package; or (3) a non-consumer package used to transfer cannabis from one licensee to another.
- 24. Reusable packaging** is packaging made from durable material that is designed to be used repeatedly for a number of use cycles, is safe for washing and sanitizing, and is capable of being recycled at the end of use, with the exception of ceramic packaging.
- 25. Special branding material** means a visual or audio element which shall only be for use in packaging, labeling, marketing, and advertising by certain licensees or on certain cannabis products including, but not limited to, a designation that a licensee is a social and economic equity licensee. All special branding materials and the brands or products authorized to use such materials shall be defined, made available, and designated for use in guidance.
- 26. Tamper-evident** means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.
- 27. Total THC** means the sum of the percentage by weight or volume measurement of tetrahydrocannabinolic acid multiplied by 0.877, plus, the percentage by weight or volume measurement of THC.
- 28. Universal symbol** means an image developed by the Office, and made available to licensees, that indicates that a retail package or the product contains cannabis.



**29. Use by date** means the date prior to which an opened cannabis product meets applicable standards of identity, potency, and quality at the time of use, as determined by appropriate data, subject to any storage conditions stated on the labeling.





**Adult-Use Packaging and Labeling & Marketing and Advertising Documentation**

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**1. Required Documentation for Packaging and Labeling:** Licensees are required to maintain a copy of the certificate showing that each retail package into which the licensee places cannabis or cannabis products is child-resistant and complies with the requirements of as defined by [16 CFR § 1700.15](#) for Poison Prevention Packaging Standards Poison Prevention Packaging Standards and [16 CFR § 1700.20](#) for Testing Procedure for Special Packaging, as amended from time to time\*.

The Office may request a copy of this certificate at any time to ensure compliance with this provision.

**Required Documentation for Marketing and Advertising:** Licensees must maintain records and documentation to ensure that any advertising and marketing, including all advertisements, comply with all requirements in this guidance.

Licensees should pay special attention to records and documentation related to the composition of the audience of any advertisements. As explained in the “General Requirements and Prohibitions” section of the “Adult-Use Marketing and Advertising” chapter of this document, licensees are required to have reliable evidence that at least 90% of the audience of certain advertisements are reasonably expected to be twenty-one years of age or older.

There are many forms of reliable evidence that can substantiate the composition of the audience that is reasonably expected to view an advertisement.

Some examples of such evidence are:

- A description of the age verification methods of an establishment that only allows entrance to individuals who are at least twenty-one years old;
- Audience composition data provided by a media purchasing agency or ad agency to verify the demographic information of an audience; and
- Age analytics for the media unit purchased or considered.

Evidence is not reliable if it does not accurately represent the reasonably expected audience of an advertisement. The methods through which evidence is collected, the nature of the evidence itself, and the applicability of the information to the situation in which the advertisement will be placed are all factors that could result in evidence being deemed “unreliable.”

An example of unreliable evidence would be: supplying information about the typical audience composition of a television channel at 11:00 A.M. and applying that evidence to suggest that 90% of the audience viewing an ad placed on that channel at 9:00 P.M. would be reasonably expected to be twenty-one years of age or older. Such information would be unreliable because it would not be information applicable to the situation in which the ad was placed; it is not reasonable to expect the audience of a channel at 11:00 A.M. is similar to the audience at 9:00 P.M.



## Adult-Use Packaging

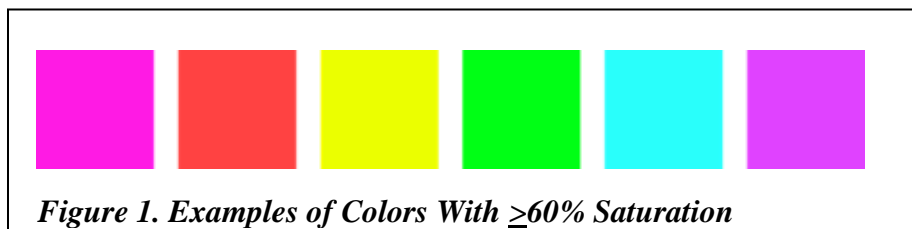
**2. Retail Package Minimum Standards.** All retail packages must be child-resistant, tamper-evident, and fully enclose the product. The retail package must be sealed in a way that protects against light and other contaminations that may potentially damage the product during storage. The retail package must not pass on any toxic or harmful substance to the cannabis product. If the package contains multiple servings, the package must be resealable. A retail package is required. A marketing layer is optional.

**3. Cannabis Product Packaging Prohibitions.** Cannabis product packaging, which includes all packaging elements except non-consumer packaging, **cannot** contain:

- any components that may be attractive to individuals under twenty-one;
- any features that emit scent or make sound; or
- any features that change or alter a package’s appearance through technology, other than for anti-counterfeiting purposes, such as holographic features.

Cannabis product packaging **cannot** be attractive to individuals under twenty-one. As defined in the “Definitions” section, packaging is attractive to individuals under twenty-one if it uses or includes:

- cartoons;
- bubble-type, or cartoon-like font, such as puffy, rounded block letters (see **Appendix A**);
- bright colors that are “neon” in appearance, including any color which, when listed in a form of hue, saturation, and lightness, has a saturation value greater than 60%. Examples of such colors are shown below in **Figure 1**;



- similarities to products or words that refer to products that are commonly associated with or marketed in a manner so as to be attractive to individuals under twenty-one, including, but not limited to, any imitation of food, candy, soda, drinks, cookies, or cereal (with the exception of cultivar names or a licensee’s name);
- terms “candy” or “candies” or variants in spelling such as “kandy” or “kandeez” (With the exception of cultivar names or a licensee’s name);
- symbols, images, characters, public figures, phrases, toys, or games that are commonly used to market products to individuals under the age of twenty-one; or
- images of individuals who could reasonably appear to be under the age of twenty-one, unless the individual is at least twenty-five years of age.



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Cannabis product packaging **cannot** be made of plastic, unless containing a minimum 25% post-consumer recycled content. Licensees must comply with this requirement by January 1, 2024, unless otherwise authorized by the Board.

### Frequently Asked Question

#### What must my packaging be made of? Will the Office certify my packaging materials as “allowable”?

At this time, the only requirement pertaining to the material composition of cannabis product packaging is that cannabis product packaging cannot be made of any plastic, unless that plastic contains a minimum 25% post-consumer recycled content. Licensees must comply with this requirement by January 1, 2024, unless otherwise authorized by the Board. Please note that this requirement applies to all cannabis product packaging, including exit packages, and is not limited only to a product’s retail package.

The Board and Office highly encourage licensees to choose materials in their product packaging that have a minimal environmental impact and encourage licensees to incentivize recyclable product packaging and packaging re-use. Licensees’ annual reporting on packaging materials will be used to help guide future policies related to cannabis product packaging sustainability.

The Office does not certify certain packaging materials for licensees at this time.



## Adult-Use Labeling

**Cannabis Product Labeling Minimum Standards.** There are minimum standards for cannabis product labeling. **Appendix B** shows an example of the retail package or marketing layer of a cannabis product intended to be ingested orally that is compliant with the Office’s labeling standards.

**4a. Principal Packaging Display Panel Minimum Standards.** The principal packaging display panel is a panel of the retail packaging or marketing layer—if a marketing layer is used—which is intended to be displayed at retail.

### Frequently Asked Question

**Can the principal packaging display panel (PPDP) be any side of the package? Is it the front?**

The PPDP can be any panel of the package that could be reasonably assumed to be intended to be displayed at retail. The licensee that is packaging and labeling a product determines what panel of the package is the PPDP when packaging and labeling.

Depending on the package’s shape, most sides of a three-dimensional package could be reasonably assumed to be displayed at retail. Generally, this will include the top, front, and sides of the package. Because the information that is required to be printed on the PPDP is intended to be seen by customers when they are browsing shelves, the PPDP cannot be the bottom or back of the package.

The principal packaging display panel must be printed legibly and contain the:

- Milligrams per single serving of total THC,<sup>1</sup> total CBD,<sup>2</sup> and any other marketed phytocannabinoids,<sup>3</sup> (this information must be **bolded** on the principal packaging display panel);
- Terpene profile (*if the product’s terpene content is marketed*)<sup>3</sup>
- Milligrams per package of total THC<sup>1</sup> and Total CBD<sup>2</sup> (this information must be **bolded** on the principal packaging display panel);
- Amount of total THC<sup>1</sup> and any other marketed phytocannabinoids as a percentage of volume (*except if the cannabis product is in the form of an edible*);
- Number of servings in total for the cannabis product and, if possible, the recommended size of the serving (*except for cannabis flower and other forms of cannabis for vaporization*); and
- Weight of the cannabis product.

<sup>1</sup> Total THC is calculated as:  $total\ THC = THC + (THCA \times 0.877)$

<sup>2</sup> Total CBD is calculated as:  $total\ CBD = CBD + (CBDA \times 0.877)$ ; Total CBD is not required to be listed on products which contain <0.01mg CBD per package.

<sup>3</sup> Marketed phytocannabinoids and marketed terpenes are any phytocannabinoids or terpenes that are mentioned on the cannabis product’s packaging or labeling or otherwise associated with the cannabis product by the processor.



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This information must be unobstructed and conspicuous. Licensees may include this information by printing the information directly onto the retail package or by affixing one or more labels with the information to the retail package, provided that none of the information is obstructed. All required labelling text must be no smaller than 6-point font size. All required text must be clearly written or printed and in the English language. In addition to the required labeling in English, licensees can include accurate foreign language translation(s) of the required labels.

**4b. Retail Package and Marketing Layer Minimum Standards.** The retail package or, if a marketing layer is used, the marketing layer must contain a list of all ingredients in the cannabis product, other required information, and required warnings. Cannabis products are not required to contain a marketing layer in their packaging.

### Frequently Asked Question

#### What is a marketing layer?

A marketing layer is packaging that is in addition to the retail package and is the outermost layer of the product's package. A marketing layer is optional. It allows for flexibility in scenarios where the licensee may not wish for the package's child-resistant component (i.e. the retail package) to be the outermost layer of the product's packaging.

All required labelling text must be no smaller than 6-point font size. All required text must be clearly written or printed and in the English language. In addition to the required labeling in English, licensees can include accurate foreign language translation(s) of the required labels.

**List of all ingredients in the cannabis product.** This ingredients list must appear on the retail package or, if a marketing layer is used, the marketing layer. The list must include all active and inactive ingredients in descending order, by weight in the cannabis product. The ingredient list must include and separately list, in bold, any major allergens set forth in the Food Allergen Labeling and Consumer Protection Act of 2004, as it relates to Food and Drugs for misbranded food ([21 U.S. Code § 343](#)), as amended from time to time.

Edible products and beverage products must also include a nutritional label compliant with [21 CFR § 101.9\(c\)](#), as it relates the labeling of food, as amended from time to time\*.

Cannabis products marketed and sold as dietary supplements must also include a supplement fact panel compliant with federal codes for nutritional labels of dietary supplements ([21 C.F.R. § 101.36](#)) as it relates to the labeling of dietary supplements.

**Other required information.** In addition to a list of all ingredients, the retail package or, if a marketing layer is used, the marketing layer must contain:

- A list of any solvent used to produce the cannabis product, if applicable;
- The date of expiration of the unopened cannabis product;



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- the use by date;<sup>4</sup>
- proper storage conditions;
- Name, location (at a minimum, city or zip code), license number, and direct contact information<sup>5</sup> of the processor;<sup>6</sup>
- At least one of the three universal symbols (as shown in **Figure 2** below). The symbol(s) must be at least 1.25 inches in height for the square symbol, 0.5 inch in width for the vertical symbol, and 0.5 inch in height for the horizontal symbol. Licensees cannot alter the colors of the symbol. The symbol must be made conspicuous by printing the symbol on—or outlining the symbol with—a color which contrasts with the symbol. Production-ready versions of the universal symbol in both CMYK and Pantone Matching System formats are [available on the Office’s website](#);
- Clear usage instructions;
- Lot unique identifier or lot number or bar code; and
- A scannable bar code or QR code linked to a downloadable certificate of analysis or linked to a website where the certificate of analysis can be downloaded.

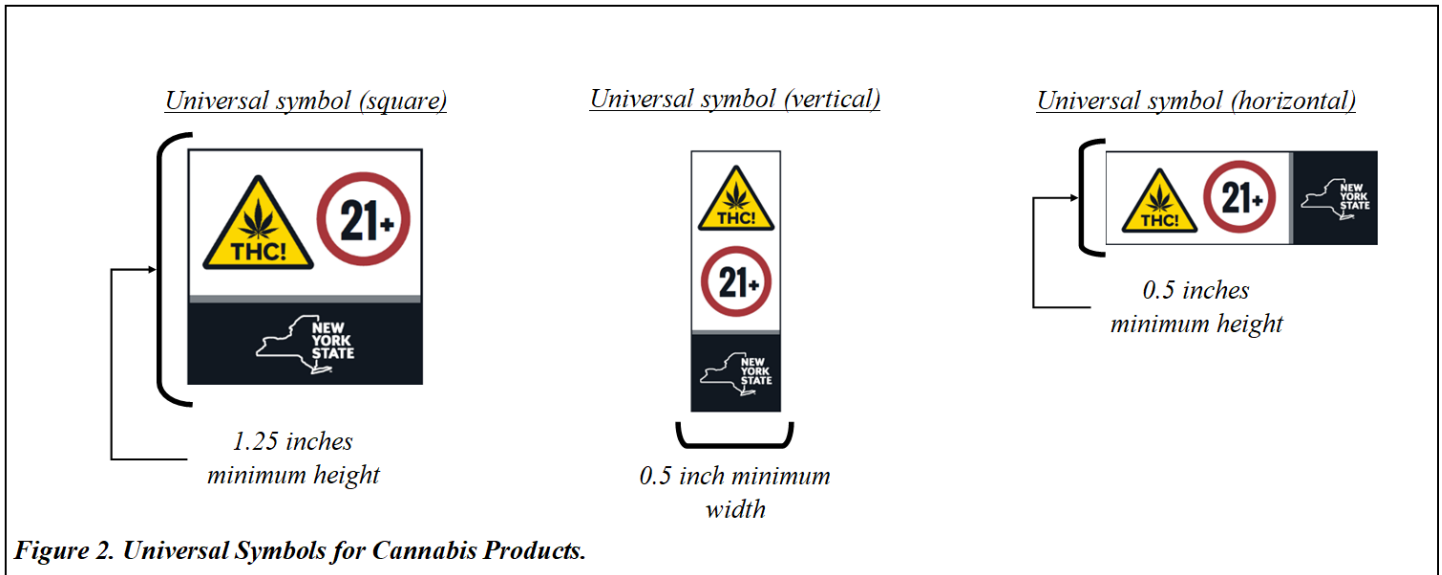


Figure 2. Universal Symbols for Cannabis Products.

**Required Warnings.** Either the retail packaging or, if a marketing layer is used, the marketing layer must contain the following warnings in **bold**:

- **“This product contains cannabis and THC.”**

<sup>4</sup> It is acceptable for the use by date to be relative to when the product is opened, such as “Use within 90 days of opening.”

<sup>5</sup> A website alone will not suffice; licensees must include information that allows a consumer to directly contact them in the event of a contaminated product, such as a phone number or email address.

<sup>6</sup> Adult-Use Conditional Cultivators (AUCC) have the ability to process and distribute cannabis flower products. For the purposes of this guidance document the term processor includes AUCC conducting this activity.



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- **“KEEP OUT OF REACH OF CHILDREN AND PETS. For use only by persons 21 years and older”** (NOTE: this warning must include the capital letters as indicated)
- **“Warning: Do not use if pregnant or nursing”**
- **“National Poison Control Center 1-800-222-1222”**
- For cannabis products intended to be smoked, inhaled, or vaporized: **“Warning: Smoking or vaping is hazardous to health”**
- For cannabis products intended to be ingested orally: **“Warning: Effects of this product may be delayed by 4 or more hours”**
- For all topical products: **“Warning: For topical use only. Do not eat or smoke”**

These warnings must be printed in the English language in Times New Roman, Calibri, Arial, or Helvetica font as seen in **Appendix A**. Text must be no smaller than size 6 font, **bolded**, legible, unobscured, and visible to the customer. The word “Warning” does not need to preface each warning where indicated if it is clearly associated with the required warnings as a header.

**Required Rotating Health Warnings.** In addition to the required warnings described above, the retail packaging or marketing layer must include rotating health warnings as determined by the Office.

Rotating warnings must be printed in the English language in Times New Roman, Calibri, Arial, or Helvetica font. Text must be no smaller than size 6 font, bolded, legible, unobscured, and visible to the customer. Licensees may include this information by printing the information directly onto the retail package or by affixing one or more labels with the information to the retail package or marketing layer, provided that none of the information is obstructed.

The following warnings should be rotated:

- “Cannabis can be addictive.”;
- “Cannabis can impair concentration and coordination. Do not operate a vehicle or machinery under the influence of cannabis.”;
- “There may be health risks associated with consumption of this product.”; or
- Other warnings as determined by the Office.

Licensees shall label and package in a manner which ensures rotating warnings are randomly distributed and that each warning appears on an approximately equal number of labels within a given calendar year. Licensees may do this by printing an equal number of labels with each warning evenly across all product stock keeping units (SKUs) rather than within each SKU.

If additional warnings are added, the Office will provide advance notice to licensees in allowance for the time it will take to print new labels.

To permit labeling of small retail packages, certain required information may appear on labels that may be accordion, expandable, extendable, or layered, with the exception of:

- The principal packaging display panel minimum standards;



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- At least one of the three universal symbols (**Figure 2**); and
- The following two warnings:
  - “**This product contains cannabis and THC.**”
  - “**KEEP OUT OF REACH OF CHILDREN AND PETS. For use only by persons 21 years and older**” (*NOTE: this warning must include the capital letters as indicated*)

### Frequently Asked Question

I’m running out of room on my product’s label. Can I use a QR code or some other method to link to some of the required information in this section instead of printing it on the package?

No. The retail package or, if it is used, the marketing layer, must contain all of the required information in at least size 6 font. Linking to the required information does not fulfill the requirement to label the product with it. For small products, certain information can appear on accordion, expandable, extendable, or layered labels, as described above this question.

**4. Labeling Prohibitions** A cannabis product package, including an exit package, shall **not** display any content or be labeled in any manner that:

- Includes any false or misleading statements, images or markings, including making any health claims or making any representation that use of cannabis has curative or therapeutic effects;
- Includes the term “organic”, unless appropriately using the phrase “made with organic ingredients” as described below, since there is no organic standard yet established for cannabis recognized federally;

Please note: This does not prohibit cannabis or cannabis products from being cultivated or processed using organic practices, being made using ingredients that are organic, otherwise being sustainably produced, or adding a statement to the label that the product is “made with organic ingredients”.

Licensees may use a “made with organic ingredients” statement if the product contains at least 70 percent certified organic ingredients (not including salt or water). These products may contain up to 30 percent of allowed non-organic ingredients (see [7 CFR § 205.600](#)). Additionally, the label must identify the USDA-accredited certifying agent on the retail package or marketing layer.

- Includes the term “craft” unless the processor meets the term as defined by future regulation or guidance;
- Include the term “gluten-free” or imply the product is gluten-free, unless the product meets the term as defined in [21 CFR § 101.91](#);
- Include the term “kosher” or imply the product is kosher, unless the product is packaged and labeled in compliance with [section 201-a of the Agriculture and Markets Law](#);
- Include the term “vegan” unless the product does not contain *any* animal products, including gelatin;





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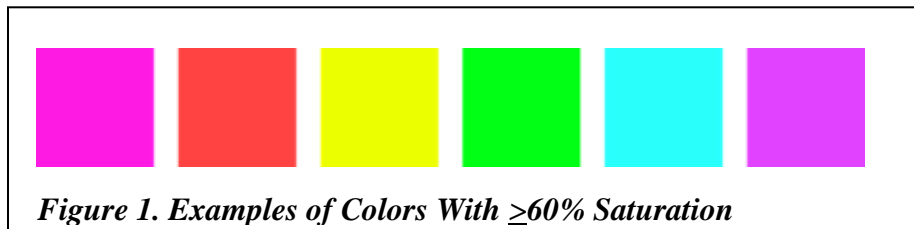
- Causes a reasonable consumer confusion as to whether the cannabis product is trademarked, marked or labeled in a manner that violates any federal trademark law or regulation;
- Contains any illustration or content that falsely portrays cannabis or cannabis products as being authorized under or of Article 3 (medical cannabis) or Article 5 (cannabinoid hemp) of the Cannabis Law;
- Depicts cannabis products or paraphernalia;
- Promotes overconsumption;
- Promotes price, price reductions, or any other discount or coupon;

Please note: This does not prohibit a dispensary from lowering, or otherwise altering, the price of the cannabis product.

- Uses a special branding material unless the product or licensee is authorized to use that special branding material by the guidance that defines the special branding material; or
- Violates additional prohibitions as set out by the Office.

A retail package or marketing layer shall **not** be made attractive to individuals under twenty-one. As defined above, labeling is attractive to individuals under twenty-one if it uses or includes:

- cartoons;
- bubble-type, or cartoon-like font, such as including puffy, rounded block letters (see **Appendix A**);
- bright colors that are “neon” in appearance, including any color which, when listed in a form of hue, saturation, and lightness, has a saturation value greater than 60%. Examples of such colors are shown below in **Figure 1**;



- similarities to products or words that refer to products that are commonly associated with or marketed in a manner so as to be attractive to individuals under twenty-one, including, but not limited to, any imitation of food, candy, soda, drinks, cookies, or cereal (with the exception of cultivar names);
- terms “candy” or “candies” or variants in spelling such as “kandy” or “kandeez” (with the exception of cultivar names);
- symbols, images, characters, public figures, phrases, toys, or games that are commonly used to market products to individuals under the age of twenty-one; or
- images of individuals who could reasonably appear to be under the age of twenty-one, unless the individual is at least twenty-five years of age.



**Adult-Use Packaging and Labeling Sustainability**

**5. Retail Packaging Sustainability Program.** Conditional licenses are valid for up to two years, at which time, if a licensee is found to be in good standing with the Office, the licensee can apply for and receive a standard license. At that time, licensees will be required to submit an environmental sustainability product packaging plan to the Board or Office.

Such plans may include but are not limited to reuse strategies collecting reusable cannabis packaging components to be sanitized and refilled or reused as cannabis packaging, collection or redemption of batteries, cartridges, or vape pens, or sustainable packaging strategies that use non-plastic, compostable or recyclable materials, or packaging materials exceeding 25% post-consumer recycled content.

**6. Reusable Packaging.** Retail packages can be reused if appropriately sanitized and, based on visual inspection, if the retail package is in good working order and does not appear to pose a risk of unintended exposure or ingestion of cannabis products. The visual inspection must ensure such retail packages are not brittle and do not have chips, cracks, or other imperfections that could compromise the child-resistant properties of the retail package or otherwise pose a threat of harm to any individual.

Before being reused, retail packages must be sanitized and disinfected to ensure that they do not contain any harmful residue or contaminants. This sanitization and disinfection can be done by a licensee or by a third-party.

**Frequently Asked Question**

**Does all packaging need to be reusable?**

Only if a licensee has placed that restriction on themselves in their Retail Packaging Sustainability Program. The Office and Board heavily encourage licensees to choose reusable packaging elements or use recyclable packaging materials where it is feasible, but there are no requirements, at this time, that packaging be reusable or recyclable. Licensees’ annual reporting on packaging materials will be used to help guide future policies related to cannabis product packaging sustainability.

**7. Recycled Content Packaging and Recyclable Packaging.** Claims about recyclable or recycled content packaging must comply with [16 CFR § 260](#) Guides for the Use of Environmental Marketing Claims.<sup>7</sup>

<sup>7</sup> Any printed editions of the Code of Federal Regulations (CFR) can be obtained by calling the Superintendent of Documents, U.S. Government Printing Office, at (202) 512-1800. Electronic copies of CFR sections may also be obtained at Government Printing Office (GPO) which contains the most recent revisions, can be searched directly at: <https://www.ecfr.gov/>.



**Adult-Use Marketing and Advertising**

**8. Required Information.** Marketing and advertising cannot jeopardize public health or safety; make false or misleading claims; or be attractive to individuals under twenty-one. To protect public health and safety, most advertisements are required to include warnings and other important consumer information. The exact requirements depend on the nature of the advertisement.



If the advertisement contains **only visual elements** (such as a magazine ad or a tweet that does not include a video) or if the advertisement includes **both auditory and visual elements**, (such as a television ad or Instagram reel) then the advertisement must include certain information and must display that information in a certain way.

- a. The advertisement must include the licensee’s name and license number.
- b. The advertisement must include this warning:

*“For use only by adults 21 years of age and older. Keep out of reach of children and pets. In case of accidental ingestion or overconsumption, contact the National Poison Control Center hotline 1-800-222-1222 or call 9-1-1. Please consume responsibly.”*

- c. The advertisement must include one of these rotating warnings:

- “Cannabis can be addictive.”;
- “Cannabis can impair concentration and coordination. Do not operate a vehicle or machinery under the influence of cannabis.”;
- “There may be health risks associated with the consumption of this product.”;
- “Cannabis is not recommended for use by persons who are pregnant or nursing.”; or
- Other warnings as determined by the Office.

Licensees cannot use the same rotating warning in all their advertisements. The rotating warnings can be rotated in any manner the licensee chooses, but licensees must use them in a way that results in the warnings being distributed evenly among the licensee’s advertisements. It is acceptable if a licensee rotates warnings so that each warning appears on roughly the same number of the licensee’s advertisements in a year. It is also acceptable if a licensee rotates warnings so that each warning is seen by roughly the same number of people in a year. Other manners of rotation may also be acceptable, provided they ensure the warnings are rotated.

- d. The advertisement must include certain New York State HOPEline information:

- The phone number: “1-877-8-HOPENY” or “1-877-846-7369” ;
- The text number: “HOPENY” or “467369” ; **and**
- The website (“<https://oasas.ny.gov/hopeline>”) or a QR code which leads directly to the website.



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This information must be presented in a manner that makes clear to a viewer of the advertisement that it is for a substance use disorder resource helpline.

An example of one acceptable way to display of the HOPEline information would be:

“Concerned about your cannabis use? Contact the New York State HOPELine by texting “HopeNY”, calling 1-877-8-HOPENY, or visiting oasas.ny.gov/HOPELine.”

- e. The required warnings and information must be printed on the advertisement or, if the advertisement contains both auditory and visual elements, then the warnings and information must be read aloud. In advertisements mixing auditory and visual elements, a licensee may choose to print a portion of the required information while reading the remaining required information aloud.

When the information is printed, it must be printed legibly and unobscured on the face of the advertisement in the same language as the rest of the advertisement. The information must be at least size 6 font, bolded, and in Times New Roman, Calibri, Arial, or Helvetica.

Consumer warning information (i.e. the required warning statement and the rotating warning) must be printed on a bright yellow text box (#FFFF00)<sup>8</sup> so as to stand out from the surrounding advertisement. The licensee may use a border<sup>9</sup> to differentiate the box. The licensee’s name, the license number, and the required HOPEline information are not required to be in a bright yellow box if they are printed on the advertisement.

When the information is read aloud, it must be read at the same volume and pace, and in the same language, as the rest of the advertisement.



If the advertisement contains **only auditory elements** (such as an advertisement that is only read aloud on the radio or during a podcast) then the advertisement must include certain information and must display that information in a certain way.

- a. The advertisement must include this warning:

“For use only by adults 21 and older. Keep out of reach of children and pets. In case of accidental ingestion or overconsumption, contact the National Poison Control Center. Consume responsibly.”

- b. The required warning must be read aloud during the advertisement. It must be read at the same volume and pace, and in the same language, as the rest of the advertisement.

<sup>8</sup> The Office recommends licensees utilize this exact shade of yellow, however a shade of bright yellow which appears similar to this shade is also acceptable. Certain shades of yellow with a saturation value above 75% will not appear similar to this shade and will not be acceptable. Additionally, any shade of yellow which, when listed in a form of hue, saturation, and lightness, has a saturation value lower than 75% will not be acceptable.

<sup>9</sup> There are no restrictions on the color or weight of this border. If the box cannot be clearly differentiated from the area of the advertisement on which it is placed, then the licensee must use a border to differentiate the yellow box.



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At this time, **all apparel are exempt from the requirements in this “Required Information” section.** These advertisements are exempt from the requirements in this section because it would not be feasible to include this information on those types of advertisements. These types of advertisements must still comply with all other sections of this guidance and any other requirements pertaining to marketing and advertising. As described in **“Form-Specific Requirements”** below, there are restrictions on the ways in which licensees can advertise through apparel.

**9. General Requirements & Prohibitions.** A licensee’s marketing and advertising may result in a wide range of advertisements. In addition to general requirements explained here, a licensee must also ensure that their marketing, advertising, and advertisements comply with any **“Form-Specific Requirements”** that pertain in the section below.

- a. Marketing, advertising, and advertisements **cannot be easily seen by individuals under twenty-one.**

Licensees cannot market, advertise, or place advertisements within 500 ft of an elementary or secondary school ground (as “school ground” is defined in the Education Law) or a community facility (such as a recreation center or facility, childcare center, playground, public park, or library). The distance between such establishment and a licensee’s marketing, advertising, or advertisements shall be measured from the marketing, advertising, or advertisement to either the nearest point of the school ground or the nearest entrance<sup>10</sup> of the community facility. Licensees can only place an advertisement somewhere if at least 90% of the advertisement’s audience<sup>11</sup> is reasonably expected to be twenty-one or older. Licensees must have reliable evidence of the composition of the audience that will view these advertisements.<sup>4</sup> As explained in the “Required Documentation” section above; the Office may request information about the composition of the audience of any of the licensee’s advertisements at any time.

- b. Marketing, advertising, and advertisements **cannot be attractive to individuals under twenty-one.** Despite restrictions on audience composition and advertisement placement, some advertisements will still be seen by some individuals under twenty-one. Restrictions on

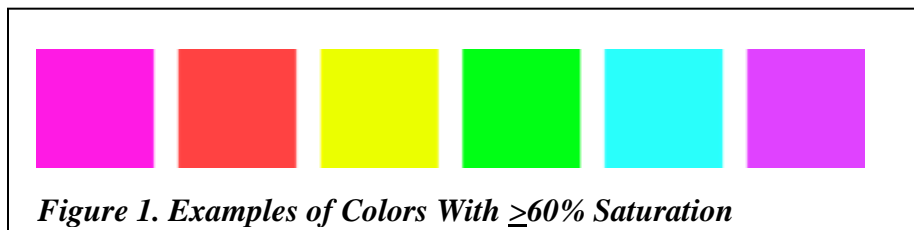
<sup>10</sup> For purposes of this requirement, "Entrance" means a door of a school, of a place of worship, or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises proposed to be licensed, except that where a school or place of worship is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. "Entrance" does not mean a door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons.

<sup>11</sup> Licensees are only required to have reliable evidence of the reasonably anticipated audience of an advertisement if they are advertising at an event that they are allowed to sponsor (see the “Format-Specific Requirements” section of this guidance) or by means of television, radio, print, internet, mobile application, social media, or any other print publication or electronic communication.

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the way advertisements look and feel can lessen the likelihood that individuals under twenty-one will be influenced by them. This means:

- Licensees cannot use cartoons in their marketing, advertising, or advertisements.
- Licensees cannot use bubble-type, or cartoon-like font, such as puffy, rounded block letters (see **Appendix A**) in their marketing, advertising, or advertisements.
- Licensees cannot use bright colors that are “neon” in appearance in their marketing, advertising, or advertisements. This includes any color which, when listed in a form of hue, saturation, and lightness, has a saturation value greater than 60%. Examples of such colors are shown below in **Figure 1**.



*Figure 1. Examples of Colors With  $\geq 60\%$  Saturation*

- Licensees cannot create similarities to products that are commonly associated with—or marketed in a manner so as to be attractive to—individuals under twenty-one in their marketing, advertising, or advertisements. Licensees cannot use words that refer to products that are commonly associated with—or marketed in a manner so as to be attractive to—individuals under twenty-one in their marketing, advertising, or advertisements. This includes, but is not limited to, any imitation of food, candy, soda, drinks, cookies, or cereal in marketing, advertising, or advertisements. This prohibition does not include cultivar names or a licensee’s name.
- Licensees cannot use the terms “candy” or “candies” or variants in spelling such as “kandy” or “kandeez” (except when stating a cultivar’s or licensee’s name) in their marketing, advertising, or advertisements.
- Licensees cannot use audio, symbols, images, characters, public figures, phrases, toys, or games that are commonly used to market products to individuals under the age of twenty-one in their marketing, advertising, or advertisements. Depending on how they are depicted, such audio, symbols, images, characters, public figures, phrases, toys or games, may include, but are not limited to:
  - animals, balloons, confetti or glitter, superheroes, video game references, race cars, dinosaurs, imaginary creatures or people, characters or celebrities from children’s shows or books.
  - For example, a cartoon-like depiction of an animal might be attractive to individuals under 21, but a silhouette of an animal might not.
- Licensees cannot use anyone who appears to be under the age of twenty-one in their marketing, advertising, or advertisements, unless that individual is actually at least twenty-five years old and their age is substantiated by proper identification. Proper identification



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includes any valid federal, state, or local government identification, including IDNYC, which states the customer's age and shows a photograph of the individual's face.

- c. Marketing, advertising, and advertisements **cannot make health claims**. This means licensees cannot characterize the relationship of any cannabis product to a disease or health-related condition or symptom.

Licensees cannot claim—expressly or by implication—that a relationship exists between the presence or level of a substance in a cannabis product and a consumer's disease or health-related condition or symptom. Claims that a cannabis product can prevent specific illnesses or diseases or will treat any specific symptoms are not allowed.

Licensees cannot claim that cannabis products, or any ingredients within a cannabis product, are “*beneficial*”, “*therapeutic*”, “*antibacterial*”, or “*medicinal*” in marketing, advertising, or advertisements.

Licensees cannot target pregnant people or people who are chest/breastfeeding in marketing, advertising, or advertisements.

It does not matter whether a licensee believes that a health claim can be substantiated through scientific research or if the claim is endorsed by a medical professional. Licensees cannot make any health claims in marketing, advertising, or advertisements.

Some claims made in the marketing, advertising, and advertisement of cannabis products may be permissible in other jurisdictions but would be considered health claims (and, thus, prohibited) by this guidance. Some examples of health claims are:

- “*Our cannabis product will treat pain better than prescription medication.*”;
- “*It is theorized that CBD has such a positive effect because of its impact on cannabinoid receptors inside the brain of someone with Autism. CBD appears to ‘open’ these receptors’ pathways to allow molecules to act on them.*”;
- “*According to Dr. Cannabis, CNN’s mental health expert, this product can restore the chemical imbalance and help in dealing with depression, leading to improved sleep.*”;  
*and*
- “*Our product has also been hailed as a valuable substance for treating endometriosis with some experts suggesting applying the topical directly to the pain site to help soothe discomforts and aches.*”

In addition to being made explicitly, such as the examples above, health claims can also be made implicitly. Implicit health claims include statements, symbols, branding, or other communications that suggest a health claim based on their context. Some examples of symbols that would be considered implicit health claims are below.



Certain information related to cannabis' effect on the body is allowable. Licensees may use health-related information in their marketing, advertising, and advertisements, provided that a licensee does not use this information in a manner which, when it is combined with other qualities of the marketing, advertising, or advertisement, creates a health claim.

Some examples of claims that would not be considered health claims on their own (and therefore are allowable in marketing, advertising, and advertisements) include, but are not limited to:

- A factual description of, or references to, the body's endocannabinoid system or cannabinoid receptors;
- An explanation of potential physical, mental, or social effects of consuming THC, CBD, or any phytocannabinoid without tying these effects to a specific illness or disease; and
- General claims that smoking and vaping is hazardous to health.

These restrictions on making health claims in marketing, advertising, and advertisements are not intended to suggest that cannabis does not impact the human body. Rather, health and "healthiness" are individualized and subjective. A product which alleviates a symptom for one person may not alleviate that symptom for another person. Individuals intending to use cannabis due to a disease or health-related condition or symptom should not gather information on how products may alleviate their symptoms from advertisements. These individuals should, instead, discuss goals they hope to achieve through consuming cannabis with a trusted health care practitioner.

Generally, licensees should assume any claims which reference a specific illness or disease will be considered a health claim and, thus, will be prohibited in marketing, advertising, and advertisements.

- d. Marketing, advertising, and advertisements **cannot use or display colloquial references to cannabis; or depictions of cannabis, cannabis products, paraphernalia; or the imagery or action of smoking or vaping** including, but not limited to, the words "stoner", "chronic", "weed", "pot", or "sticky buds" unless such reference is used in the licensee's name or logo.
- e. Marketing, advertising, and advertisements **cannot promote overconsumption or rapid consumption.**

Cannabis products are required to be labeled with the recommended serving size and clear usage instructions. Marketing, advertising, or advertisements that encourage consumers to





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consume significantly more than a product’s recommended serving size at a single time are prohibited.

Examples of marketing, advertising, or advertisements that promote overconsumption or rapid consumption include, but are not limited to:

- Depictions of individuals visibly impaired.
- Promoting a product as “easy to consume”.

f. Marketing, advertising, and advertisements **cannot promote product potency or THC concentration**. This does not prohibit a licensee from stating a product’s THC concentration but does prohibit a licensee from promoting the THC concentration or encouraging consumers to use more potent products. When choosing to state a product’s THC concentration in marketing, advertising, or advertisements (including product menus), licensees should strive to list the concentration of **all** products included in that marketing, advertising, or advertisement. Examples of marketing, advertising, or advertisements that could be prohibited because they promote product potency or THC concentration include, but are not limited to:

- Advertisements that draw emphasis to a product’s THC concentration using color, sound, symbols, or any other way.
- Marketing strategies which systematically draw consumer attention towards high-THC products over low-THC products, such as stating the THC concentration of some products in an advertisement but not others.
- Any claim, including implied claims, that a product is superior due to its THC concentration.

g. Marketing, advertising, and advertisements **cannot use freebies, discounts, giveaways, or promotional swag**. Consumers must not be coerced into over-purchasing cannabis products..

Licensees cannot advertise through free promotional items or giveaway any promotional items or any cannabis products, for any reason, *unless* the promotional item is listed directly below this paragraph. This means licensees cannot give gifts, hold giveaways, or offer any loyalty programs, rewards systems, or other discounts which would result in a consumer receiving a free promotional item, a free cannabis product, or a discount on a cannabis product.<sup>12</sup>

Notwithstanding the above paragraph:

- retail dispensaries may provide consumers with branded exit packages after completing a purchase; and

<sup>12</sup> “Discount,” for purposes of this requirement, includes *any* arrangement which results in a consumer paying an amount for a product that is different than the amount a different consumer would pay for that product at the same time and the difference in price is due to any factor unique to the consumer or their transaction. This includes, but is not limited to, flat-rate discounts (e.g. “30% off!”), “buy-one-get-one” discounts, bulk purchase discounts, veterans discounts, and punch cards.



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- promotional items are allowed if part of an Environmental Sustainability Program that has been submitted by a licensee as a requirement of their license and has been approved by the Office. An example of one arrangement that could be permitted as part of an Environmental Sustainability Program would be a loyalty program in which customers were given a percentage-based discount on their purchase in exchange for returning cannabis product packaging that is suitable for re-use to a dispensary.

Licensees cannot advertise giveaways, discounts, price reductions, points-based reward systems, or customer loyalty programs. This means licensees cannot use words including, but not limited to, “sale”, “free”, “price drop”, or “discount” on a menu, in any communications to consumers, or in any other advertisements.

These restrictions do not prohibit retail dispensaries from changing the price of cannabis products, but do prevent the dispensary (or any other licensee) from promoting discounts in their marketing and advertising and from changing the price of an item as a way to market or advertise.

### h. Marketing, advertising, and advertisements **cannot misrepresent the product.**

Licensees cannot misrepresent a product as a medical cannabis or cannabinoid hemp (i.e. CBD) product. Any marketing, advertising, or advertisements which create confusion as to whether a product is a medical cannabis product, adult-use cannabis product, or cannabinoid hemp product are prohibited. Examples of misrepresentation include, but are not limited to:

- Health claims;
- Emphasis on a product’s CBD content;
- Insinuations that a product will not make a consumer “feel high”; and
- Comparisons that emphasize similarities between an adult-use cannabis product and a medical cannabis or cannabinoid hemp product.

Licensees cannot represent a product as organic, craft, gluten-free, kosher, or vegan or represent a licensee as making products that are organic, craft, gluten-free, kosher, or vegan unless the product(s) meets the requirements to be represented as such.

- At this time, there is no **organic** standard yet established for cannabis that is recognized federally. Until such a standard is recognized federally, a licensee cannot represent themselves or any cannabis flower or other cannabis products they produce as being “organic” *unless* the product is an edible appropriately using the term “made with organic ingredients.”
- To represent an edible as being “**made with organic ingredients**,” the product must contain at least 70 percent certified organic ingredients (not including salt or water). These products may contain up to 30 percent of allowed non-organic ingredients (see [7 CFR § 205.600](#)) Additionally, the product must identify the USDA-accredited certifying agent on its label.



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- To represent a product as **craft**, it must be processed by a licensee which has been designated as processing craft products. No licensees are designated as such at this time.
  - To represent a product as **gluten-free**, the product must meet the definition of the term as it is defined federally (see [21 CFR § 101.91](#)).
  - To represent a product as **kosher**, the product must be packaged and labeled in compliance with [section 201-a of the Agriculture and Markets Law](#).
  - To represent a product as **vegan**, the product cannot contain *any* animal products, including gelatin.
- i. Marketing, advertising, and advertisements **cannot be obscene or indecent**. Examples of marketing, advertising, and advertisements that are obscene or indecent would include, but are not limited to, those that depict nudity or use profanity.
- j. Marketing, advertising, and advertisements **cannot be false, misleading, or encourage illegal activity**.

Examples of this include, but are not limited to:

- Assertions that cannabis products are safe because they are regulated.
  - Disparaging another business' cannabis or cannabis products.
  - Depictions of cannabis products that are not packaged and labeled in accordance with guidance, regulation, and law.
  - Encouraging consumers to transport cannabis across state lines.
- k. Marketing, advertising, and advertisements can **only use special branding material if authorized to use such material**.

At a later date, the Office may identify certain visuals or audio as special branding material. These special branding materials, once identified, will **only** be authorized for use on certain types of products or by certain types of licensees. Licensees cannot use special branding material which they are not authorized to use.

**11. Format-Specific Requirements.** In addition to requirements that pertain to all marketing, advertising, and advertisements, additional requirements are required to allow certain forms of marketing, advertising, and advertisements.

- a. **Online Advertisements.** When advertising through a website or digital application, a licensee must utilize an age-restriction mechanism or “age-gate” to ensure those under twenty-one cannot view the website or digital application.



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In addition to requiring an age-restriction mechanism on the website or digital application: if the advertisement is a pop-up or banner ad, then the individual viewing the advertisement must consent to view cannabis-related material before the advertisement can be displayed to them.

- b. Brand Representatives.** A brand representative is any individual who acts with the intention of causing, directly or indirectly, the purchase or use of a specific brand or cannabis product. A brand representative—and any materials using their representation of the brand—is considered an advertisement. Brand representatives may not violate restrictions on marketing and advertising, including making health claims.
- c. Handbills.** A licensee cannot advertise through handbills or any other advertisement that is passed out in a public area. This includes, but is not limited to, advertisements that are distributed in parking lots and publicly-owned property.
- d. Signs.** Only certain signs are allowed, and no advertisement may be in the form of a billboard. No licensee can advertise, for any reason, on a sign or placard in:
- an arena, stadium or other sporting venue;
  - a fair that receives state funding;
  - a video game arcade; and
  - a shopping mall (unless the sign is alerting individuals to the location of a retail dispensary within that mall).

Only licensees authorized to conduct retail sales or delivery to consumers may advertise using signs that can be seen from outside of the retail dispensary. These signs cannot be placed anywhere in the list above and can only be for the purpose of alerting individuals to the location where the licensee conducts sales. A retail dispensary licensee is limited to a maximum of two signs per licensed premises; a licensee authorized to conduct delivery is limited to a maximum of two signs, but such signs are not allowed on vehicles. Signs **cannot** include a licensee’s logo, symbol, or any images, including, but not limited to, depicting cannabis, cannabis products, or the imagery or action of smoking or vaping.

Because these signs are limited to the purpose of alerting individuals where sales are conducted, they are limited to, at a maximum:

- The licensee’s name, entity name, or doing business as name;
- The dispensary’s address [if the licensee has a dispensary];
- The licensee or dispensary’s phone number, email address, and website URL;
- The nature of the business.<sup>13</sup>

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<sup>13</sup> If the licensee is a retail dispensary or microbusiness licensee, then this must be “adult-use cannabis dispensary” or a similar phrase. If the licensee is a delivery licensee, then this must be no more than 100 characters, including punctuation



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Signs cannot include mottos, selling messages, or any other non-essential text.

An outdoor sign must be affixed to a building or another permanent structure.<sup>14</sup> There is no limitation on the distance between the location the licensee conducts sales and the sign's location. However, regardless of the sign's distance from where sales are conducted, it will count towards the licensee's limit if it is outdoors.

- e. **Apparel.** Apparel can be an advertisement if it causes, directly or indirectly, the purchase or use of a brand or cannabis product.

A licensee must limit all apparel displaying its brand—and any trademark(s) used in connection with the sale of apparel displaying the licensee's brand—to adult sizes only.

Licensees that are advertising through apparel shall only sell that apparel at the licensee's own licensed premises.

As explained in the "General Requirements" section of this guidance, licensees cannot give away apparel or use it as an incentive unless the apparel is part of an Environmental Sustainability Program that has been submitted by a licensee as a requirement of their license and has been approved by the Office.

- f. **Mascots.** Licensees cannot use a commercial mascot in their marketing, advertising, or advertisements.
- g. **Events.** Licensees may sponsor charitable, sporting, or similar events.

Licensees can only place an advertisement at, or in connection with, a sponsored event if at least 90% of the advertisement's audience is reasonably expected to be twenty-one or older. Licensees must have reliable evidence of the audience composition for who is expected to view these advertisements. As explained in the "Required Documentation" section above; the Office may request information about the composition of the audience of any of the licensee's advertisements at any time.

If less than 90% of the advertisement's audience is reasonably expected to be twenty-one or older, then the licensee may not place advertisements at, or in connection with the event. Such advertisements that would not be allowed include, but are not limited to, any use of the licensee's brand or branding (including the licensee's name or logo) in association with the event.

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but not including spaces, of factual information about the licensee's delivery radius, such as "delivering cannabis to Washington Heights" or "delivering adult-use cannabis to zips 12210, 12206, and 12202."

<sup>14</sup> A sign affixed to a vehicle is not allowed.



If the audience composition of the event does allow for a licensee to place advertisements at, or in conjunction with, an event, then the licensee is limited in the advertisements they can use. Advertisements at such events can consist only, at a maximum, of:

- The licensee’s name, entity name, or doing business as name;
- The dispensary’s address [if the licensee has a dispensary];
- The licensee or dispensary’s phone number, email address, and website URL;
- The nature of the business.<sup>15</sup>

**12. Use of Brand, Intellectual Property.** A licensee who has entered into an intellectual property licensing agreement, marketing or advertising agreement or any other agreement in which a licensee authorizes the use of its intellectual property, or allows a third party to market or advertise on its behalf, the licensee is responsible to ensure that such agreement, intellectual property use, marketing or advertising shall comply with Part 128 and this Part of this Title.

A licensee shall not permit the use of their trademarks, brands, names, locations, or other distinguishing characteristics for third-party use on advertising in a manner that does not comply with this Part or any other statute, rule or regulation.

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<sup>15</sup> When placing advertisements at, or in association with, an event, the “nature of the business” shall only be a factual description of the licensee, such as “adult-use cannabis cultivator” or “adult-use cannabis retail dispensary.” The nature of the business shall be no more than 100 characters, including punctuation but not including spaces. If the licensee is authorized to conduct delivery, then the description of the licensee may include factual information about the licensee’s delivery radius, such as “delivering cannabis to Washington Heights” or “delivering adult-use cannabis to zips 12210, 12206, and 12202.”



**Adult-Use Packaging and Labeling & Marketing and Advertising; Compliance and Violations**

**13. Correcting Noncompliant Packaging and Labeling.** If a licensee receives a cannabis product that is not packaged or labeled in compliance with this guidance, and the licensee receives appropriate notification of verified noncompliance from the Office, a customer, or the licensee which processed or distributed the cannabis product, then that licensee must immediately notify the Office and the cannabis product must be returned to the licensee who transferred it to the licensee taking action. If a product is returned due to noncompliance, the licensee must document the return and the reason the product was noncompliant in the inventory tracking system.

If the noncompliance can be corrected by affixing a label with only the information required to make the labeling compliant, then the processor that packaged the product can affix such a label when it is returned to them.

**14. Packaging and Labeling Violations.** The Board may suspend, cancel, or revoke a license and impose any other penalties as authorized by Cannabis Law and current and future regulations, if the licensee:

- Fails to comply with packaging, labeling, marketing, and advertising requirements.
- Transfers, sells, or offers to sell a cannabis product to another licensee that is not packaged or labeled in accordance with adult-use regulations or this guidance document.

**15. Marketing and Advertising Violations.** A licensee must immediately remove or discontinue advertisements if the Board determines the licensee's marketing or advertising violates the marketing and advertising requirements or if the licensee fails to provide records to the Office upon request that establish the marketing and advertising complies with requirements.

A licensee must immediately notify the Office and issue a cease-and-desist notification if a third-party uses the licensee's trademarks, brand, names, locations, or any other distinguishing characteristics in a way that does not comply with marketing and advertising requirements. The licensee may also pursue appropriate legal action against the third-party.

The Office may take any action against any licensee who fails to comply with this Part, including but not limited to recommendations to the Board for suspension, cancellation, or revocation of a license, imposition of any fees or fines, requiring a licensee to cease by a date determined by the Office the non-compliant marketing and advertising and requiring removal by a date determined by the Office of any marketing material or advertising advertisement still being published or displayed, and any other penalties set forth in Cannabis Law.



Appendix A: Fonts and Text Use

Standard Fonts

AaBbCcDdEe

AaBbCcDdEe

AaBbCcDdEe

AaBbCcDdEe

Certain text must be in either Times New Roman, Arial, Calibri, or Helvetica as specified in this guidance.

If a font is not specified, fonts other than the standard fonts may be used in packaging and labeling & marketing and advertising if the font is not attractive to individuals under twenty-one.

Examples of Bubble-type Fonts

AaBbCcDdEe

AaBbCcDdEe

AaBbCcDdEe

“Bubble-type fonts” include fonts with characters that are significantly wider than the standard fonts.

Bubble-type fonts frequently have rounded, sans serif characters, but may also include fonts with wide characters that have hard corners or serifs.

Because bubble-type fonts are attractive to individuals under twenty-one, they cannot be used in packaging and labeling & marketing and advertising.

Examples of Cartoon-like Fonts

AABBCCDDEE

AaBbCcDdEe

AaBbCcDdEe

“Cartoon-like fonts” include fonts that resemble comic books, cartoons, or crayons/chalk and fonts that are similar to fonts associated with brands, products, or media that are commonly marketed to individuals under twenty-one.

Because cartoon-like fonts are attractive to individuals under twenty-one, they cannot be used in packaging and labeling & marketing and advertising.





Appendix A: Fonts and Text Use *(continued)*

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Design Elements



Design elements attached to an otherwise-permissible font may result in the text being cartoon-like. In this example, the design element behind the text resembles a comic book and, thus, would be attractive to individuals under twenty-one.

Graffiti-Like Fonts

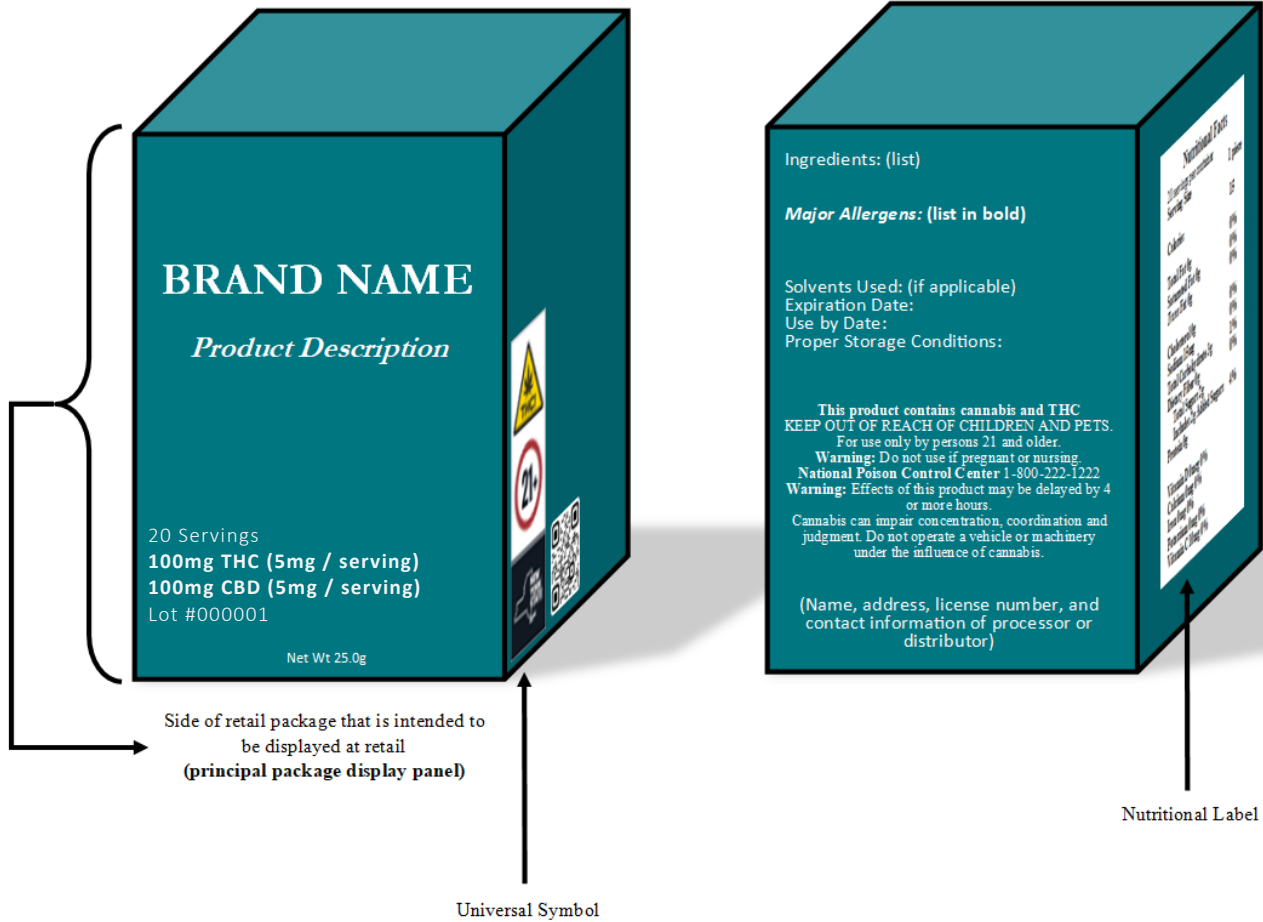


Angular fonts that include paint drips or other graffiti-like elements may be permissible fonts.

Design elements such as paint drips or spray marks and wholly opaque characters may differentiate these fonts from crayon or chalk-like fonts and increase the likelihood that the font will not be attractive to individuals under twenty-one.



Appendix B: Example of Compliant Labeling of an Edible Cannabis Product





Appendix C: Cannabis Product Packaging & Labeling Checklists

The following six checklists are intended to assist licensees in determining whether their packaging and labeling is in compliance with this guidance. Although the requirements have been split into six checklists to facilitate their ease of use, these checklists are not exhaustive. A cannabis product must fulfill all criteria that apply to that product as required by this guidance.

<b>Checklist 1: All Cannabis Product Packaging</b>	
Cannabis product packaging, which includes all packaging elements except non-consumer packaging, must meet <u>all</u> of these requirements.	
Requirement	<input checked="" type="checkbox"/>
Does not contain features that emit scent or sound	<input type="checkbox"/>
Does not contain features that change or alter a package's appearance through technology, including holographic packaging, unless the feature is for an anti-counterfeiting purpose	<input type="checkbox"/>
Is not attractive to individuals under twenty-one	<input type="checkbox"/>
<i>(If packaging occurs after January 1, 2024)</i>	<input type="checkbox"/>
Is not made of plastic that contains less than 25% post-consumer recycled content	<input type="checkbox"/>

<b>Checklist 2: Retail Package</b>	
A product's retail package must meet <u>all</u> of these requirements.	
Requirement	<input checked="" type="checkbox"/>
Child-resistant	<input type="checkbox"/>
Tamper-evident	<input type="checkbox"/>
Resealable <i>(If product has more than one serving)</i>	<input type="checkbox"/>
Fully encloses product to minimize oxygen exposure and prevent contamination and/or degradation of the product <i>(such as degradation due to exposure to light)</i>	<input type="checkbox"/>
Does not impart any toxic or deleterious substance onto the cannabis product	<input type="checkbox"/>

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Appendix C (continued): Cannabis Product Packaging & Labeling Checklists

<b>Checklist 3: Principal Packaging Display Panel (PPDP)</b>	
The product's PPDP must include <u>all</u> of this information. For more information about the PPDP, see section 4a of this guidance.	
<b>Required information</b>	<input checked="" type="checkbox"/>
Total THC mg in a single serving, in <b>bold</b>	<input type="checkbox"/>
Total THC mg in the entire package, in <b>bold</b>	<input type="checkbox"/>
Total THC in the entire package, as a percent of the package's total volume	<input type="checkbox"/>
(if Total CBD in the package is >0.01mg) Total CBD mg in a single serving, in <b>bold</b>	<input type="checkbox"/>
(if Total CBD in the package is >0.01mg) Total CBD mg in the entire package, in <b>bold</b>	<input type="checkbox"/>
Number of servings in the entire package and recommended size of serving (if applicable), except for cannabis flower and other forms of cannabis intended for vaporization.	<input type="checkbox"/>
Product weight	<input type="checkbox"/>
Other phytocannabinoid mg in a single serving, in <b>bold</b> <sup>1</sup>	<input type="checkbox"/>
Other phytocannabinoid in the entire package, as a percent of the package's total volume, except for edibles <sup>1</sup>	<input type="checkbox"/>
Terpene profile <sup>1</sup>	<input type="checkbox"/>

<sup>1</sup>Labeling is only required to list information about terpenes or phytocannabinoids (other than THC and CBD) if the product's terpene or phytocannabinoid content is marketed.

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Appendix C (continued): Cannabis Product Packaging & Labeling Checklists

<h3>Checklist 4: Retail Package or Marketing Layer</h3> <p>A product must include <u>all</u> of the following information on its retail package or, if a marketing layer is used, the marketing layer.</p>	
<b>Required information</b>	<input checked="" type="checkbox"/>
Nutritional label <i>OR</i> Supplemental fact panel (if applicable)	<input type="checkbox"/>
Date of Expiration	<input type="checkbox"/>
Use by Date	<input type="checkbox"/>
List of solvents used ( <i>if applicable</i> )	<input type="checkbox"/>
Proper storage conditions	<input type="checkbox"/>
Clear usage instructions	<input type="checkbox"/>
Processor Name	<input type="checkbox"/>
Processor license number	<input type="checkbox"/>
Processor location ( <i>city or zip code</i> )	<input type="checkbox"/>
Processor's direct contact info ( <i>phone or email</i> )	<input type="checkbox"/>
Universal Symbol ( <i>any one of the three as shown in Figure 2</i> )	<input type="checkbox"/>
Lot unique ID or lot number or bar code	<input type="checkbox"/>
A scannable bar code or QR code linked to the product's Certificate of Analysis	<input type="checkbox"/>
"This product contains cannabis and THC", in <b>bold</b>	<input type="checkbox"/>
"KEEP OUT OF REACH OF CHILDREN AND PETS. For use only by persons 21 years and older.", in <b>bold</b>	<input type="checkbox"/>
"Warning: Do not use if pregnant or nursing.", in <b>bold</b>	<input type="checkbox"/>
"National Poison Control Center 1-800-222-1222", in <b>bold</b>	<input type="checkbox"/>
"Warning: Smoking or vaping is hazardous to health.", in <b>bold</b>	<input type="checkbox"/>
"Warning: Effects of this product may be delayed by 4 or more hours.", in <b>bold</b>	<input type="checkbox"/>
"Warning: For topical use only. Do not eat or smoke.", in <b>bold</b>	<input type="checkbox"/>
Only <u>one</u> of the following rotating warnings, in <b>bold</b> : <ul style="list-style-type: none"> <li>• "Cannabis can be addictive."</li> <li>• "Cannabis can impair concentration and coordination. Do not operate a vehicle or machinery under the influence of cannabis." <i>or</i></li> <li>• "There may be health risks associated with consumption of this product."</li> </ul>	<input type="checkbox"/>

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Appendix C (continued): Cannabis Product Packaging & Labeling Checklists

<b>Checklist 5: Is it false or misleading?</b>	
Cannabis products cannot have false or misleading packaging or labeling. A product's packaging and labeling must meet <u>all</u> of these requirements.	
<b>Requirement</b>	<input checked="" type="checkbox"/>
Does not make health claims	<input type="checkbox"/>
Does not include the word "organic" unless describing the product's ingredients in compliance with 7 CFR §§ 205.600-205.607 or otherwise allowed in guidance.	<input type="checkbox"/>
Does not include the word "craft" unless the processor meets the term (as it relates to cannabis products) as defined in future regulation or guidance	<input type="checkbox"/>
Does not include the term "gluten-free" unless the product meets the term as defined in 21 CFR § 101.91	<input type="checkbox"/>
Does not include the term "kosher" or imply the product is kosher, unless the product is packaged and labeled in compliance with section 201-a of the Agriculture and Markets Law	<input type="checkbox"/>
Does not include the term "vegan" unless the product contains no animal products, including gelatin	<input type="checkbox"/>
Does not create a reasonable consumer confusion as to whether the product is trademarked, marked, or labeled in any manner that violates any federal trademark law or regulation	<input type="checkbox"/>
Does not portray the product as one that is authorized under Article 3 (medical cannabis) or Article 5 (cannabinoid hemp) of the Cannabis Law	<input type="checkbox"/>
Does not depict cannabis products or paraphernalia	<input type="checkbox"/>
Does not promote overconsumption	<input type="checkbox"/>
Does not promote price or price reductions, unless part of a sustainability program or otherwise authorized by the Office or Board	<input type="checkbox"/>
Does not promote a customer loyalty program, unless part of a sustainability program or otherwise authorized by the Office or Board	<input type="checkbox"/>
Does not promote any discounts or coupons, unless part of a sustainability program or otherwise authorized	<input type="checkbox"/>
Does not include any special branding material, unless authorized	<input type="checkbox"/>
Does not make any other false or misleading statements	<input type="checkbox"/>

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Appendix C (continued): Cannabis Product Packaging & Labeling Checklists

Checklist 6: Is it attractive to individuals under twenty-one?

Cannabis products cannot be attractive to individuals under twenty-one in their packaging or labeling. A product's packaging and labeling must meet all of these requirements.

Table with 2 columns: Requirement, and a checkbox column. Contains 8 rows of requirements for cannabis packaging attractiveness.