

935 CMR 500.000: ADULT USE OF MARIJUANA

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500.001: Purpose

The purpose of 935 CMR 500.000: *Adult Use of Marijuana* is to implement St. 2016, c. 334, The Regulation and Taxation of Marijuana Act, as amended by St. 2017, c. 55, An Act to Ensure Safe Access to Marijuana.

500.002: Definitions

For the purposes of 935 CMR 500.000: *Adult Use of Marijuana*, the following terms shall have the following meanings:

Administrative Hold means a hold requiring temporary isolation of Marijuana or Marijuana Products by a Marijuana Establishment Licensee or Registrant pending further investigation.

Adult-use Cannabis or Marijuana means Marijuana that is cultivated, processed, transferred, tested or sold to adults 21 years of age or older.

Adult-use Marijuana or Marijuana Products means Marijuana and Marijuana Products that are processed manufactured, transferred, tested or sold to adults 21 years of age or

older.

Affixed means the attachment of a label or other packaging materials so that it is not easily removed or lost.

Area of Disproportionate Impact means a geographic area identified by the Commission for the purposes identified in M.G.L. c. 94G, 4(a<sup>1/2</sup>)(iv) and 935 CMR 500.040: *Leadership Rating Program for Marijuana Establishments and Marijuana-related Businesses* and 500.101: *Application Requirements*, which has had historically high rates of arrest, conviction, and incarceration related to Marijuana crimes.

Arming Station means a device that allows control of a security alarm system.

Beverage means a liquid intended for drinking.

Brick-and-Mortar Social Consumption Establishment means an entity licensed to sell Marijuana or Marijuana Products and allow Consumers to consume Marijuana or Marijuana Products solely on its Premises. This establishment is a type of Marijuana Social Consumption Establishment.

Cannabinoid means any of several compounds produced by Marijuana plants that have medical and psychotropic effects.

Cannabinoid Profile means the amounts, expressed as the dry-weight percentages, of delta-nine-tetrahydrocannabinol, cannabidiol, tetrahydrocannabinolic acid and cannabidiolic acid in a Cannabis or Marijuana Product. Amounts of other cannabinoids may be required by the Commission.

Cannabis or Marijuana means all parts of any plant of the genus Cannabis, not excepted in (a) through (c) of the definition for “Cannabis or Marijuana” in 935 CMR 500.002: *Definitions* and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; Clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that Cannabis shall not include:

- (a) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
- (b) Hemp; or
- (c) the weight of any other ingredient combined with Cannabis or Marijuana to prepare topical or oral administrations, food, drink or other products.

Cannabis or Marijuana Accessories means equipment, products, devices or materials of

any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, Processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing Cannabis or Marijuana into the human body.

Cannabis or Marijuana Products means Cannabis or Marijuana and its products unless otherwise indicated. Cannabis or Marijuana Products includes products that have been manufactured and contain Cannabis or Marijuana or an extract from Cannabis or Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and Tinctures. Cannabis or Marijuana Products include MIPs defined in 935 CMR 500.002: *Definitions*.

Canopy means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries, Canopy may be noncontiguous, but each unique area included in the total Canopy calculations shall be separated by an identifiable boundary which include, but are not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total Canopy calculation.

Card Holder means a Registered Qualifying Patient, Personal Caregiver, Marijuana Establishment agent, Medical Marijuana Treatment Center (MTC) agent, or Laboratory agent who holds a valid patient or agent registration card.

Caregiver means a Personal Caregiver or Caregiving Institution.

Caregiving Institution means a hospice program, long term care facility, or hospital duly registered formerly and validly by the DPH or currently or validly by the Commission, providing care to a Registered Qualifying Patient on the premises of the facility or through a hospice program.

Cease and Desist Order means an order to stop or restrict operations, including, but not limited to, cultivation, product manufacturing, Transfer, sale, delivery, or testing, of Marijuana or Marijuana Products by a Licensee or Registrant to protect the public health, safety or welfare.

Ceases to Operate means a Marijuana Establishment, Medical Marijuana Treatment Center (MTC) or Independent Testing Laboratory closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen. The Commission may determine that an establishment has ceased to operate based on its actual or apparent termination of operations.

Certificate of Registration means a certificate formerly and validly issued by the DPH or currently and validly issued by the Commission, that confirms a Marijuana Establishment, MTC, Independent Testing Laboratory, individual or entity has met all applicable requirements pursuant to M.G.L. c. 94I and 935 CMR 501.000: *Medical Use of Marijuana* and is registered by the Commission. An MTC or Independent Testing Lab may have been issued a provisional or final Certificate of Registration. After the effective date of these regulations, new or renewal licenses, as applicable, may be issued to MTCs and Independent Testing Labs.

Certifying Certified Nurse Practitioner means a Massachusetts licensed certified nurse practitioner (CNP) licensed pursuant to 244 CMR 4.00: *Advanced Practice Registered Nursing*, who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Certifying Healthcare Provider means a certifying CNP, a Certifying Physician or a Certifying Physician Assistant.

Certifying Physician means a Massachusetts licensed physician (Medical Doctor or Doctor of Osteopathy) who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Certifying Physician Assistant means a Massachusetts physician assistant licensed pursuant to 263 CMR 3.00: *Licensure of Individual Physician Assistants*, who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Citizen Review Committee means a nine-person advisory committee, the members of which will be appointed by the Commission or its designee and will serve two-year terms. The committee advises the Commission on the implementation of the Social Equity Program and the use of community reinvestment funds. The committee makes specific recommendations as to the use of community reinvestment funds in the areas of programming, restorative justice, jail diversion, workforce development, industry-specific technical assistance, and mentoring services, in areas of disproportionate impact.

Clone means a clipping from a Cannabis or Marijuana plant which can be rooted and grown.

Close Associate means a person who holds a relevant managerial, operational or financial interest in the business of an applicant or Licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management, operations or finances of a Marijuana Establishment or Independent Testing Lab licensed under 935

CMR 500.000: *Adult Use of Marijuana*. A Close Associate is deemed to be a Person or Entity Having Direct or Indirect Control.

Colocated Marijuana Operations (CMO) means an MTC operating under a license or a registration pursuant to 935 CMR 501.000: *Medical Use of Marijuana*, and a Marijuana Establishment operating under at least one license pursuant to 935 CMR 500.000: *Adult Use of Marijuana*, on the same Premises. Colocated Marijuana operations pertain to cultivation, product manufacturing, and retail, but not any other adult-use license.

Commission means the Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its representatives. The Commission has authority to implement the state Marijuana laws, which include, but are not limited to, St. 2016, c. 334, *The Regulation and Taxation of Marijuana Act*, as amended by St. 2017, c. 55, *An Act to Ensure Safe Access to Marijuana*; M.G.L. 10, § 76, M.G.L. c. 94G; M.G.L. c. 94I; 935 CMR 500.000: *Adult Use of Marijuana*, 935 CMR 501.000: *Medical Use of Marijuana*, and 935 CMR 502.000: *Colocated Adult-Use and Medical-Use Marijuana Operations*.

Commission Delegee(s) means other state or local officials or agencies working in cooperation with the Commission and as delegated by the Commission to carry out the Commission's responsibilities and to ensure compliance with the adult-use, medical-use, and colocated- operations laws, and any other applicable federal or state laws.

Confidential Application Materials means any electronic or written document, communication or other record pertaining to an application for licensure or registration that is required to be confidential or protected from disclosure by law, which includes, but is not limited to, personally identifiable information concerning an applicant, Registrant, or Licensee; background check information or Criminal Offender Record Information (CORI) as defined by 803 CMR 2.02: *Definitions*, or Criminal History Record Information (CHRI) as defined by 803 CMR 7.02: *Definitions*; and information that implicates security concerns.

Confidential Database means the Commission database that holds data concerning: (i) the Qualifying Patients issued a registration card for medical use of Marijuana; (ii) the healthcare professionals registered to issue written certifications; (iii) the MTCs; (iv) the quantity of medical use Marijuana dispensed to a card holder; and (v) any other pertinent information.

Confidential Information means information that is legally required to be kept confidential, or that is protected from disclosure by a legally recognized privilege. This includes, but is not limited to, M.G.L. c. 4, § 7, cl. 26 and M.G.L. c. 94I, § 3.

Confidential Investigatory Materials means any electronic or written document, communication or other record pertaining to an investigation, which concerns: (a) a possible violation of a statute, regulation, rule, practice or procedure, or professional or

industry standard, administered or enforced by the Commission; (b) an ongoing investigation that could alert subjects to the activities of an investigation; (c) any details in witness statements, which if released create a grave risk of directly or indirectly identifying a private citizen who volunteers as a witness; (d) investigative techniques the disclosure of which would prejudice the Commission's future investigative efforts or pose a risk to the public health, safety or welfare; (e) the background of any person the disclosure of which would constitute an unwarranted invasion of personal privacy.

Confidential Records means any electronic or written record required to be kept confidential or protected from disclosure by law, which includes, but is not limited to, Confidential Application Materials, Confidential Social Equity Application Materials, and Confidential Investigatory Materials as defined herein.

Confidential Social Equity Application Materials means any electronic or written document, communication or other record pertaining to an application for the Social Equity Program that is required to be confidential or protected from disclosure by law, which includes, but is not limited to, CORI as defined by 803 CMR 2.02: *Definitions*, or CHRI as defined by 803 CMR 7.02: *Definitions*.

Consumer means a person who is 21 years of age or older.

Craft Marijuana Cooperative means a Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, Process, package, brand and Transfer Marijuana or Marijuana Products to Marijuana Establishments, but not to Consumers.

Criminal Offender Record Information (CORI) shall have the same meaning as it is defined in 803 CMR 2.02: *Definitions*.

Cultivation Batch means a collection of Cannabis or Marijuana plants from the same seed or plant stock that are cultivated and harvested together, and receive an identical Propagation and cultivation treatment including, but not limited to: growing media, ambient conditions, watering and light regimes and agricultural or hydroponic inputs. Clones that come from the same plant are one batch. The Marijuana Licensee shall assign and record a unique, sequential alphanumeric identifier to each Cultivation Batch for the purposes of production tracking, product labeling and product recalls.

Delivery Agreement means a contract between a licensed Marijuana Retailer and a licensed Delivery-Only Retailer to deliver Marijuana or Marijuana Products from the Marijuana Retailer directly to Consumers under the provisions of a Delivery-Only Retailer license.

Delivery-Only Retailer means an entity that is authorized to deliver directly to Consumers, Registered Qualifying Patients or Caregivers from a licensed Marijuana Retailer and does not provide a retail location accessible to the public.

Department of Agricultural Resources (MDAR) means the Massachusetts Department of Agricultural Resources, unless otherwise specified. MDAR has jurisdiction over Hemp and pesticides.

Department of Criminal Justice Information Services (DCJIS) means the Massachusetts Department of Criminal Justice Information Services, unless otherwise specified. DCJIS shall have the same meaning as it is defined in 803 CMR 2.02: *Definitions*.

Department of Public Health (DPH) means the Massachusetts Department of Public Health, unless otherwise specified. DPH is the agency that administered the Medical Use of Marijuana Program prior to 2019.

Department of Revenue (DOR) means the Massachusetts Department of Revenue, unless otherwise specified.

Department of Unemployment Assistance (DUA) means the Massachusetts Department of Unemployment Assistance, unless otherwise specified.

Duress Alarm means a silent security alarm signal generated by the entry of a designated code into an Arming Station that signals an alarm user is under duress and turns off the system.

Economic Empowerment Priority Applicant means an applicant who demonstrated and continues to demonstrate three or more of the following criteria: a majority of ownership belongs to people who have lived for five of the preceding ten years in an Area of Disproportionate Impact, as determined by the Commission; a majority of ownership has held one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities; at least 51% of current employees or subcontractors reside in Areas of Disproportionate Impact and by the first day of business, the ratio will meet or exceed 75%; at least 51% of employees or subcontractors have drug-related *CORI* and are otherwise legally employable in Cannabis enterprises; a majority of the ownership is made up of individuals from Black, African American, Hispanic or Latino descent; and other significant articulable demonstration of past experience in or business practices that promote economic empowerment in Areas of Disproportionate Impact. This applicant has priority for the purposes of the review of its license application.

Edible Cannabis Products or Edibles means a Cannabis or Marijuana Product that is to be



consumed by humans by eating or drinking. These products, when created or sold by a Marijuana Establishment or MTC, shall not be considered a food or a drug as defined in M.G.L. c. 94G, § 1.

Electronic Certification means a document signed or executed electronically by a registered healthcare professional, stating that in the healthcare professional's professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for the qualifying patient. Such certification shall be made only in the course of a *bona fide* healthcare professional -patient relationship and shall specify the qualifying patient's debilitating medical condition. Electronic Certifications, on submission by a healthcare professional to the Commission, shall automatically generate a temporary registration.

Enclosed Area means an indoor or outdoor area equipped with locks or other security devices, which is accessible only to Consumers 21 years of age or older, Marijuana establishment agents, Registered Qualifying Patients, or Caregivers.

Equity Holder means a person or entity that holds or will hold any amount of equity in a Marijuana Establishment.

Executive means members of the board of directors, chief executive officer, executive director, president, and any other officer of the Marijuana Establishment or Independent Testing Lab.

Executive Office of Energy and Environmental Affairs (EOEEA) means the Massachusetts Executive Office of Energy and Environmental Affairs, unless otherwise specified.

Existing Licensed Transporter means an entity that is otherwise licensed by the Commission and also licensed to purchase, obtain, and possess Marijuana or Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution on behalf of other Marijuana Establishments to other establishments, but not to Consumers.

Fingerprint-based Background Check Trust Fund means a fund established under M.G.L. c. 29, § 2HHH, in which fees for fingerprint background checks are deposited.

Finished Marijuana means Usable Marijuana, Cannabis resin or Cannabis concentrate.

Flowering means the gametophytic or reproductive state of Cannabis or Marijuana in which the plant produces flowers, trichomes, and cannabinoids characteristic of Marijuana.

Food and Drug Administration (FDA) means the United States Food and Drug

Administration.

Greenhouse means an Enclosed Area where Cannabis or Marijuana plants are cultivated that has been inspected by the Commission and determined to be a Greenhouse.

Healthcare Clinician or Provider means a Certifying Physician, Certifying Certified Nurse Practitioner or Certifying Physician's Assistant qualified under 935 CMR 501.000: *Medical Use of Marijuana*, to issue written certifications for the medical use of Marijuana.

Hemp means the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Cannabis or Marijuana Product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content. MDAR has jurisdiction over Hemp.

Holdup Alarm means a silent alarm signal generated by the manual activation of a device that signals a robbery in progress.

Horticultural Lighting Equipment (HLE) means any lighting equipment (e.g. fixtures, bulbs, ballasts, controls, etc.) that uses energy for the cultivation of plants, at any stage of growth (e.g. germination, cloning/mother plants, propagation, Vegetation, Flowering, and harvest).

Horticulture Lighting Square Footage (HLSF) means Canopy, plus any additional areas(s) that will contain live plants at any point in time that will be exposed to horticultural lighting equipment.

Host Community means a municipality in which a Marijuana Establishment or Independent Laboratory is located or in which an applicant has proposed locating an establishment.

Independent Testing Laboratory means a laboratory that is licensed or registered by the Commission and is:

- (a) currently and validly licensed under 935 CMR 500.101: *Application Requirements*, or formerly and validly registered by the Commission;
- (b) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
- (c) independent financially from any Medical Marijuana Treatment Center (MTC), Marijuana Establishment or Licensee; and

- (a) qualified to test Marijuana or Marijuana Products, including MIPs, in compliance with M.G.L. c. 94C, § 34; M.G.L. c. 94G, § 15; 935 CMR 500.000: *Adult Use of Marijuana*; 935 CMR 501.000: *Medical Use of Marijuana*; and Commission protocol(s).

Individual Order means a delineated amount of Marijuana or Marijuana Products to be delivered by a Delivery-Only Retailer to an individual Consumer and not to exceed the individual possession amount limits as determined by statute.

Institutional Caregiver means an employee of a hospice program, long-term care facility, or hospital providing care to a registered qualifying patient on the premises of a long-term care facility, hospital or through a hospice program.

Known Allergen means milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, and soybeans, or such other allergen identified by the Commission.

Laboratory agent means an employee of an Independent Testing Laboratory registered in accordance with 935 CMR 500.029: *Registration and Conduct of Laboratory Agents*, who transports, possesses or tests Cannabis or Marijuana in compliance with 935 CMR 500.000: *Adult Use of Marijuana*.

Law Enforcement Authorities means local law enforcement, including but not limited to the local police and fire departments within the municipality where the Licensee is sited, unless otherwise indicated.

License means the certificate issued by the Commission that confirms that a Marijuana Establishment or an Independent Testing Laboratory has met all applicable requirements pursuant to St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000: *Adult Use of Marijuana*. A Marijuana Establishment or Independent Testing Laboratory may hold a provisional or final license.

Licensee means a person or entity on the application and licensed by the Commission to operate a Marijuana Establishment or Independent Testing Laboratory under St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G and 935 CMR 500.000: *Adult Use of Marijuana*. Any person or entity that solely provides initial capital to establish or operate the establishment and to whom, in return for the initial capital, requires only repayment of the loan and does not have any ownership or direct or indirect authority to control the Marijuana Establishment or Independent Testing Laboratory, will not be a Licensee.

Lighting Power Density (HLPD) means a measure of total watts of Horticultural Lighting Equipment per total Horticulture Lighting Square Footage,  $(HLE / HLSF = HLPD)$  expressed as number of watts per square foot.

Limitation on Sales means a limitation on the sales of Marijuana or Marijuana Products by a Marijuana Establishment Licensee or Registrant arising from the regulations and until substantial compliance by a Licensee or Registrant with a law, regulation, guidance or other requirement for licensure or registration.

Limited Access Area means an indoor or outdoor area on the Premises of a Marijuana Establishment where Marijuana or Marijuana Products, or their byproducts are cultivated, stored, weighed, packaged, processed, or disposed, under the control of a Marijuana Establishment, with access limited to only those Marijuana establishment or Laboratory agents designated by the establishment.

Local Authorities means local municipal authorities unless otherwise indicated.

Manufacture means to compound, blend, extract, infuse or otherwise make or prepare a Cannabis or Marijuana Product.

Marijuana Cultivator means an entity licensed to cultivate, Process and package Marijuana, and to Transfer Marijuana to other Marijuana Establishments, but not to Consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment means a Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Independent Testing Laboratory, Marijuana Retailer, Marijuana Transporter, Delivery-Only Retailer, Marijuana Research Facility, or any other type of licensed Marijuana-related business, except a Medical Marijuana Treatment Center (MTC).

Marijuana Establishment Agent means a board member, director, employee, Executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana.

Marijuana-infused Product (MIP) means a Marijuana Product infused with Marijuana that is intended for use or consumption including, but not limited to, edible products, ointments, aerosols, oils, and Tinctures. A Marijuana-infused Product (MIP), when created or sold by a Marijuana Establishment or MTC, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1. MIPs are a type of Marijuana Product.

Marijuana Product Manufacturer means an entity licensed to obtain, Manufacture, Process and package Marijuana or Marijuana Products and to Transfer these products to other Marijuana Establishments, but not to Consumers.

Marijuana Regulation Fund means the fund established under M.G.L. c. 94G, § 14, in

which fees, fines, and other monies collected by the Commission are deposited, except for fees collected by the Commission on behalf of other state agencies.

Marijuana Retailer means an entity licensed to purchase and transport Cannabis or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments and to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site social consumption on the Premises of a Marijuana Establishment.

Marijuana Social Consumption Establishment means an entity licensed to purchase Marijuana or Marijuana Products from a cultivator, manufacturer or Microbusiness, sell Marijuana or Marijuana Products to Consumers at an approved premise, and allow Consumers to consume Marijuana or Marijuana Products at this premise.

Marijuana Transporter means an entity, not otherwise licensed by the Commission, that is licensed to possess Cannabis or Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to Consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third-Party Transporter.

Massachusetts Resident means a person whose primary residence is in Massachusetts.

Medical Marijuana Treatment Center (MTC) formerly known as a Registered Marijuana Dispensary (RMD) means an entity licensed under 935 CMR 501.101: *Application Requirements for Medical Marijuana Treatment Centers*, that acquires, cultivates, possesses, processes (including development of related products such as edible Marijuana or Marijuana Products, Tinctures, aerosols, oils, or ointments), transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Cannabis or Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Cannabis or Marijuana for medical use.

Medical-use Cannabis or Marijuana means Marijuana that is cultivated, processed, transferred, tested or sold in compliance with 935 CMR 501.000: *Medical Use of Marijuana*.

Medical-use Marijuana or Marijuana Products means Marijuana Products that are manufactured, transferred, tested or sold in compliance with 935 CMR 501.000: *Medical Use of Marijuana*.

Medical Registration Card means an identification card issued formerly and validly by the DPH or currently or validly by the Commission, by the Medical Use of Marijuana

Program, to a Registered Qualifying Patient, Personal Caregiver, Institutional Caregiver, MTC agent or Laboratory agent. The medical registration card allows access into Commission-supported databases. The medical registration card facilitates verification of an individual Registrant's status, including, but not limited to, the identification by the Commission and law enforcement authorities, of those individuals who are exempt from Massachusetts criminal and civil penalties under St. 2016, c. 334 as amended by St. 2017, c. 55, M.G.L. c. 94G, and M.G.L. c. 94I.

Member means a member of a non-profit entity incorporated pursuant to M.G.L. c. 180.

Microbusiness means a Colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of Marijuana or its dry weight equivalent in raw concentrate per year from other Marijuana Establishments, but cannot purchase any other Marijuana Products.

MTC Priority Applicant means a previously Registered Marijuana Dispensary (RMD) Priority Applicant that demonstrated that it had received a Final Certificate of Registration and is selling Marijuana or Marijuana-infused products as of the date of application; it had received a Final Certificate of Registration, but is not selling Marijuana or Marijuana-infused products as of the date of application; it had received a Provisional Certificate of Registration, but not a Final Certificate of Registration. This applicant has priority for the purposes of the review of its license application.

Mycotoxin means a secondary metabolite of a microfungus that is capable of causing death or illness in humans and other animals. For the purposes of this chapter, Mycotoxin shall include aflatoxin B1, aflatoxin B2, aflatoxin G1, aflatoxin G2, and ochratoxin A.

Order to Show Cause means an order issued by the Commission or its delegee on a determination that there are grounds to suspend or revoke a license or registration.

Other Jurisdictions shall mean the United States, another state, or foreign jurisdiction, or a military, territorial or Native American tribal authority.

Outdoor cultivation shall mean the cultivation of mature Cannabis without the use of artificial lighting in the Canopy area at any point in time. Artificial lighting is permissible only to maintain immature plants.

Owner means any Equity Holder that possesses 10% or more of equity in a Marijuana Establishment or Independent Testing Laboratory.

Panic Alarm means an audible security alarm signal generated by the manual activation of a device that signals a life threatening or emergency situation and calls for a law enforcement response.

Paraphernalia means “drug paraphernalia” as defined in M.G.L. c. 94C, § 1.

Patient Registration Card means a registration card formerly and validly issued by the Department or a temporary or an annual registration card currently and validly issued by the Commission, to a registered Qualifying Patient. Through Commission supported databases, the registration card facilitates verification of an individual Registrant’s status including, but not limited to, identification by the Commission and law enforcement authorities, of those individuals who are exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana*. A temporary patient registration issued to a Qualifying Patient shall be deemed a registration card.

Person means an individual or entity under the laws of the Commonwealth.

Persons or Entities Having Direct Control means any person or entity having direct control over the operations of a Marijuana Establishment, which satisfies one or more of the following criteria:

- An Owner that possess a financial interest in the form of equity of 10% or greater in a Marijuana Establishment;
- A Person or Entity that possess a voting interest of 10% or greater in a Marijuana Establishment or a right to veto significant events;
- A Close Associate;
- A Person or Entity that has rights to control, through contract or otherwise, or authority, including but not limited to:
  - to make decisions regarding operations and strategic planning, capital allocations, acquisitions and divestments;
  - to appoint more than 50% of the directors;
  - to appoint or remove Corporate-level officers;
  - to make major marketing, production, and financial decisions;
  - to execute significant or exclusive contracts; or
  - to earn 10% or more of the profits or collect more than 10% of the dividends.

Persons or Entities Having Indirect Control means any person or entity having indirect control over operations of a Marijuana Establishment. It specifically includes any person with a controlling interest in an indirect holding or parent company of the applicant, and the chief executive officer and executive director of those companies, or any person or entity in a position indirectly to control the decision-making of a Marijuana

Establishment.

Persons or Entities Having Direct or Indirect Control means any person or entity having direct or indirect control.

Personal Caregiver means a person, registered by the Commission, who is 21 years of age or older, who has agreed to assist with a Registered Qualifying Patient's medical use of Marijuana, and is not the Registered Qualifying Patient's Certifying Healthcare Provider. A visiting nurse, personal care attendant, or home health aide providing care to a Registered Qualifying Patient may serve as a Personal Caregiver, including to patients younger than 18 years old as a second caregiver.

Personal Caregiver Registration Card means a registration card formerly and validly issued by the DPH or a temporary or an annual registration card currently and validly issued by the Commission to a personal caregiver. The registration card allows access into Commission supported databases. The registration card facilitates verification of an individual Registrant's status including, but not limited to, identification by the Commission and law enforcement authorities, of those individuals who are exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana*. A temporary registration issued to a Personal Caregiver shall be deemed a registration card.

Pesticide means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; provided that Pesticide shall not include any article that is a "new animal drug" within the meaning of § 201(w) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 321(w)), or that has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of § 201(x) of such act (21 U.S.C. § 321 (x)).

Pre-Certification Application means an application reviewed by the Commission for pre-certification prior to provisional licensure. The Pre-Certification Application may be available in a form and manner determined by the Commission.

Pre-Verification means the process of a Marijuana Retailer examining the identification presented by an individual Consumer to confirm that the identification is valid and matches the individual presenting it and collecting the information required by these regulations prior to that Consumer being able to receive deliveries of Marijuana or Marijuana Products to the Consumer's Residence. A Marijuana Retailer shall not acquire or record personal information about Consumers other than information typically required in a retail transaction.



Premises means any indoor or outdoor location over which a Marijuana Establishment or its agents may lawfully exert substantial supervision or control over entry or access to the property or the conduct of persons.

Priority Applicant means an MTC Priority Applicant (formerly a Registered Marijuana Dispensary or RMD Priority Applicant) or an Economic Empowerment Priority Applicant.

Process or Processing means to harvest, dry, cure, trim and separate parts of the Cannabis or Marijuana plant by manual or mechanical means, except it shall not include Manufacture as defined in 935 CMR 500.002: *Definitions*.

Production Area means a Limited Access Area within the Marijuana Establishment where Cannabis or Marijuana is handled or produced in preparation for sale.

Production Batch means a batch of finished plant material, Cannabis resin, Cannabis concentrate, or Marijuana-infused product made at the same time, using the same methods, equipment and ingredients. The Licensee shall assign and record a unique, sequential alphanumeric identifier to each Production Batch for the purposes of production tracking, product labeling and product recalls. All Production Batches shall be traceable to one or more Cannabis or Marijuana Cultivation Batches.

Propagation means the reproduction of Cannabis or Marijuana plants by seeds, cuttings, or grafting.

Provisional Marijuana Establishment License means a license issued by the Commission confirming that a Marijuana Establishment has completed the application process and satisfied the qualifications for initial licensure

Qualifying Patient means a Massachusetts resident 18 years of age or older who has been diagnosed by a Certifying Healthcare Provider as having a debilitating medical condition, or a Massachusetts resident younger than 18 years old who has been diagnosed by two Massachusetts licensed Certifying Physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 935 CMR 501.010(10).

Quarantine Order means an order to quarantine or otherwise restrict the sales or use of Marijuana or Marijuana Products by a Marijuana Establishment Licensee or Registrant to protect the public health, safety, or welfare.

Registered Qualifying Patient means a Qualifying Patient who was formerly and validly issued a registration card by the DPH or is currently and validly issued a temporary or an annual registration card by the Commission.

Registrant means the holder of a Registration Card formerly and validly registered with the DPH or currently and validly with the Commission. It also means an RMD holder of Certificate of Registration formally and validly registered with the DPH or the Commission. After the effective date of the promulgation of these regulations, new and renewal MTC licenses, as applicable, may be issued.

Registration Card means an identification card issued by the Commission to a Marijuana Establishment or Laboratory agent. The registration card allows access into Commission-supported databases. The registration card facilitates verification of an individual Registrant's status, including, but not limited to the identification by the Commission and law enforcement authorities of those individuals who are exempt from Massachusetts criminal and civil penalties under St. 2016, c. 334 as amended by St. 2017, c. 55, and 935 CMR 500.000: *Adult Use of Marijuana*.

Removal of Product means an order issued against a Marijuana Establishment to remove and prohibit sales of categories of products, product types, specific product types or specific brands of products after notice and on a determination that the Marijuana Product poses a substantial risk to the public health, safety or welfare, including, but not limited to, the product is especially appealing to persons younger than 21 years of age.

Research Facility means an entity licensed to engage in research projects by the Commission.

Residence means a house, condominium or apartment, and excludes, unless otherwise authorized by law, dormitories or other on-campus college or university housing; bed-and-breakfast establishments, hotels, motels or other commercial hospitality operations; and federally- and state-subsidized housing, shelters or residential programs.

Residual Solvent means a volatile organic chemical used in the Manufacture of a Cannabis or Marijuana Product and that is not completely removed by practical manufacturing techniques.

Responsible Vendor means a Marijuana Establishment that the Commission has determined to have completed the initial training requirements and has maintained its training requirement under 935 CMR 500.105(2).

Responsible Vendor Training Program means a program operated by an education provider accredited by the Commission to provide an annual minimum of three hours of required training to Marijuana establishment agents. The program shall be mandatory and the topics covered shall include but not be limited to: an understanding of different products and methods of consumption including edibles; potency; effects; secondhand absorption time; procedures to ensure that Consumers are not overserved, and procedures

for mitigating the risk of an impaired Consumer and ensuring the safety of patrons and the general public in the event of impairment.

Seed-to-sale Electronic Tracking System means a system designated by the Commission as the system of record (Seed-to-sale SOR) or a secondary electronic tracking system used by a Marijuana Establishment or MTC or an Independent Testing Laboratory. This system shall capture everything that happens to an individual Marijuana plant, from seed and cultivation, through growth, harvest and Manufacture of Marijuana Products and MIPs, including transportation, if any, to final sale of finished products. Seed-to-sale Electronic Tracking System shall utilize a unique-plant identification and unique-batch identification. It will also be able to track agents' and Registrants' involvement with the Marijuana Product. Any secondary system used by the Marijuana Establishment or MTC or Independent Testing Laboratory must integrate with the SOR in a form and manner determined by the Commission.

Seed-to-sale System of Record (Seed-to-sale SOR) means the electronic tracking system designated and required by the Commission to perform a process.

Shelf-stable means able to be safely stored at room temperature in a sealed container.

Social Consumption Pilot Program means a limited number of Marijuana Social Consumption Establishments, specifically Brick-and-Mortar Consumption Establishments, in certified municipalities.

Social Equity Program Participant means an individual who qualified to participate in the Social Equity Program and is designated as a program participant by the Commission.

Summary suspension means the suspension of any license or registration issued under 935 CMR 500.000: *Adult Use of Marijuana*, and the cessation of all operations in order to protect the public health, safety and welfare.

Third-Party Technology Platform Provider means an individual or entity that provides or hosts an internet-based application or group of applications developed for the facilitation of ordering and delivering Cannabis through a Delivery-Only Retailer to a Consumer.

Tincture means a Cannabis-infused alcohol or oils concentrate administered orally in small amounts using a dropper or measuring spoon. Tinctures are not considered an edible product under 935 CMR 500.000: *Adult Use of Marijuana* and are not subject to the dosing limitations applicable to edible Marijuana Products.

Transfer means the sale of Marijuana or Marijuana Products from a Marijuana Establishment to a separate Marijuana Establishment, Independent Testing Laboratory or MTC (but not to Consumers) subject to entry of the transaction in the Commission's

Seed-to-sale SOR.

United States (US) means the United States of America.

Unreasonably Impracticable means that the measures necessary to comply with the regulations, ordinances or bylaws adopted pursuant to St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000: *Adult Use of Marijuana* subject Licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a Marijuana Establishment.

Usable Marijuana means the fresh or dried leaves and flowers of the female Marijuana plant and any mixture or preparation thereof, including Marijuana or Marijuana Products, but does not include the seedlings, seeds, stalks, roots of the plant, or Marijuana rendered unusable in accordance with 935 CMR 500.105(12)(c).

Vegetation means the sporophytic state of the Cannabis or Marijuana plant, which is a form of asexual reproduction in plants during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

Verified Financial Hardship means that an individual is a recipient of MassHealth, or Supplemental Security Income, or the individual's income does not exceed 300% of the federal poverty level, adjusted for family size.

Veteran means a person who served in the active military, naval or air service of the United States and who was discharged or released under conditions other than dishonorable.

Visitor means an individual, other than a Marijuana Establishment Agent authorized by the Marijuana Establishment, on the Premises of an establishment for a purpose related to its operations and consistent with the objectives of St. 2016, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000: *Adult Use of Marijuana*, provided, however, that no such individual shall be younger than 21 years old.

Visitor Identification Badge means a badge issued by an MTC, Marijuana Establishment or the Commission to be used at all times while on the Premises of a Marijuana Establishment or MTC or Independent Testing Laboratory. These identification badges must be issued in a form and manner determined by the Commission.

Written Certification means a form submitted to the Department or Commission by a Massachusetts licensed Certifying Healthcare Provider describing the Qualifying Patient's pertinent symptoms, specifying the patient's debilitating medical condition, and stating that in the physician's professional opinion the potential benefits of the medical

use of Marijuana would likely outweigh the health risks for the patient.

500.005: Fees

(1) Marijuana Establishment Application and License Fees.

(a) Each applicant for licensure as a Marijuana Establishment shall pay to the Commission a nonrefundable application fee, annual license fee, and a monthly seed-to-sale licensing fee. These fees do not include the costs associated with the seed-to-sale licensing system, which includes a monthly program fee and fees for plant and package tags. These fees do not include the costs associated with criminal background checks as required under 935 CMR 500.101(1)(b) or 935 CMR 500.030, *Registration of Marijuana Establishment Agents*.

(b) Waiver of fees.

1. Application fees are waived for Social Equity Program Participants and Economic Empowerment Priority Applicants. This does not include the costs associated with background checks.
2. For Annual License Fees, Social Equity Program Participants and Economic Empowerment Priority Applicants receive a 50% reduction in the fee associated with an application.
3. Seed-to-sale SOR monthly program fees are waived for Economic Empowerment Priority Applicants, Social Equity Program Participants, Craft Marijuana Cooperatives, and Microbusinesses. This waiver does not include other costs associated with the seed-to-sale licensing system, specifically the fees for plant and package tags.
4. All other applicants are responsible for the payment of fees in accordance with 935 CMR 500.005(a) and may not waive their obligation pursuant to 935 CMR 500.850, *Waivers*.

(c) Each applicant shall choose the tier at which it will be initially licensed.

(d) Application and annual license fee schedule:

License Types	Application Fees (Indoor/Outdoor)	Annual License Fee (Indoor/Outdoor)
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Marijuana Cultivator (Indoor or Outdoor)		
Tier 1: up to 5,000 square feet	\$200 (I)/\$100 (O)	\$1,250 (I)/\$625 (O)
Tier 2: 5,001 to 10,000 sq. ft.	\$400 (I)/\$200 (O)	\$2,500 (I)/\$1,250 (O)
Tier 3: 10,001 to 20,000 sq. ft.	\$600 (I)/\$300 (O)	\$5,000 (I)/\$2,500 (O)
Tier 4: 20,001 to 30,000 sq. ft.	\$2000 (I)/\$1500 (O)	\$20,000 (I)/\$10,000 (O)
Tier 5: 30,001 to 40,000 sq. ft.	\$2000 (I)/\$1500 (O)	\$22,500 (I)/\$11,250 (O)
Tier 6: 40,001 to 50,000 sq. ft.	\$2000 (I)/\$1500 (O)	\$25,000 (I)/\$17,500 (O)
Tier 7: 50,001 to 60,000 sq. ft.	\$2000 (I)/\$1500 (O)	\$30,000 (I)/\$15,000 (O)
Tier 8: 60,001 to 70,000 sq. ft.	\$2000 (I)/\$1500 (O)	\$35,000 (I)/\$17,500 (O)
Tier 9: 70,001 to 80,000 sq. ft.	\$2000 (I)/\$1500 (O)	\$40,000 (I)/\$20,000 (O)
Tier 10: 80,001 to 90,000 sq. ft.	\$2000 (I)/\$1500 (O)	\$45,000 (I)/\$22,500 (O)
Tier 11: 90,001 to 100,000 sq. ft.	\$2000 (I)/\$1500 (O)	\$50,000 (I)/\$25,000 (O)
Craft Marijuana Cooperative	Total fees for its Canopy. If more than six locations, add \$200 (I)/\$100(O) per additional location.	Total fees for its Canopy. If more than six locations, add \$1,250(I)/\$625(O) per additional location.
Marijuana Product Manufacturing	\$1500	\$15,000
Marijuana Microbusiness	\$1000	50% of all applicable license fees
Independent Testing Laboratory	\$1500	\$10,000
Marijuana Retailer (brick and mortar)	\$1500	\$10,000
Brick-and-Mortar Social Consumption Establishment	\$1500	\$10,000
Marijuana Transporter: Third-party Transporter	\$1500	\$5,000
Marijuana Transporter: Existing Licensee Transporter	\$1000	\$5,000
Marijuana Delivery-Only Retailer	\$1500	\$10,000
Marijuana Research Facility	\$300	\$1,000

(e) Other fees (cost per license):

Change in Name Fee	\$1000
Change in Location Fee	50% of the applicable license fee
Change in Building Structure Fee	\$1000
Change in Ownership or Control Fee (involving at least one entity gaining ownership/control)	\$5000 per entity, per license

Change in Ownership or Control Fee <i>(involving individuals, e.g., change of Board Member)</i>	\$500 per person
Architectural Review Request Fee	\$1500

(2) Registration Card Holder Fees.

- (a) An applicant for a registration card as a Marijuana establishment agent, a Laboratory agent, or any other position designated as an agent by the Commission shall pay a nonrefundable application fee of \$100 with any such application.
- (b) An applicant for a renewal of a registration card as a Marijuana establishment agent, a Laboratory agent, or any other position designated as an agent by the Commission shall pay a fee of \$100.

(3) Fingerprint-based Criminal Background Checks Fees.

- (a) All persons required to submit fingerprints shall pay a fee to be established by the Massachusetts Secretary of Administration and Finance, in consultation with Massachusetts Secretary of Public Safety and Security and the Commission, to offset the costs of operating and administering a fingerprint-based criminal background-check system.
- (b) The Commission may pay the fee on behalf of applicants or reimburse applicants for all or part of the fee on the grounds of financial hardship.
- (c) Any fees collected from fingerprinting activity under 935 CMR 500.000: *Adult Use of Marijuana* shall be deposited into the Fingerprint-based Background Check Trust Fund, established in M.G.L. c. 29, § 2HHH.

500.029: Registration and Conduct of Laboratory Agents

- (1) The Commission shall issue a Laboratory agent registration card to each applicant associated as an employee or volunteer with an Independent Testing Laboratory licensed pursuant to 935 CMR 500.050(7) or 935 CMR 501.029: *Registration of Independent Testing Laboratory Agents*, who is determined to be suitable for registration. All such individuals shall:
  - (a) be 21 years of age or older;
  - (b) have not been convicted of any felony drug offense in the Commonwealth or a like violation of the laws of an Other Jurisdiction;

- (c) have not been convicted of any offense involving the distribution of controlled substances to a minor or a like violation of the laws of an Other Jurisdiction; and
  - (d) be determined to be suitable for registration consistent the provisions of 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration* and 500.801: *Suitability Standard for Licensure* or 500.803: *Suitability Standard for Registration as a Laboratory Agent*.
- (2) An application for registration of a Laboratory agent, submitted to the Commission by an Independent Testing Laboratory, shall include:
- (a) the full name, date of birth, and address of the individual;
  - (b) all aliases used previously or currently in use by the individual, including maiden name, if any;
  - (c) a copy of the applicant's driver's license, government-issued identification card, liquor purchase identification card issued pursuant to M.G.L. c. 138, § 34B, or other verifiable identity document acceptable to the Commission;
  - (d) an attestation signed by the applicant that the applicant will not engage in the diversion of Marijuana Products;
  - (e) written acknowledgment signed by the applicant of any limitations on his or her authorization to possess, test or transport Marijuana Products in the Commonwealth;
  - (f) authorization to obtain a full set of fingerprints, in accordance with M.G.L. c. 94G, § 21, submitted in a form and manner as determined by the Commission;
  - (g) background information, including, as applicable:
    1. a description and the relevant dates of any criminal action under the laws of the Commonwealth, or an Other Jurisdiction, whether for a felony or misdemeanor and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;
    2. a description and the relevant dates of any civil or administrative action under the laws of the Commonwealth or an Other Jurisdiction, relating to any professional or occupational or fraudulent practices;
    3. a description and relevant dates of any past or pending denial, suspension, or revocation of a license or registration, or the denial of a renewal of a



- license or registration, for any type of business or profession, by Other Jurisdictions;
4. a description and relevant dates of any past discipline by, or a pending disciplinary action or unresolved complaint by, the Commonwealth, or a like action or complaint by an Other Jurisdiction, with regard to any professional license or registration held by the applicant;
  5. a nonrefundable application fee paid by the Marijuana Establishment with which the Marijuana establishment agent will be associated; and
  6. any other information required by the Commission.
- (3) An Independent Testing Laboratory Person Having Direct Control registered with the Massachusetts DCJIS pursuant to 803 CMR 2.04: *iCORI Registration* shall submit to the Commission a CORI report and any other background check information required by the Commission for each individual for whom the Independent Testing Laboratory seeks a Laboratory agent registration, obtained within 30 days prior to submission.
- (4) The Commission shall conduct fingerprint-based checks of state and national criminal history databases, as authorized by Public Law 92-544, to determine the suitability of Laboratory agents. The Independent Testing Laboratory shall pay a non-refundable fee to the Commission for the purpose of administering the fingerprint-based background check.
- (5) An Independent Testing Laboratory shall notify the Commission no more than one business day after a Laboratory agent ceases to be associated with the Independent Testing Laboratory. The Laboratory agent's registration shall be immediately void when the agent is no longer associated with the Independent Testing Laboratory.
- (6) A registration card shall be valid for one year from the date of issue, and may be renewed on an annual basis on a determination by the Commission that the applicant for renewal continues to be suitable for registration based on satisfaction of the requirements included in 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration* and 500.801: *Suitability Standard for Licensure* or 500.803: *Suitability Standard for Registration as a Laboratory Agent*.
- (7) After obtaining a registration card for a Laboratory agent, an Independent Testing Laboratory is responsible for notifying the Commission, in a form and manner determined by the Commission, as soon as possible, but in any event, within five business days of any changes to the information that the Independent Testing Laboratory was previously required to submit to the Commission or after discovery that a registration card has been lost or stolen.

- (8) A Laboratory agent shall always carry the registration card associated with the appropriate Independent Testing Laboratory while in possession of Marijuana Products, including at all times while at an Independent Testing Laboratory, or while transporting Marijuana Products.
- (9) A Laboratory agent affiliated with multiple Independent Testing Laboratories shall be registered as a Laboratory agent by each Independent Testing Laboratory and shall be issued a registration card for each lab.
- (10) Laboratory agents are strictly prohibited from receiving direct or indirect financial compensation from any Marijuana Establishment for which the Laboratory agent is conducting testing, other than reasonable contract fees paid for conducting the testing in the due course of work.
- (11) Laboratory agents shall not be employed by other types of Marijuana Establishments while employed as a Laboratory agent at one or more Independent Testing Laboratories.

500.030: Registration of Marijuana Establishment Agents

- (1) A Marijuana Establishment shall apply for registration for all its board members, directors, employees, Executives, managers, and volunteers who are associated with that Marijuana Establishment. The Commission shall issue an agent registration card to each individual determined to be suitable for registration. All such individuals shall:
  - (a) be 21 years of age or older;
  - (b) have not been convicted of an offense in the Commonwealth involving the distribution of controlled substances to minors, or a like violation of the laws of Other Jurisdictions; and
  - (c) be determined suitable for registration consistent with the provisions of 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration* and 500.801: *Suitability Standard for Licensure* or 500.802: *Suitability Standard for Registration as a Marijuana Establishment Agent*.
- (2) An application for registration of a Marijuana Establishment agent shall include:
  - (a) the full name, date of birth, and address of the individual;
  - (b) all aliases used previously or currently in use by the individual, including maiden

name, if any;

- (c) a copy of the applicant's driver's license, government-issued identification card, liquor purchase identification card issued pursuant to M.G.L. c. 138, § 34B, or other verifiable identity document acceptable to the Commission;
  - (d) an attestation that the individual will not engage in the diversion of Marijuana Products;
  - (e) written acknowledgment by the applicant of any limitations on his or her authorization to cultivate, harvest, prepare, package, possess, transport, and dispense Marijuana in the Commonwealth;
  - (f) background information, including, as applicable:
    - 1. a description and the relevant dates of any criminal action under the laws of the Commonwealth, or an Other Jurisdiction, whether for a felony or misdemeanor and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;
    - 2. a description and the relevant dates of any civil or administrative action under the laws of the Commonwealth, or an Other Jurisdiction, relating to any professional or occupational or fraudulent practices;
    - 3. a description and relevant dates of any past or pending denial, suspension, or revocation of a license or registration, or the denial of a renewal of a license or registration, for any type of business or profession, by any federal, state, or local government, or any foreign jurisdiction;
    - 4. a description and relevant dates of any past discipline by, or a pending disciplinary action or unresolved complaint by, the Commonwealth, or an Other Jurisdiction, with regard to any professional license or registration held by the applicant; and
  - (g) a nonrefundable application fee paid by the Marijuana Establishment with which the Marijuana establishment agent will be associated; and
  - (h) any other information required by the Commission.
- (3) A Marijuana Establishment Executive registered with the DCJIS pursuant to 803 CMR 2.04: *iCORI Registration*, shall submit to the Commission a CORI report and any other background check information required by the Commission for each individual for whom the Marijuana Establishment seeks a Marijuana establishment agent registration, obtained

within 30 days prior to submission.

- (a) The CORI report obtained by the Marijuana Establishment shall provide information authorized under Required Access Level 2 pursuant to 803 CMR 2.05(3)(a)2.
  - (b) The Marijuana Establishment's collection, storage, dissemination and usage of any CORI report or background check information obtained for Marijuana establishment agent registrations shall comply with 803 CMR 2.00, *et seq.* and all other applicable state and local laws and regulations.
- (4) A Marijuana Establishment shall notify the Commission no more than one business day after a Marijuana establishment agent ceases to be associated with the establishment. The registration shall be immediately void when the agent is no longer associated with the establishment.
  - (5) An agent registration card shall be valid for one year from the date of issue and may be renewed on an annual basis on a determination by the Commission that the applicant for renewal continues to be suitable for registration.
  - (6) After obtaining an agent registration card for a Marijuana establishment agent, a Marijuana Establishment is responsible for notifying the Commission, in a form and manner determined by the Commission, as soon as possible, but in any event, within five business days of any changes to the information that the establishment was previously required to submit to the Commission or after discovery that a registration card has been lost or stolen.
  - (7) A Marijuana establishment agent shall always carry the agent registration card associated with the appropriate Marijuana Establishment while in possession of Marijuana Products, including at all times while at the establishment or while transporting Marijuana Products.
  - (8) A Marijuana establishment agent affiliated with multiple Marijuana Establishments shall be registered as a Marijuana establishment agent by each Marijuana Establishment and shall be issued an agent registration card for each establishment.

500.031: Denial of a Marijuana Establishment Agent Registration Card

Each of the following, in and of itself, constitutes full and adequate grounds for denial of an agent registration card for Marijuana establishment agent, including Laboratory agents:

- (1) Failure to provide the information required in 935 CMR 500.029: *Registration and Conduct of Laboratory Agents* or 500.030: *Registration of Marijuana Establishment Agents* for an agent registration card;
- (2) Provision of information on the application that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity;
- (3) Failure to meet the requirements set forth in 935 CMR 500.029: *Registration and Conduct of Laboratory Agents* or 500.030: *Registration of Marijuana Establishment Agents* for an agent registration card;
- (4) Revocation or suspension of an agent registration card in the previous six months;
- (5) Failure by the Marijuana Establishment to pay all applicable fees; or
- (6) Other grounds, as the Commission may determine in the exercise of its discretion, that are directly related to the applicant's ability to serve as a Marijuana establishment agent, or that make the applicant unsuitable for registration; however, the Commission will provide notice to the applicant of the grounds prior to the denial of the agent registration card and a reasonable opportunity to correct these grounds.
  - (a) The Commission may delegate Registrants' suitability determinations to the Executive Director, who may appoint a Suitability Review Committee, in accordance with 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration*. Suitability determinations shall be based on credible and reliable information.
  - (b) The Executive Director may institute a suitability review based on a recommendation from Enforcement staff that background check information would result in or could support an adverse suitability determination. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration*.

500.032: Revocation of a Marijuana Establishment Agent Registration Card

- (1) Each of the following, in and of itself, constitutes full and adequate grounds for revocation of an agent registration card issued to a Marijuana establishment agent, including Laboratory agents:
  - (a) Submission information in the application or renewal application that is

- deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity;
- (b) Violation of the requirements of the state Marijuana laws, including 935 CMR 500.000: *Adult Use of Marijuana*;
  - (c) Fraudulent use of a Marijuana establishment agent registration card, including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate an agent registration card;
  - (d) Selling, transferring, distributing, or giving Marijuana to any unauthorized person;
  - (e) Failure to notify the Commission within five business days after becoming aware that the agent registration card has been lost, stolen, or destroyed;
  - (f) Failure to notify the Commission within five business days after a change in the registration information contained in the application or required by the Commission to have been submitted in connection with the application an agent registration card, including open investigations or pending actions as delineated in 935 CMR 500.802: *Suitability Standard for Registration as a Marijuana Establishment Agent*, as applicable, that may otherwise affect the status of the suitability for registration of the Marijuana establishment agent;
  - (g) Conviction, guilty plea, plea of *nolo contendere*, or admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of an Other Jurisdiction; or
  - (h) Conviction, guilty plea, plea of *nolo contendere* or admission to sufficient facts in the Commonwealth, or a like violation of the laws of another state, to an offense as delineated in 935 CMR 500.802: *Suitability Standard for Registration as a Marijuana Establishment Agent* or 500.803: *Suitability Standard for Registration as a Laboratory Agent*, as applicable, that may otherwise affect the status of the suitability for registration of the Marijuana establishment agent.
- (2) Other grounds as the Commission may determine in the exercise of its discretion, that are directly related to the applicant's ability to serve as a Marijuana establishment agent, that make the Registrant unsuitable for registration. The Commission will provide notice to the Registrant of the grounds prior to the revocation of an agent registration card and a reasonable opportunity to correct these grounds.
- (a) The Commission may delegate Registrants' suitability determinations to the Executive Director, who may appoint a Suitability Review Committee, in

accordance with 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration*. Suitability determinations shall be based on credible and reliable information.

- (b) The Executive Director may institute a suitability review based on a recommendation from Enforcement staff that background check information would result in or could support an adverse suitability determination. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration*.

500.033: Void Registration Cards

- (1) An agent registration card issued to a Marijuana Establishment agent, including a Laboratory agent, shall be void when:
  - (a) the agent has ceased to be associated with the Marijuana Establishment or Independent Testing Laboratory that applied for and received the agent's registration card;
  - (b) the card has not been surrendered on the issuance of a new agent registration card based on new information; or
  - (c) the agent is deceased.
- (2) A void agent registration card is inactive and invalid.

500.040: Leadership Rating Program for Marijuana Establishments and Marijuana-related Businesses

- (1) Leadership Rating Categories. In a time and manner to be determined by the Commission, Licensees will be eligible to earn leadership ratings in the following categories:
  - (a) Social Justice Leader
  - (b) Local Employment Leader
  - (c) Energy and Environmental Leader
  - (d) Compliance Leader
- (2) Leadership Rating Application

- (a) Marijuana Establishments annually submit information, in a time and manner determined by the Commission, demonstrating their eligibility for the applicable leadership rating.
- (b) All information submitted is subject to verification and audit by the Commission prior to the award of a leadership rating.
- (c) Award of a leadership rating in one year does not entitle the applicant to a leadership rating for any other year.

(3) Leadership Rating Criteria

- (a) Social Justice Leader. In the year preceding the date of application for a leadership rating:

- 1. One percent of the Marijuana Establishment's gross revenue is donated to the Social Equity Training and Technical Assistance Fund; and
- 2. The Licensee has conducted 50 hours of educational seminars targeted to residents of Areas of Disproportionate Impact in one or more of the following: Marijuana cultivation, Marijuana Product manufacturing, Marijuana retailing, or Marijuana business training.

A Social Justice Leader may use a logo or symbol created by the Commission to indicate its leadership status.

- (b) Local Employment Leader. In the year preceding the date of application for a leadership rating:

- 1. 51% or more of the Licensee's employees have been a Massachusetts resident for 12 months or more, as determined by the Commission; and
- 2. 51% or more of the Licensee's Executives have been a Massachusetts resident for 12 months or more, as determined by the Commission.

- (c) Energy and Environmental Leader. In the year preceding the date of application for a leadership rating:

- 1. The Licensee has met or exceeded its energy and environmental impact goals for its registration period;
- 2. The Licensee has consistently documented and complied with best management practices for energy use, waste disposal and environmental



impact;

3. The Licensee has documented that renewable energy credits representing 100% of the Licensee's energy usage have been retired; and
4. The Licensee has labeled all their products as being produced using 100% renewable energy.

(d) Compliance Leader. In the year preceding the date of application for a leadership rating:

1. All Licensee employees have completed all required trainings for their positions within 90 days of hire;
2. The Licensee has not been issued a written deficiency statement;
3. The Licensee has not been the subject of a Cease and Desist Order or a Quarantine Order;
4. The Licensee has not had its license suspended; and
5. The Licensee has met all timelines required by the Commission.

(4) Leadership ratings will be taken into consideration by the Commission in assessing fines pursuant to 935 CMR 500.360: *Fines* and disciplinary action pursuant to 935 CMR 500.450: *Marijuana Establishment License: Grounds for Denial of Renewal Applications, Suspension and Revocation*.

#### 500.050: Marijuana Establishments

##### (1) General Requirements

(a) A Marijuana Establishment is required to be registered to do business in the Commonwealth as a domestic business corporation or another domestic business entity in compliance with 935 CMR 500.000: *Adult Use of Marijuana* and to maintain the corporation or entity in good standing with the Secretary of the Commonwealth, DOR, and DUA.

##### (b) Control limitations

1. No Person or Entity Having Direct or Indirect Control shall be granted, or Licensee hold, more than three licenses in a particular class, except as otherwise specified in 935 CMR 500.000: *Adult Use of Marijuana*.
2. An Independent Testing Laboratory or Standards Laboratory Licensee, or any associated Person or Entity Having Direct or Indirect Control, may not have a license in any other class.
  - a. To the extent that persons or entities seek to operate a testing facility in the Counties of Dukes County and Nantucket, 935 CMR 500.200: *Counties of Dukes County and Nantucket* applies.
3. The Commission shall receive notice of any such interests as part of the application pursuant to 935 CMR 500.101: *Application Requirements*.
4. Any Person or Entity Having Direct or Indirect Control, or Licensee, shall be limited to a total of 100,000 square feet of Canopy distributed across no more than three cultivation licenses under 935 CMR 500.000: *Adult Use of Marijuana* and three MTC licenses. A Craft Marijuana Cooperative Licensee shall be limited to one license and a total of 100,000 square feet of Canopy.

(c) License Classes are as follows:

1. Marijuana Cultivator (Indoor or Outdoor):
  - a. Tier 1: up to 5,000 square feet of Canopy;
  - b. Tier 2: 5,001 to 10,000 square feet of Canopy;
  - c. Tier 3: 10,001 to 20,000 square feet of Canopy;
  - d. Tier 4: 20,001 to 30,000 square feet of Canopy;
  - e. Tier 5: 30,001 to 40,000 square feet of Canopy;
  - f. Tier 6: 40,001 to 50,000 square feet of Canopy;
  - g. Tier 7: 50,001 to 60,000 square feet of Canopy;
  - h. Tier 8: 60,001 to 70,000 square feet of Canopy;
  - i. Tier 9: 70,001 to 80,000 square feet of Canopy;
  - j. Tier 10: 80,001 to 90,000 square feet of Canopy; or
  - k. Tier 11: 90,001 to 100,000 square feet of Canopy.
2. Craft Marijuana Cooperative;
3. Marijuana Product Manufacturer;
4. Marijuana Microbusiness;
5. Independent Testing Laboratory and Standards Laboratory;
6. Marijuana Retailer;
7. Marijuana Social Consumption Establishment:
  - a. Brick-and Mortar Social Consumption Establishment;
8. Marijuana Transporter:
  - a. Existing Licensing Transporter;

- b. Third Party Transporter;
- 9. Delivery-Only Retailer;
- 10. Marijuana Research Facility.

(d) A Marijuana Establishment shall operate all activities authorized by the License only at the address(es) reported to the Commission for that license.

(e) All Marijuana Establishment agents of the Marijuana Establishment must be registered with the Commission pursuant to 935 CMR 500.030: *Registration of Marijuana Establishment Agents*.

(2) Marijuana Cultivator (Indoor or Outdoor).

(a) A Marijuana Cultivator may cultivate, Process and package Marijuana, to transport Marijuana to Marijuana Establishments and to Transfer Marijuana to other Marijuana Establishments, but not to Consumers.

(b) Marijuana Cultivators shall select a cultivation tier. Cultivation tiers are based on the square footage of Canopy:

1. Tier 1: up to 5,000;
2. Tier 2: 5,001 to 10,000;
3. Tier 3: 10,001 to 20,000;
4. Tier 4: 20,001 to 30,000;
5. Tier 5: 30,001 to 40,000;
6. Tier 6: 40,001 to 50,000;
7. Tier 7: 50,001 to 60,000;
8. Tier 8: 60,001 to 70,000;
9. Tier 9: 70,001 to 80,000;
10. Tier 10: 80,001 to 90,000; or
11. Tier 11: 90,001 to 100,000.

(c) Tier Expansion. A Marijuana Cultivator may submit an application, in a time and manner determined by the Commission, to change the tier in which it is classified. A Marijuana Cultivator may change tiers to either expand or reduce production. If a Marijuana Cultivator is applying to expand production, it must demonstrate that while cultivating at the top of its production tier, it has sold 85% of its product consistently over the six months preceding the application for expanded production for an indoor cultivator, or during the harvest season prior to the application for expanded production for an outdoor cultivator.

(d) Tier Relegation. In connection with the license renewal process for Marijuana Cultivators, the Commission will review the records of the Marijuana Cultivator

during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator. The Commission may reduce the Licensee's maximum Canopy to a lower tier if the Licensee sold less than 70% of what it produced during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator.

- (e) Tier Factors. When determining whether to allow expansion or relegate a Licensee to a different tier, the Commission may consider factors including but not limited to:
1. Cultivation and production history including whether the plants/inventory suffered a catastrophic event during the licensing period;
  2. Transfer, sales, and excise tax payment history;
  3. Existing inventory and inventory history;
  4. Sales contracts; and
  5. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

(3) Craft Marijuana Cooperative.

- (a) A Craft Marijuana Cooperative may be organized as a limited liability company, limited liability partnership, or a cooperative corporation under the laws of the Commonwealth.
- (b) The Members or shareholders of the cooperative must be residents of the Commonwealth for the 12 months immediately preceding the filing of an application for a license.
- (c) One Member of the Craft Marijuana Cooperative shall have filed a Schedule F tax income form within the five years prior to application for licensure.
- (d) The Craft Marijuana Cooperative must operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995.
- (e) The cooperative license authorizes it to cultivate, obtain, Manufacture, Process, package, brand and Transfer Marijuana Products to deliver Marijuana to Marijuana Establishments, but not to Consumers.
- (f) The Craft Marijuana Cooperative is limited to one license, under which it may cultivate Marijuana, subject to the limitations of 935 CMR 500.050: *Marijuana Establishments*. The cooperative's total locations are limited to cultivating

100,000 square feet of Canopy. A cooperative is not limited in the number of cultivation locations it may operate, provided that for each location over six locations, additional application and licensing fees shall apply pursuant to 935 CMR 500.050(3)(d). The cooperative may also conduct activities authorized for Marijuana Product Manufacturers at up to three locations.

- (g) For the Seed-to-sale SOR, a cooperative that designates a system administrator will pay one licensing program fee on a monthly basis for seed-to-sale tracking software.
- (h) Members of a cooperative shall not be a Person or Entity Having Direct or Indirect Control in any other Marijuana Establishment. Such restriction shall not be construed to prohibit a Craft Marijuana Cooperative for applying for a Marijuana Retailer, Marijuana Existing Licensee Transporter, Marijuana Research or Marijuana Social Consumption Establishment License.
- (i) Tier Expansion. A Craft Marijuana Cooperative may submit an application, in a time and manner determined by the Commission, to change the tier in which it is classified. A cooperative may change tiers to either expand or reduce production. If a cooperative is applying to expand production, it must demonstrate that while cultivating at the top of its production tier, it has sold 85% of its product consistently during the six months preceding the application for expanded production for an indoor cultivator, or during the harvest season prior to the application for expanded production for an outdoor cultivator.
- (j) Tier Relegation. In connection with the license renewal process for Craft Marijuana Cooperatives, the Commission will review the records of the cooperative during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator. The Commission may reduce the Licensee's maximum Canopy to a lower tier if the Licensee sold less than 70% of what it produced during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator.
- (k) Tier Factors. When determining whether to allow expansion or relegate a Licensee to a different tier, the Commission may consider factors including but not limited to:
  - 1. cultivation and production history including whether the plants/inventory suffered a catastrophic event during the licensing period;
  - 2. transfer, sales, and excise tax payment history;

3. existing inventory and inventory history;
  4. sales contracts; and
  5. any other factors relevant to ensuring responsible cultivation, production, and inventory management.
- (4) Marijuana Product Manufacturer. A Marijuana Product manufacturer may obtain, Manufacture, Process and package Marijuana Products, to transport Marijuana Products to Marijuana Establishments and to Transfer Marijuana Products to other Marijuana Establishments, but not to Consumers.
- (5) Marijuana Microbusiness
- (a) A Microbusiness is a Colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of Marijuana or its dry-weight equivalent in raw concentrate per year from other Marijuana Establishments, but not any other Marijuana Products.
  - (b) A Microbusiness shall comply with all operational requirements imposed by 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments* through 935 CMR 500.140: *Additional Operational Requirements for Retail Sale on Marijuana Cultivators and Manufacturers*, to the extent the Licensee engages in such activities.
  - (c) A Microbusiness Licensee shall not be a Person or Entity Having Direct or Indirect Control for any other Marijuana Establishment except a Delivery-Only Retailer or Marijuana Social Consumption Establishment. A majority of the Microbusiness' Executives or Members must have been residents of Massachusetts for no less than 12 months prior to application.
  - (d) Application fees and license fees for Microbusinesses shall be set at 50% of the combined sum of the application fees and license fees for all the cultivation or manufacturing activities in which the Licensee engages.
- (6) Marijuana Social Consumption Establishment Pilot Program.
- (a) Under the Social Consumption Establishment Pilot Program, Brick-and-Mortar Social Consumption Establishments may apply for licensure.
  - (b) Marijuana Social Consumption Establishment licenses shall be limited on an

exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants; Microbusinesses; and Craft Marijuana Cooperatives, for a period of twenty-four (24) months from the date the Commission makes the license application available for submission on its website, provided, however, that the Commission may, by a vote of a majority of the voting Commissioners, decide to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law, by farmers, and by businesses of all sizes, has not been met.

1. The Commission shall develop criteria for evaluating whether the goals of the exclusivity period are met, which shall include but not be limited to:
  - a. Overall rates of participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law, by farmers, and by businesses of all sizes;
  - b. Overall rates of participation in the regulated Marijuana industry by people of color;
  - c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants; Microbusinesses; and Craft Marijuana Cooperatives;
  - d. Number of registered agents who are Social Equity Program Participants;
  - e. Number of Social Consumption Establishments in operation and business performance relative to other Marijuana Establishments;
  - f. Financial feasibility of continued participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law, by farmers, and by businesses of all sizes if exclusivity period ends; and
  - g. any other information the Commission determines relevant.
2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the 24-month period to provide adequate time to consider whether an extension of the 24-month period is necessary prior to the conclusion of that time period.

3. The licenses may be made available to any qualifying applicants after the 24-month period unless a majority of the voting Commissioners votes to extend the period of exclusivity.

(c) No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a Marijuana Social Consumption Establishment license.

(7) Independent Testing Laboratory.

(a) An Independent Testing Laboratory shall be:

1. Accredited to the most current International Organization for Standardization (ISO) 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement; or
2. Certified, registered, or accredited by an organization approved by the Commission.

(b) An Executive or Member of a Marijuana Establishment is prohibited from being a Person or Entity Having Direct or Indirect Control in an Independent Testing Laboratory providing testing services for any Marijuana Establishment, except as otherwise provided in 935 CMR 500.200: *Counties of Dukes County and Nantucket*;

(c) No individual employee of a laboratory providing testing services for Marijuana Establishments may receive direct or indirect financial compensation from any Marijuana Establishment, except as otherwise provided in 935 CMR 500.200: *Counties of Dukes County and Nantucket*;

(d) Standards Laboratory. A laboratory meeting the requirements of the Independent Testing Laboratory may be licensed as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories. An Independent Testing Laboratory may not serve as a Standards Laboratory.

1. On request by the Commission, a Standards Laboratory shall test samples of Marijuana Products in a time and manner to be determined by the Commission.
2. Testing shall be performed in a manner determined by the Commission so as not to reveal to the laboratory the source of the Marijuana Products.



3. The Standards Laboratory shall submit the results of testing to the Commission for review.
4. The Standards Laboratory shall retain the Marijuana Products tested pursuant to 935 CMR 500.050(7)(d)(1), until directed to Transfer or dispose of them by the Commission. Any disposal shall take place in compliance with 935 CMR 500.105(12).

(8) Marijuana Retailer.

(a) General Requirements.

1. A Marijuana Retailer may purchase and transport Marijuana Products from Marijuana Establishments and to transport, sell or otherwise Transfer Marijuana Products to Marijuana Establishments and to Consumers. A retailer cannot deliver Marijuana Products to Consumers or allow on-site social consumption by Consumers on the Premises of the Marijuana Establishment.
  2. A retailer shall operate all Marijuana-related activities solely at the address identified in the license.
- (b) A Marijuana Retailer shall provide a retail location accessible to Consumers 21 years of age or older, or, if co-located with an MTC, Registered Qualifying Patients with the Medical Use of Marijuana Program in possession of a medical registration card.

(9) Marijuana Transporter.

- (a) An entity may only transport Marijuana Products when such transportation is not already authorized under a Marijuana Establishment license if it is licensed as a Marijuana Transporter:
1. Third-party Transporter. An entity formerly registered or currently licensed to do business in Massachusetts that does not hold another Marijuana Establishment license pursuant to 935 CMR 500.050: *Marijuana Establishments* and is not formerly registered or currently licensed as an MTC pursuant to 935 CMR 501.000: *Medical Use of Marijuana*. A Third-party Transporter is permitted to transport Marijuana and Marijuana Products between Marijuana Establishments and between MTCs.
  2. Existing Licensee Transporter. A Marijuana Establishment that wishes to

contract with other Marijuana Establishments to transport their Marijuana Products to other Marijuana Establishments.

(b) All Marijuana Transporter, their agents and employees, who contract with a Marijuana Establishment to transport Marijuana Products must comply with St. 2016, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000: *Adult Use of Marijuana*.

(c) Marijuana Transporters will be allowed to warehouse Marijuana Products in a form and manner determined by the Commission.

(10) Delivery-Only Retailer.

(a) A Delivery-Only Retailer may deliver Marijuana or Marijuana Products directly to Consumers from a Marijuana Retailer with which the Delivery-Only Retailer has a Delivery Agreement. A Delivery-Only Retailer shall not have a retail location accessible to the public.

(b) A Delivery-Only Retailer Licensees shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of twenty-four (24) months from the date the Commission makes the license application available for submission on its website, provided, however, that the Commission may by a vote of a majority of the Commissioners voting decide to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has not been met.

1. The Commission shall develop criteria for evaluating whether the goals of the exclusivity period are met, which shall include but not be limited to:

- a. Overall rates of participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law;
- b. Overall rates of participation in the regulated Marijuana industry by people of color;
- c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants;
- d. Number of registered agents who are Social Equity Program Participants;

- e. Number of Delivery-Only Retailers in operation and business performance relative to other Marijuana Establishments;
    - f. Financial feasibility of continued participation in the regulated Marijuana industry by communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law if exclusivity period ends; and
    - g. Any other information the Commission determines relevant.
  2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the 24-month period to provide adequate time to consider whether an extension of the 24-month period is necessary prior to the conclusion of that time period.
  3. The licenses shall generally be available to applicants after the 24-month period unless a majority of the voting Commissioners votes to extend the period of exclusivity.
- (c) No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a Delivery-Only Retailer license.

(11) Marijuana Research Facility.

- (a) A Marijuana Research Facility may cultivate, purchase or otherwise acquire Marijuana for the purpose of conducting research regarding Marijuana Products.
- (b) A Research Facility may be an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth.
- (c) Any research involving humans must be authorized by an Institutional Review Board.
- (d) A Research Facility may not Transfer to another Marijuana Establishment or sell to a Consumer Marijuana that has been cultivated under its research license.
- (e) All research regarding Marijuana must be conducted by individuals 21 years of age or older.

500.100: Application for Licensing of Marijuana Establishments.

500.101: Application Requirements

(1) New Applicants. An applicant in any category of Marijuana Establishment shall file, in a form and manner specified by the Commission, an application for licensure as a Marijuana Establishment. The application shall consist of three sections: Application of Intent; Background Check; and Management and Operations Profile, except as otherwise provided. The applicant may complete any section of the application in any order. Once all sections of the application have been completed, the application may be submitted. Application materials, including attachments, may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and M.G.L. c. 4, § 7, cl. 26.

(a) Application of Intent. An applicant for licensure as a Marijuana Establishment shall submit the following as part of the Application of Intent:

1. documentation that the Marijuana Establishment is an entity registered to do business in Massachusetts and a list of all Persons or Entities Having Direct or Indirect Control. In addition, the applicant shall submit any contractual, management, or other written document that explicitly or implicitly conveys direct or indirect control over the Marijuana Establishment to the listed person or entity pursuant to 935 CMR 500.050(1)(b);
2. a disclosure of an interest of each individual named in the application in any Marijuana Establishment application for licensure or Licensee in Massachusetts;
3. documentation disclosing whether any individual named in the application have past or present business interests in Other Jurisdictions;
4. documentation detailing the amounts and sources of capital resources available to the applicant from any individual or entity that will be contributing capital resources to the applicant for purposes of establishing or operating the identified Marijuana Establishment for each license applied for. If any person or entity contributing initial capital, either in cash or in kind, would be classified as a Person or Entity Having Direct or Indirect Control, in exchange for the initial capital, they must also be listed pursuant to 935 CMR 500.101(1)(a)1. Information submitted shall be subject to review and verification by the Commission as a component of the application process. Required documentation shall include:
  - a. the proper name of any individual or registered business name of any entity;
  - b. the street address, provided, however that the address shall not be a post office box;

- c. the primary telephone number;
  - d. electronic mail;
  - e. the amount and source of capital provided or promised;
  - f. a bank record dated within 60 days of the application submission date verifying the existence of capital;
  - g. certification that funds used to invest in or finance the Marijuana Establishment were lawfully earned or obtained; and
  - h. any contractual or written agreement pertaining to a loan of initial capital, if applicable.
5. documentation of a bond or an escrow account in an amount set by 935 CMR 500.105(16);
6. identification of the proposed address for the license;
7. documentation of a property interest in the proposed address. The proposed Marijuana Establishment must be identified in the documentation as the entity that has the property interest. Interest may be demonstrated by one of the following:
  - a. Clear legal title to the proposed site;
  - b. An option to purchase the proposed site;
  - c. A legally enforceable agreement to give such title; or
  - d. Documentation evidencing permission to use the Premises.
8. documentation in the form of a single-page certification signed by the contracting authorities for the municipality and applicant evidencing that the applicant for licensure and host municipality in which the address of the Marijuana Establishment is located have executed a Host Community agreement;
9. documentation that the applicant has conducted a community outreach meeting consistent with the Commission's *Guidance for License Applicants on Community Outreach* within the six months prior to the

application. Documentation must include:

- a. copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least 14 calendar days prior to the meeting;
- b. copy of the meeting notice filed with the city or town clerk;
- c. attestation that at least one meeting was held after normal business hours;
- d. attestation that notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, was mailed at least seven calendar days prior to the community outreach meeting to abutters of the proposed address of the Marijuana Establishment, and residents within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town;
- e. information presented at the community outreach meeting, which shall include, but not be limited to:
  - i. the type(s) of Marijuana Establishment to be located at the proposed address;
  - ii. information adequate to demonstrate that the location will be maintained securely;
  - iii. steps to be taken by the Marijuana Establishment to prevent diversion to minors;
  - iv. a plan by the Marijuana Establishment to positively impact the community;
  - v. information adequate to demonstrate that the location will not constitute a nuisance as defined by law; and
  - vi. an attestation that community members were permitted to ask questions and receive answers from representatives of the Marijuana Establishment.

10. a description of plans to ensure that the Marijuana Establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the Marijuana Establishment which shall include, but not be limited to, the identification of all local licensing requirements for the adult use of Marijuana;
  11. a plan by the Marijuana Establishment to positively impact Areas of Disproportionate Impact, as defined by the Commission, for the purposes established in M.G.L. c. 94G, § 4(a<sup>1</sup>/<sub>2</sub>)(iv). The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed;
  12. the requisite non-refundable application fee pursuant to 935 CMR 500.005: *Fees*; and
  13. any other information required by the Commission.
- (b) Background Check. Prior to an application being considered complete, each applicant for licensure must submit the following information:
1. the list of individuals and entities in 935 CMR 500.101(1)(a)1.;
  2. information for each individual identified in 935 CMR 500.101(1)(a)1., which shall include:
    - a. the individual's full legal name and any aliases;
    - b. the individual's address;
    - c. the individual's date of birth;
    - d. a photocopy of the individual's driver's license or other government-issued identification card;
    - e. a CORI Acknowledgment Form, pursuant to 803 CMR 2.09: *Requirements for Requestors to Request CORI*, provided by the Commission, signed by the individual and notarized;
    - f. authorization to obtain a full set of fingerprints, in accordance with M.G.L. c. 94G, § 21, submitted in a form and manner as determined by the Commission; and





held by any Person or Entity Having Direct or Indirect Control, if any;

f. a description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any Person or Entity Having Direct or Indirect Control that is part of the applicant's application, if any; and

g. any other information required by the Commission.

(c) Management and Operations Profile. Each applicant shall submit, with respect to each application, a response in a form and manner specified by the Commission, which includes:

1. detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws as well as the identification of any doing-business-as names;
2. a certificate of good standing, issued within the previous 90 days from submission of an application, from the Corporations Division of the Secretary of the Commonwealth;
3. a certificate of good standing or certificate of tax compliance issued within the previous 90 days from submission of an application, from the DOR;
4. a certificate of good standing, issued within the previous 90 days from submission of an application, from the DUA, if applicable. If not applicable, a written statement to this effect is required;
5. a proposed timeline for achieving operation of the Marijuana Establishment and evidence that the Marijuana Establishment will be ready to operate within the proposed timeline after notification by the Commission that the applicant qualifies for licensure;
6. a description of the Marijuana Establishment's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 500.105(10);
7. a detailed summary of the business plan for the Marijuana Establishment;
8. a detailed summary of operating policies and procedures for the Marijuana Establishment which shall include, but not be limited to provisions for:

- a. security;
  - b. prevention of diversion;
  - c. storage of Marijuana;
  - d. transportation of Marijuana;
  - e. inventory procedures;
  - f. procedures for quality control and testing of product for potential contaminants;
  - g. personnel policies;
  - h. dispensing procedures;
  - i. record-keeping procedures;
  - j. maintenance of financial records; and
  - k. diversity plans to promote equity among minorities, women, veterans, people with disabilities, and people of all gender identities and sexual orientation, in the operation of the Marijuana Establishment. The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed.
9. a detailed description of qualifications and intended training(s) for Marijuana Establishment agents who will be employees;
  10. the Management and Operation Profile submitted in accordance with 935 CMR 500.101(1)(c) shall demonstrate compliance with the operational requirements set forth in 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments* through 935 CMR 500.140: *Additional Operational Requirements for Retail Sale*, as applicable;
  11. disclosure of the proposed hours of operation, and the names and contact information for individuals that will be the emergency contacts for the Marijuana Establishment; and
  12. any other information required by the Commission.

(2) Social Consumption Pilot Program Application Process.

(a) Municipal Participation.

1. The Commission may select no more than 12 Massachusetts municipalities for participation in the pilot program.
2. The Commission shall establish criteria for selecting participating municipalities. The Commission may take into consideration factors, including but not limited to, the geographic location, socioeconomic characteristics, and population size of municipal applicants.
3. An interested municipality shall submit an application for participation in a form and manner determined by the Commission.
4. The application for participation shall be signed by the municipality's contracting authority.

(b) Marijuana Social Consumption Establishment Applicants. An applicant for a Marijuana Social Consumption Establishment license shall file, in a form and manner specified by the Commission, an application for licensure. An application for licensure shall consist of two component parts: a Pre-certification Application and a Provisional License Application. Until the Commission determines that both component parts have been fully submitted, the application shall not be deemed complete. After an applicant receives a Provisional License, the applicant shall comply with the requirements of 935 CMR 500.103: *Licensure and Renewal*.

(c) Pre-Certification Application. The Pre-Certification Application shall consist of three sections: Application of Intent, Background Check and Management and Operations Profile.

1. The Commission shall make the Pre-Certification Application available on the Commission selecting at least six municipalities for participation in the Social Consumption Pilot Program pursuant to 935 CMR 500.101(2)(a).
2. The applicant may submit any section of the application in any order. Once all sections of the application have been completed, the application may be submitted.
3. The Commission may determine an applicant to be pre-certified upon

finding the applicant has submitted responsive documentation demonstrating a propensity to successfully operate a Marijuana Social Consumption Establishment.

4. On approval of the Pre-Certification Application, the applicant shall be given a dated notice of such approval along with a copy of the Pre-Certification Application to the extent permitted by law.
5. Application materials, including attachments, may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and M.G.L. c. 4, § 7, cl. 26.

(d) Application of Intent. An applicant for pre-certification under this section shall submit the following as part of the Application of Intent:

1. documentation that the Marijuana Establishment is an entity registered to do business in Massachusetts and a list of all Persons or Entities Having Direct or Indirect Control;
2. a disclosure of an interest of each individual named in the application in any Marijuana Establishment for licensure in Massachusetts;
3. documentation disclosing whether any individual named in the application have past or present business interests in Other Jurisdictions;
4. the requisite non-refundable application fee pursuant to 935 CMR 500.005: *Fees*; and
5. any other information required by the Commission.

(e) Background Check. Each applicant for pre-certification must submit the following information:

1. the list of individuals and entities in 935 CMR 500.101(1)(a)1;
2. Relevant Background Check Information. All Persons and Entities Having Direct or Indirect Control listed in the Pre-Certification Application shall provide information detailing involvement in any of the following criminal, civil, or administrative matters:
  - a. a description and the relevant dates of any criminal action under the laws of the Commonwealth, or Other Jurisdictions, whether for a felony or misdemeanor including, but not limited to, action against any health care facility or facility for providing Marijuana for medical- or adult-use purposes, in which those

- individuals either owned shares of stock or served as board member, executive, officer, director or member, and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;
  - b. a description and the relevant dates of any civil action under the laws of the Commonwealth, or Other Jurisdictions, including, but not limited to a complaint relating to any professional or occupational or fraudulent practices;
  - c. a description and relevant dates of any past or pending legal or enforcement actions in the Commonwealth or any Other Jurisdiction against an entity whom the applicant served as a Person or Entity Having Direct or Indirect Control, related to the cultivation, Processing, distribution, or sale of Marijuana for medical- or adult-use purposes;
  - d. a description and the relevant dates of any administrative action with regard to any professional license, registration, or certification, including any complaint, order, stipulated agreement or settlement, or disciplinary action, by the Commonwealth, or like action in an Other Jurisdiction, including, but not limited to any complaint or issuance of an order relating to the denial, suspension, or revocation of a license, registration, or certification or the surrender of a license;
  - e. a description and relevant dates of any administrative action, including any complaint, order or disciplinary action, by the Commonwealth, or a like action by Other Jurisdictions with regard to any professional license, registration, or certification, held by any Person or Entity Having Direct or Indirect Control, if any;
  - f. a description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any Person or Entity Having Direct or Indirect Control that is part of the applicant's application, if any; and
  - g. any other information required by the Commission.
- (f) Management and Operations Profile. Each applicant shall submit, with respect to each application, a response in a form and manner specified by the Commission, which includes:
1. a description of the Marijuana Establishment's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 500.105(10);
  2. a detailed summary of the business plan for the Marijuana Establishment;

3. a detailed summary of operating policies and procedures for the Marijuana Establishment which shall include, but not be limited to provisions for:
  - a. security, including specific plans for securing entrances and that all Marijuana and Marijuana Products are kept out of plain sight and not visible from a public place;
  - b. prevention of diversion;
  - c. prevention of a Consumer from bringing Marijuana or Marijuana Products, Marijuana Accessories onto the Premises that have not been obtained from the Marijuana Social Consumption Establishment, including policies for ensuring Marijuana Accessories brought on site, if permitted, do not contain Marijuana or Marijuana Products not obtained from the Marijuana Social Consumption Establishment;
  - d. storage of Marijuana, including, but not limited to, disposal procedures for unsold and unconsumed Marijuana Products;
  - e. transportation of Marijuana;
  - f. inventory procedures;
  - g. procedures for quality control and testing of product for potential contaminants;
  - h. personnel policies;
  - i. dispensing procedures;
  - j. procedures to ensure that Consumers are not overserved;
  - k. procedures to educate Consumers about risk of impairment and penalties for operating under the influence;
  - l. procedural and operational plans to ensure the Marijuana Establishment makes a diligent effort to assist customers who may be impaired in finding means of transportation and that explain how the plans are adequately tailored to the region in which the establishment is located;
  - m. record-keeping procedures;
  - n. maintenance of financial records; and
  - o. If vaporization or other non-smoking forms of consumption involving heat are permitted indoors, procedures and building plans or schematic to ensure that:
    - i. the area(s) in which consumption involving heat takes place are isolated from the other areas, separated by walls and a secure door, with access only from the Marijuana Social Consumption Establishment;
    - ii. Employees have access to a smoke-free, vapor-free area where they may monitor the consumption area from a smoke-free, vapor-free area;
    - iii. a ventilation system directs air from the consumption area

- to the outside of the building through a filtration system sufficient to remove vapor, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line;
- p. procedures to ensure no sales occur within the consumption area;
  - q. employees shall monitor the consumption from a smoke-free, vapor-free area, including but not limited to an employing monitoring the exit of the Marijuana Establishment;
  - r. Procedures to ensure that smoking as defined by M.G.L. c. 137, § 22 is prohibited indoors;
  - s. Sanitary practices in compliance with 105 CMR 500: *Good manufacturing practices for food*; and
  - t. a detailed description of qualifications and intended training(s) for Marijuana establishment agents who will be employees;
- 4. the Management and Operation Profile submitted in accordance with 935 CMR 500.101(1)(c) shall demonstrate compliance with the operational requirements set forth by incorporation in 935 CMR 500.050(2)(b), as applicable;
  - 5. disclosure of the proposed hours of operation, and the names and contact information for individuals that will be the emergency contacts for the Marijuana Establishment;
  - 6. any other information required by the Commission.
- (g) Provisional License Application. The provisional license application shall consist of the three sections of the application, the Application of Intent, Background Check, and Management and Operations Profile.
- 1. An applicant may submit a provisional license application within 12 months of the date of the applicant's precertification approval pursuant to 935 CMR 500.101(2)(c)(4).
  - 2. If there has been a material change of circumstances after the submission of these sections as part of the Pre-Certification Application, the applicant shall revise this information and attest in a form and manner determined by the Commission.
  - 3. The applicant may submit any section of the application in any order. Once all sections of the application have been completed, the application may be submitted.
  - 4. Once all sections of the application have been completed, the application

may be submitted for review.

5. Once the Provisional License application has been submitted, it will be reviewed in the order it was received pursuant to 935 CMR 500.102(2).
6. The Pre-Certification and Provisional License application combined will be reviewed in accordance with 935 CMR 500.102(1).
7. Application materials, including attachments, may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and M.G.L. c. 4, § 7, cl. 26.

(h) Application of Intent. An applicant for licensure under this section shall submit the following as part of the Application of Intent:

1. A list of all Persons or Entities Having Direct or Indirect Control currently associated with the proposed establishment. In addition, the applicant shall submit any contractual, management, or other written document that explicitly or implicitly conveys direct or indirect control over the Marijuana Establishment to the listed person or entity pursuant to 935 CMR 500.050(1)(b);
2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment or MTC application for in Massachusetts;
3. Documentation disclosing whether any individual named in the application have past or present business interests in Other Jurisdictions;
4. Documentation of a bond or an escrow account in an amount set by 935 CMR 500.105(16);
5. Identification of the proposed address for the license;
6. Documentation of a property interest in the proposed address. The proposed Marijuana Establishment must be identified in the documentation as the entity that has the property interest. Interest may be demonstrated by one of the following:
  - a. Clear legal title to the proposed site;
  - b. An option to purchase the proposed site
  - c. A legally enforceable agreement to give such title; or
  - d. documentation from the owner evidencing permission to use the



Premises.

7. Disclosure and documentation detailing the amounts and sources of capital resources available to the applicant from any individual or entity that will be contributing capital resources to the applicant for purposes of establishing or operating the identified Marijuana Establishment for each license applied for. If any person or entity contributing initial capital, either in cash or in kind, would be classified as a Person or Entity Having Direct or Indirect Control, in exchange for the initial capital, they must also be listed pursuant to 935 CMR 500.101(1)(a)(1). Information submitted shall be subject to review and verification by the Commission as a component of the application process. Required documentation shall include:
  - a. the proper name of any individual or registered business name of any entity;
  - b. the street address, provided, however that the address shall not be a post office box;
  - c. the primary telephone number;
  - d. electronic mail;
  - e. the amount and source of capital provided or promised;
  - f. a bank record dated within 60 days of the application submission date verifying the existence of capital;
  - g. certification that funds used to invest in or finance the Marijuana Establishment were lawfully earned or obtained; and
  - h. any contractual or written agreement pertaining to a loan of initial capital, if applicable.
8. Documentation that the applicant has conducted a community outreach meeting consistent with the Commission's *Guidance for License Applicants on Community Outreach* within the six months prior to the application. Documentation must include:
  - a. Copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least seven calendar days prior to the meeting;
  - b. Copy of the meeting notice filed with the city or town clerk;
9. Attestation that notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, was mailed at least seven calendar days prior to the community outreach meeting to abutters of the proposed address of the Marijuana Establishment, and residents within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list,

notwithstanding that the land of any such owner is located in another city or town;

- a. Information presented at the community outreach meeting, which shall include, but not be limited to:
  - i. the type(s) of Marijuana Establishment to be located at the proposed address;
  - ii. information adequate to demonstrate that the location will be maintained securely;
  - iii. steps to be taken by the Marijuana Establishment to prevent diversion to minors;
  - iv. a plan by the Marijuana Establishment to positively impact the community;
  - v. information adequate to demonstrate that the location will not constitute a nuisance as defined by law; and
  - vi. an attestation that community members were permitted to ask questions and receive answers from representatives of the Marijuana Establishment.
- b. Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and applicant evidencing that the applicant for licensure and host municipality in which the establishment is located executed a Host Community agreement and accepted the applicant's plans to (1) mitigate noise, (2) mitigate odor, and (3) comply with outdoor smoking laws, ordinances, or bylaws;
- c. A description of plans to ensure that the Marijuana Establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the Marijuana Establishment which shall include, but not be limited to, the identification of any local licensing requirements for social consumption of the adult use of Marijuana;
- d. a plan by the Marijuana Establishment to positively impact Areas of Disproportionate Impact, as defined by the Commission, for the purposes established in M.G.L. c. 94G, § 4(a½)(iv). The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed; and

e. any other information required by the Commission.

- (i) Background Check. Each applicant for licensure must submit complete background check application information in compliance with the provisions of 935 CMR 500.101(2)(e);
5. Each applicant for licensure under shall submit the list of individuals and entities in 935 CMR 500.101(1)(b)(2) and 500.101(2)(d)1.
  6. The applicant shall resubmit the information required under 935 CMR 500.101(b) if there has been a material change of circumstances, including, but not limited to, a change in the list of individuals and entities identified above.
- (j) Management and Operations Profile. Each applicant shall submit, with respect to each application, a response in a form and manner specified by the Commission, which includes:
7. detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws as well as the identification of any doing-business-as names;
  8. a certificate of good standing, issued within the previous 90 days from submission of an application, from the Corporations Division of the Secretary of the Commonwealth;
    - a. a certificate of good standing or certificate of tax compliance issued within the previous 90 days from submission of an application, from the DOR;
    - b. a certificate of good standing, issued within the previous 90 days from submission of an application, from the DUA, if applicable. If not applicable, a written statement to this effect is required;
    - c. a proposed timeline for achieving operation of the Marijuana Establishment and evidence that the Marijuana Establishment will be ready to operate within the proposed timeline after notification by the Commission that the applicant qualifies for licensure;
    - d. a diversity plan to promote equity among minorities, women, veterans, people with disabilities, and people of all gender identities and sexual orientation, in the operation of the Marijuana Establishment. The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed.

(3) Additional Specific Requirements.

- (a) Additional Requirements for Cultivators. In addition to the requirements set forth in 935 CMR 500.101(1)(c), applicants for a license to operate Marijuana Establishment for cultivation shall also provide as part of the Management and Operation Profile packet an operational plan for the cultivation of Marijuana, including a detailed summary of the policies and procedures for cultivation, consistent with state and local law, including but not limited to, the Commission's *Guidance on Integrated Pest Management* in effect of the date of these regulations and as subsequently amended.
- (b) Additional Requirements for Craft Marijuana Cooperatives. In addition to the requirements set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment as a Craft Marijuana Cooperative shall provide:
- a. As part of the Application of Intent:
    - i. evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application;
    - ii. evidence of the cooperative's organization as a limited liability company or limited liability partnership, or a cooperative corporation under the laws of the Commonwealth;
    - iii. evidence that one Member has filed a Schedule F tax income form within the past five years; and
    - iv. evidence that the cooperative is organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995.
  - b. As part of the Management and Operations Profile:
    - i. the plan required of Cultivators pursuant to 935 CMR 500.101(1)(d)(1); and
    - ii. the plan(s) and documentation required of Product Manufacturers pursuant to 935 CMR 500.101(1)(d)(3), as applicable.
2. Additional Requirements for Product Manufacturers. In addition to the requirements set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment for product manufacturing shall also provide, as part of the Management and Operation Profile packet:

- a. a description of the types, forms and shapes, colors, and flavors of Marijuana Products that the Marijuana Establishment intends to produce;
- b. the methods of production;
- c. a safety plan for the Manufacture and production of Marijuana Products, including, but not limited to, sanitary practices in compliance with 105 CMR 590.000: *Minimum sanitation standards for food establishments*.
- d. a sample of any unique identifying mark that will appear on any product produced by the applicant as a branding device; and
- e. a detailed description of the Marijuana Establishment's proposed plan for obtaining Marijuana from a licensed Marijuana Establishment(s).

3. Additional Requirements for Microbusinesses. In addition to the requirements set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment as a Microbusiness shall also provide:

- a. as part of the Application of Intent, evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application;
- b. as part of the Management and Operations Profile, the same plans required of Cultivators and Product Manufacturers pursuant to 935 CMR 500.101(1)(d)(1) and 935 CMR 500.101(1)(d)(3).

4. Additional Requirements for Retailers. In addition to the requirements set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment for retail shall also provide, as part of the Management and Operation Profile packet, a detailed description of the Marijuana Establishment's proposed plan for obtaining Marijuana Products from a licensed Marijuana Establishment(s).

#### 500.102: Action on Applications

(1) Action on Each Application. The Commission shall grant licenses with the goal of ensuring that the needs of the Commonwealth are met regarding access, quality, and community safety.

- (a) License applications shall be evaluated based on the applicant's:

1. demonstrated compliance with the laws and regulations of the Commonwealth;
  2. suitability for licensure based on the provisions of 935 CMR 500.101(1), 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration* and 935 CMR 500.801: *Suitability Standard for Licensure*; and
  3. evaluation of the thoroughness of the applicant's responses to the required criteria. The Commission shall consider each license application submitted by an applicant on a rolling basis.
- (b) The Commission shall notify each applicant in writing that:
1. the application has been deemed complete; or
  2. the Commission requires further information within a specified period of time before the packet is determined to be complete.
- (c) Failure of the applicant to adequately address all required items in its application in the time required under 935 CMR 500.102: *Action on Applications* by the Commission will result in evaluation of the application as submitted. Nothing in 935 CMR 500.101: *Application Requirements* is intended to confer a property or other right or interest entitling an applicant to a meeting before an application may be denied.
- (d) On determination that the application is complete, a copy of the completed application, to the extent permitted by law, will be forwarded to the municipality in which the Marijuana Establishment will be located. The Commission shall request that the municipality respond within 60 days of the date of the correspondence that the applicant's proposed Marijuana Establishment is in compliance with municipal bylaws or ordinances.
- (e) The applicant shall keep current all information required by 935 CMR 500.000: *Adult Use of Marijuana*, or otherwise required by the Commission. The applicant shall report any changes in or additions to the content of the information contained in the application to the Commission within five business days after such change or addition. If a material change occurs to an application deemed complete, the Commission may deem the application incomplete pending further review.

(2) Action on Completed Applications.

- (a) Priority application review will be granted to existing MTC Priority Applicants and Economic Empowerment Priority Applicants.
- (b) The Commission shall review applications from Priority Applicants on an alternating basis, beginning with the first-in-time-application received from either an MTC Priority Applicant or Economic Empowerment Priority Applicant as recorded by the Commission's electronic license application tracking system. Where no completed application is available for review by the Commission from either of the priority groups defined in 935 CMR 500.102(2)(a), the Commission shall review the next complete application from either group.
- (c) The Commission shall grant or deny a provisional license not later than 90 days following notification to the applicant that all required packets are considered complete. Applicants shall be notified in writing that:
  - 1. the applicant shall receive a provisional license which may be subject to further conditions as determined by the Commission; or
  - 2. the applicant has been denied a license. Denial shall include a statement of the reasons for the denial.
- (d) Failure of the applicant to complete the application process within the time specified by the Commission in the application instructions shall be grounds for denial of a license.

500.103: Licensure and Renewal

- (1) Provisional License. On selection by the Commission, an applicant shall submit the required license fee and subsequently be issued a provisional license to develop a Marijuana Establishment, in the name of the entity. Such provisional license shall be subject to reasonable conditions specified by the Commission, if any.
  - (a) The Commission shall review architectural plans for the building or renovation of a Marijuana Establishment. Construction or renovation related to such plans shall not begin until the Commission has granted approval. Submission of such plans shall occur in a manner and form established by the Commission including, but not limited to, a detailed floor plan of the Premises of the proposed Marijuana Establishment that identifies the square footage available and describes the functional areas of the Marijuana Establishment, including areas for any preparation of Marijuana Products, and, if applicable, such information for the single allowable off-premises location in Massachusetts where Marijuana will be

cultivated or Marijuana Products will be prepared; and a description of plans to ensure that the Marijuana Establishment will be compliant with requirements of the *Americans with Disabilities Act (ADA) Accessibility Guidelines*.

- (b) To demonstrate compliance with 935 CMR 500.120(11), a Marijuana Cultivator applicant must also submit an energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation. For a Microbusiness or Craft Marijuana Cooperative with a cultivation location sized as Tier 1 or Tier 2, compliance with any of the requirements of 935 CMR 500.120(11) may be demonstrated through an energy compliance letter prepared by one or more of the following energy professionals:
1. A Certified Energy Auditor certified by the Association of Energy Engineers;
  2. A Certified Energy Manager certified by the Association of Energy Engineers;
  3. A Massachusetts Licensed Professional Engineer; or
  4. A Massachusetts Licensed Registered Architect.
- (c) A Marijuana Establishment shall construct its facilities in accordance with 935 CMR 500.000: *Adult Use of Marijuana*, conditions set forth by the Commission in its provisional license and architectural review, and any applicable state and local laws, regulations, permits or licenses.
- (d) The Commission may conduct inspections of the facilities, as well as review all written materials required in accordance with 935 CMR 500.000: *Adult Use of Marijuana*.
- (e) The applicable license fee shall be paid within 90 days from the date the applicant was approved for a provisional license by the Commission. Failure to pay the applicable license fee within the required time frame shall result in the license approval expiring. If this occurs, a new license application will need to be completed pursuant to 935 CMR 500.101: *Application Requirements* and will require Commission approval.
- (f) To the extent updates are required to the information provided for initial licensure, the Marijuana Cultivator must submit an updated energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with a renewal application submitted under 935 CMR 500.103(4).

(2) Final License. On completion of all inspections required by the Commission, a



Marijuana Establishment is eligible for a final license. All information described in 935 CMR 500.000: *Adult Use of Marijuana* that is not available at the time of submission must be provided to and approved by the Commission before Marijuana Establishment may receive a final license. Such final licenses shall be subject to reasonable conditions specified by the Commission, if any.

- (a) No person or entity shall operate a Marijuana Establishment without a final license issued by the Commission.
  - (b) A provisional or final license may not be assigned or transferred without prior Commission approval.
  - (c) A provisional or final license shall be immediately void if the Marijuana Establishment Ceases to Operate or if, without the permission of the Commission, it relocates.
  - (d) Acceptance of a provisional or final license constitutes an agreement by the Marijuana Establishment that it will adhere to the practices, policies, and procedures that are described in its application materials, as well as all relevant laws, regulations, and any conditions imposed by the Commission as part of licensure.
  - (e) The Marijuana Establishment shall post the final license in a conspicuous location on the Premises at each Commission-approved location.
  - (f) The Marijuana Establishment shall conduct all activities authorized by 935 CMR 500.000: *Adult Use of Marijuana* at the address(es) identified on the final license issued by the Commission.
- (3) The Marijuana Establishment must be operational within the time indicated in 935 CMR 500.101(1)(c)4. or as otherwise amended through the application process and approved by the Commission through the issuance of a final license.
- (4) Expiration and Renewal of Licensure. The Marijuana Establishment's license, as applicable, shall expire one year after the date of issuance of the provisional license and annually thereafter, and may be renewed as follows unless an action has been taken based on the grounds set forth in 935 CMR 500.450: *Marijuana Establishment Licenses: Grounds for Denial of Renewal Applicants, Suspension and Revocation.*
- (a) No later than 60 calendar days prior to the expiration date, a Marijuana Establishment shall submit a completed renewal application to the Commission in a form and manner determined by the Commission, as well as the required license fee.

- (b) The Marijuana Establishment shall submit as a component of the renewal application a report or other information demonstrating the establishment's efforts to comply with the plans required under 935 CMR 500.101(1), including 935 CMR 500.101(1)(a)11. and (1)(c)7.k., as applicable. The report shall, at a minimum, have detailed, demonstrative, and quantifiable proof of the establishment's efforts, progress, and success of said plans.
- (c) A Marijuana Cultivator engaged in indoor cultivation must include a report of the Marijuana Cultivator's energy and water usage over the 12-month period preceding the date of the application.
- (d) To the extent updates are required to the information provided for initial licensure, the Marijuana Cultivator must submit an updated energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with a renewal application submitted under 935 CMR 500.103(4).
- (e) The Marijuana Establishment shall submit as a component of the renewal application certification of good standing from the Secretary of the Commonwealth, the DOR, and the DUA. Certificates of good standing will be valid if issued within 90 days of the submittal of the renewal application.
- (f) The Marijuana Establishment shall submit as a component of the renewal application document of any cost to a city or town imposed by the operation of a Marijuana Establishment or MTC. In accordance with M.G.L. c. 94G, § 3(d), any cost to a city or town imposed by the operation of a Marijuana Establishment or MTC shall be documented and considered a public record as defined by M.G.L. c. 4, § 7, cl. 26.
- (g) The Marijuana Establishments shall update as needed, and ensure the accuracy of, all information that it submitted on its initial application for a license.
- (h) The Marijuana Establishment shall comply with the requirements of 935 CMR 500.104(1) in accordance with that section separately from the renewal application.
- (i) Commission shall issue a renewal license within 30 days of receipt of a renewal application and renewal license fee to a Licensee in accordance with M.G.L. c. 94G, § 6, if the Licensee:
  - 1. is in good standing with the Secretary of Commonwealth, DOR, and DUA;

2. provided documentation demonstrating substantial effort or progress towards achieving its goals submitted as part of its plans required under 935 CMR 500.101(1), including 935 CMR 500.101(1)(a)11. and (1)(c)7.k., as applicable; and
3. no new information submitted as part of the renewal application, or otherwise obtained, presents suitability issues for any individual or entity listed on the application or license.

500.104: Notification and Approval of Changes.

- (1) Prior to making the following changes, the Marijuana Establishment shall submit a request for such change to the Commission and pay the appropriate fee. No such change shall be permitted until approved by the Commission. Failure to obtain approval of such changes may result in a license being suspended, revoked, or deemed void.
  - (a) Location Change. Prior to changing its location, a Marijuana Establishment shall submit a request for such change to the Commission.
  - (b) Ownership or Control Change.
    1. Ownership change. Prior to any change in ownership, where an Equity Holder acquires or increases its ownership to 10% or more of the equity or contributes 10% or more of the initial capital to operate the Marijuana Establishment including capital that is in the form of land or buildings, the Marijuana Establishment shall submit a request for such change to the Commission.
    2. Control change. Prior to any change in control, where a new Person or Entity Having Direct or Indirect Control should be added to the license, the Marijuana Establishment shall submit a request for such change to the Commission prior to effectuating such a change. An individual, corporation, or entity shall be determined to be in a position to control the decision-making of a Marijuana Establishment if the individual, corporation, or entity falls within the definition of Person or Entity Having Direct or Indirect Control.
    3. Priority Applicants Change in Ownership or Control. Where a certified Economic Empowerment Priority Applicant seeks approval by the Commission of a change in ownership or control, the applicant must undergo the approval process provided by 935 CMR 500.104: *Notification and Approval of Changes* prior to making a change in ownership or control.

- a. In order to maintain its status as an Economic Empowerment Priority Applicant, the Economic Priority Applicant in its submission must demonstrate that it continues to qualify as an Economic Empowerment Priority Applicant, as defined in 935 CMR 500.002: *Definitions*.
  - b. On receipt of notice and a request for approval under 935 CMR 500.104: *Notification and Approval of Changes*, the Commission shall review anew the applicant's eligibility for economic empowerment certification status.
  - c. If the qualifications are no longer are met subsequent to the approved change, the applicant will no longer be certified as an Economic Empowerment Priority Applicant and will no longer receive any benefits stemming from that designation.
  - d. The applicant may still seek approval of a change of ownership or control.
- (c) Structural Change. Prior to any modification, remodeling, expansion, reduction or other physical, non-cosmetic alteration of the Marijuana Establishment, the establishment shall submit a request for such change to the Commission.
- (d) Name Change. Prior to changing its name, the Marijuana Establishment shall submit a request for such change to the Commission. Name change requests, and prior approval, shall apply to an establishment proposing a new or amending a current doing-business-as name.
- (2) The Marijuana Establishment shall keep current all information required by 935 CMR 500.000: *Adult Use of Marijuana* or otherwise required by the Commission. The Marijuana Establishment shall report any changes in or additions to the content of the information contained in any document to the Commission within five business days after such change or addition.

500.105: General Operational Requirements for Marijuana Establishments

- (1) Written Operating Procedures. Every Marijuana Establishment shall have and follow a set of detailed written operating procedures. If the Marijuana Establishment has a second location, it shall develop and follow a set of such operating procedures for that facility. Operating procedures shall include, but need not be limited to the following:
- (a) security measures in compliance with 935 CMR 500.110: *Security Requirements for Marijuana Establishments*;
  - (b) employee security policies, including personal safety and crime prevention

techniques;

- (c) a description of the Marijuana Establishment's hours of operation and after-hours contact information, which shall be provided to the Commission, made available to law enforcement authorities on request, and updated pursuant to 935 CMR 500.000: *Adult Use of Marijuana.*;
- (d) storage and waste disposal of Marijuana in compliance with 935 CMR 500.105(11);
- (e) description of the various strains of Marijuana to be cultivated, Processed or sold, as applicable, and the form(s) in which Marijuana will be sold;
- (f) price list for Marijuana and Marijuana Products and any other available products, and alternate price lists for patients with documented Verified Financial Hardship as required by 935 CMR 501.100(1)(f);
- (g) procedures to ensure accurate recordkeeping, including inventory protocols for Transfer and inventory in compliance with 935 CMR 500.105(8) and (9);
- (h) plans for quality control, including product testing for contaminants in compliance with 935 CMR 500.160: *Testing of Marijuana and Marijuana Products*;
- (i) a staffing plan and staffing records in compliance with 935 CMR 500.105(9);
- (j) emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;
- (k) alcohol, smoke, and drug-free workplace policies;
- (l) a plan describing how Confidential Information will be maintained;
- (m) a policy for the immediate dismissal of any Marijuana establishment agent who has:
  - 1. diverted Marijuana, which shall be reported to law enforcement authorities and to the Commission;
  - 2. engaged in unsafe practices with regard to operation of the Marijuana Establishment, which shall be reported to the Commission; or
  - 3. been convicted or entered a guilty plea, plea of *nolo contendere*, or

admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of Other Jurisdictions.

- (n) a list of all board members and Executives of a Marijuana Establishment, and Members, if any, of the Licensee must be made available on request by any individual. This requirement may be fulfilled by placing this required information on the Marijuana Establishment's website;
- (o) Policies and procedure for the handling of cash on MTC Premises including, but not limited to, storage, collection frequency, and transport to financial institution(s), to be available on inspection.
- (p) policies and procedures to prevent the diversion of Marijuana to individuals younger than 21 years old;
- (q) policies and procedures for energy efficiency and conservation that shall include:
  - 1. identification of potential energy use reduction opportunities (including but not limited to natural lighting, heat recovery ventilation and energy efficiency measures), and a plan for implementation of such opportunities;
  - 2. consideration of opportunities for renewable energy generation, including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
  - 3. strategies to reduce electric demand (such as lighting schedules, active load management and energy storage); and
  - 4. engagement with energy efficiency programs offered pursuant to M.G.L. c. 25, § 21, or through municipal lighting plants.
- (r) Policies and procedures to promote workplace safety consistent with applicable standards set by the Occupational Safety and Health Administration, including plans to identify and address any biological, chemical or physical hazards. Such policies and procedures shall include, at a minimum, a hazard communication plan, personal protective equipment assessment, a fire protection plan, and an emergency action plan.

(2) Marijuana Establishment Agent Training.

- (a) Marijuana Establishments shall ensure that all Marijuana establishment agents

complete training prior to performing job functions. Training shall be tailored to the roles and responsibilities of the job function of each Marijuana establishment agent, and at a minimum must include a Responsible Vendor Training Program under 935 CMR 500.105(2)(b). Agents responsible for tracking and entering product into the Seed-to-Sale SOR must receive training in a form and manner determined by the Commission. At a minimum, staff shall receive eight hours of on-going training annually.

(b) Responsible Vendor Training.

1. On or after July 1, 2019, all current Owners, managers and employees of a Marijuana Establishment that are involved in the handling and sale of Marijuana for adult use at the time of licensure or renewal of licensure, as applicable, shall have attended and successfully completed a Responsible Vendor Training Program to be designated a “Responsible Vendor.”
2. Once a Licensee is designated a “Responsible Vendor,” all new employees involved in the handling and sale of Marijuana for adult use shall successfully complete a Responsible Vendor Training Program within 90 days of hire.
3. After initial successful completion of a Responsible Vendor Training Program, each Owner, manager, and employee involved in the handling and sale of Marijuana for adult use shall successfully complete the program once every year thereafter to maintain designation as a “Responsible Vendor.”
4. Administrative employees who do not handle or sell Marijuana may take the “Responsible Vendor” program on a voluntary basis.
5. Marijuana establishments must maintain records of Responsible Vendor Training Program compliance for four years and make them available to inspection by the Commission and any other applicable licensing authority on request during normal business hours.
6. Certification Training Program Standards.
  - a. No owner, manager or employee of a Responsible Vendor program shall have an interest in a licensed Marijuana Establishment.
  - b. Program providers shall submit their programs to the Commission every two years for approval as a Responsible Vendor program.

- c. The program shall include at least two hours of instruction time.
- d. The program shall be taught in a real-time, interactive classroom setting where the instructor is able to verify the identification of each individual attending the program and certify completion of the program by the individual identified.
- e. The program provider shall maintain its training records at its principal place of business during the applicable year and for the following three years.
- f. The provider shall make the records available for inspection by the Commission and any other applicable licensing authority on request during normal business hours.
- g. The program shall provide written documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee.
- h. Attendees who can speak and write English must successfully pass a written test with a score of 70% or better.
- i. Attendees who cannot speak or write English may be offered a verbal test, provided that the same questions are given as are on the written test and the results of the verbal test are documented with a passing score of 70% or better.
- j. Program providers shall solicit effectiveness evaluations from individuals who have completed their program.

7. Certification Training Class Core Curriculum.

- a. Discussion concerning Marijuana's effect on the human body. Training shall include:
  - i. scientifically based evidence on the physical and mental health effects based on the type of Marijuana Product;
  - ii. the amount of time to feel impairment;
  - iii. visible signs of impairment; and
  - iv. recognizing the signs of impairment.



- b. Diversion prevention and prevention of sales to minors, including best practices.
- c. Compliance with all tracking requirements.
- d. Acceptable forms of identification. Training shall include:
  - i. how to check identification;
  - ii. spotting false identification;
  - iii. Patient Registration Cards formerly and validly issued by the DPH or currently and validly issued by the Commission;
  - iv. provisions for confiscating fraudulent identifications; and
  - v. common mistakes made in verification.
- e. Other key state laws and rules affecting Owners, managers, and employees, which shall include:
  - i. local and state licensing and enforcement;
  - ii. incident and notification requirements;
  - iii. administrative and criminal liability;
  - iv. license sanctions;
  - v. waste disposal;
  - vi. health and safety standards;
  - vii. patrons prohibited from bringing Marijuana onto licensed Premises;
  - viii. permitted hours of sale;
  - ix. conduct of establishment;
  - x. permitting inspections by state and local licensing and enforcement authorities;
  - xi. Licensee responsibilities for activities occurring within licensed Premises;
  - xii. maintenance of records;
  - xiii. privacy issues; and
  - xiv. prohibited purchases and practices.
- f. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.

(3) Requirements for the Handling of Marijuana.

(a) A Marijuana Establishment authorized to Process Marijuana shall do so in a safe and sanitary manner. A Marijuana Establishment shall Process the leaves and flowers of the female Marijuana plant only, which shall be:

1. well cured and generally free of seeds and stems;
2. free of dirt, sand, debris, and other foreign matter;
3. free of contamination by mold, rot, other fungus, and bacterial diseases with the sanitation requirements in 105 CMR 500.000: *Good Manufacturing Practices for Food*, and if applicable, 105 CMR 590.000: *Minimum Sanitation Standards for Food Establishments*;
4. prepared and handled on food-grade stainless steel tables with no contact with Licensees' or agents' bare hands; and
5. packaged in a secure area.

(b) All Marijuana Establishments, including those that develop or Process non-edible Marijuana Products, shall comply with the following sanitary requirements:

1. any Marijuana establishment agent whose job includes contact with Marijuana or nonedible Marijuana Products, including cultivation, production, or packaging, is subject to the requirements for food handlers specified in 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements*;
2. any Marijuana establishment agent working in direct contact with preparation of Marijuana or nonedible Marijuana Products shall conform to sanitary practices while on duty, including:
  - a. maintaining adequate personal cleanliness; and
  - b. washing hands thoroughly in an adequate hand-washing area before starting work, and at any other time when hands may have become soiled or contaminated.
3. hand-washing facilities shall be adequate and convenient and shall be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Marijuana Establishment in Production Areas and where good sanitary practices require employees to wash and

- sanitize their hands, and shall provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;
4. there shall be sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations;
  5. litter and waste shall be properly removed, disposed of so as to minimize the development of odor and minimize the potential for the waste attracting and harboring pests. The operating systems for waste disposal shall be maintained in an adequate manner pursuant to 935 CMR 500.105(12);
  6. floors, walls, and ceilings shall be constructed in such a manner that they may be adequately kept clean and in good repair;
  7. there shall be adequate safety lighting in all Processing and storage areas, as well as areas where equipment or utensils are cleaned;
  8. buildings, fixtures, and other physical facilities shall be maintained in a sanitary condition;
  9. all contact surfaces, including utensils and equipment, shall be maintained in a clean and sanitary condition. Such surfaces shall be cleaned and sanitized as frequently as necessary to protect against contamination, using a sanitizing agent registered by the US Environmental Protection Agency (EPA), in accordance with labeled instructions. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable;
  10. all toxic items shall be identified, held, and stored in a manner that protects against contamination of Marijuana Products. Toxic items shall not be stored in an area containing products used in the cultivation of Marijuana. The Commission may require a Marijuana Establishment to demonstrate the intended and actual use of any toxic items found on the Premises;
  11. a Marijuana Establishment's water supply shall be sufficient for necessary operations. Any private water source shall be capable of providing a safe, potable, and adequate supply of water to meet the Marijuana Establishment's needs;
  12. plumbing shall be of adequate size and design, and adequately installed

and maintained to carry sufficient quantities of water to required locations throughout the Marijuana Establishment. Plumbing shall properly convey sewage and liquid disposable waste from the Marijuana Establishment. There shall be no cross-connections between the potable and wastewater lines;

13. a Marijuana Establishment shall provide its employees with adequate, readily accessible toilet facilities that are maintained in a sanitary condition and in good repair;
14. products that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;
15. storage and transportation of finished products shall be under conditions that will protect them against physical, chemical, and microbial contamination as well as against deterioration of finished products or their containers; and
16. all vehicles and transportation equipment used in the transportation of Marijuana Products or edibles requiring temperature control for safety must be designed, maintained, and equipped as necessary to provide adequate temperature control to prevent the Marijuana Products or edibles from becoming unsafe during transportation, consistent with applicable requirements pursuant to 21 CFR 1.908(c).

(c) All Marijuana Establishments, including those that develop or Process edible Marijuana Products, shall comply with sanitary requirements. All edible products shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: *Minimum Sanitation Standards for Food Establishments*.

(4) Marketing and Advertising Requirements.

(a) Permitted Practices. The following advertising, marketing, and branding activities are permitted:

1. a Marijuana Establishment may develop a business name and logo to be used in labeling, signage, and other materials; provided, however, that use of medical symbols, images of Marijuana, or related Paraphernalia, images that are appealing to persons younger than 21 years of age, and colloquial references to Cannabis and Marijuana are prohibited from use in this business name and logo;

2. sponsorship of a charitable, sporting or similar event, except that advertising, marketing, and branding at or in connection with such an event is prohibited unless at least 85% of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data;
3. a Marijuana Establishment may display, in secure, locked cases, samples of each product offered for sale and subject to the requirements of 935 CMR 500.110: *Security Requirements for Marijuana Establishments*. These display cases may be transparent. An authorized Marijuana establishment agent may remove a sample of Marijuana from the case and provide it to the Consumer for inspection, provided the Consumer may not consume or otherwise use the sample unless otherwise authorized herein;
4. the establishment may post prices in the store and may respond to questions about pricing. The Marijuana Establishment shall provide a catalogue or a printed list of the prices and strains of Marijuana available at the Marijuana Establishment to Consumers and may post the same catalogue or printed list on its website and in the retail store;
5. a Marijuana Establishment may engage in reasonable marketing, advertising and branding practices that are not otherwise prohibited in 935 CMR 500.105(4)(b) that do not jeopardize the public health, welfare or safety of the general public or promote the diversion of Marijuana or Marijuana use in individuals younger than 21 years old. Any such marketing, advertising and branding created for viewing by the public shall include the statement “Please Consume Responsibly,” in a conspicuous manner on the face of the advertisement and shall include a minimum of two of the following warnings in their entirety in a conspicuous manner on the face of the advertisement:
  - a. “This product may cause impairment and may be habit forming.”;
  - b. “Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug.”;
  - c. “There may be health risks associated with consumption of this product.”;
  - d. “For use only by adults 21 years of age or older. Keep out of the reach of children.”; or

- e. “Marijuana should not be used by women who are pregnant or breastfeeding.”
6. All marketing, advertising and branding produced by or on behalf of a Marijuana Establishment shall include the following warning, including capitalization, in accordance with M.G.L. c. 94G, § 4(a<sup>1/2</sup>)(xxvi):

This product has not been analyzed or approved by the Food and Drug Administration (FDA). There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN.** There may be health risks associated with consumption of this product. Marijuana can impair concentration, coordination, and judgment. The impairment effects of edible Marijuana may be delayed by two hours or more. In case of accidental ingestion, contact poison control hotline 1-800-222-1222 or 9-1-1. This product may be illegal outside of MA.

(b) Prohibited Practices. The following advertising, marketing, and branding activities are prohibited:

1. advertising, marketing, and branding in such a manner that is deemed to be is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly or by omission or ambiguity;
2. advertising, marketing and branding by means of television, radio, internet, mobile applications, social media, or other electronic communication, billboard or other outdoor advertising, or print publication, unless at least 85% of the audience is reasonably expected to be 21 years of age or older as determined by reliable and current audience composition data;
3. advertising, marketing, and branding that utilizes statements, designs, representations, pictures or illustrations that portray anyone younger than 21 years old;
4. advertising, marketing, and branding including, but not limited to, mascots, cartoons, brand sponsorships and celebrity endorsements, that is

- deemed to appeal to a person younger than 21 years old;
5. advertising, marketing, and branding, including statements by a Licensee, that makes any false or statements concerning other Licensees and the conduct and products of such other Licensees that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly or by omission or ambiguity;
  6. advertising, marketing, and branding through certain identified promotional items as determined by the Commission including, but not limited to, gifts, giveaways, discounts, points-based reward systems, customer loyalty programs, coupons, or “free” or “donated” Marijuana;
  7. advertising, marketing, and branding by a Licensee that asserts that its products are safe, or represent that its products have curative or therapeutic effects, other than labeling required pursuant to M.G.L. c. 94G, § 4(a½)(xxvi), unless supported by substantial evidence or substantial clinical data with reasonable scientific rigor as determined by the Commission;
  8. advertising on any billboards, or any other public signage, which fails to comply with all state and local ordinances and requirements;
  9. installation of any illuminated, neon ,or external signage beyond the period of 30 minutes before sundown until closing provided however that the Commission may further specify minimum signage requirements;
  10. the use of vehicles equipped with radio or loudspeakers for the advertising of Marijuana;
  11. the use of radio or loudspeaker equipment in any Marijuana Establishment for the purpose of attracting attention to the sale of Marijuana;
  12. advertising, marketing, and branding at, or in connection with, a charitable, sporting or similar event, unless at least 85% of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data;
  13. operation of any website of a Marijuana Establishment that fails to verify that the entrant is 21 years of age or older;
  14. use of unsolicited pop-up advertisements on the internet or text message;

15. any advertising of an improper or objectionable nature including, but not limited to, the use of recipe books or pamphlets for Marijuana Products which contain obscene or suggestive statements;
16. advertising, marketing or branding of Marijuana Products, on clothing, cups, drink holders, apparel accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items;
17. advertising, marketing or branding, on or in public or private vehicles and at bus stops, taxi stands, transportation waiting areas, train stations, airports, or other similar transportation venues including, but not limited to, vinyl-wrapped vehicles or signs or logos on transportation vehicles or company cars;
18. advertising, marketing, branding, signs or other printed matter advertising any brand or kind of Marijuana Product that are displayed on the exterior or interior of any Premises licensed by the Commonwealth where Marijuana Products are not regularly and usually kept for sale;
19. advertising or marketing of the price of Marijuana Products, except as permitted above pursuant to 935 CMR 500.105(4)(a); and
20. display of Marijuana Products so as to be clearly visible to a person from the exterior of a Marijuana Establishment.

(c) Nothing in 935 CMR 500.105(4) prohibits a Marijuana Establishment from using a mark provided by the Commission which uses images of Marijuana.

(5) Labeling of Marijuana and Marijuana Products.

- (a) Labeling of Marijuana Not Sold as a Marijuana Product. Prior to Marijuana being sold or transferred, a Marijuana Cultivator shall ensure the placement of a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each package of Marijuana that it makes available for retail sale, containing at a minimum the following information:
  1. the name and registration number of the Marijuana Cultivator that produced the Marijuana, together with the retail Licensee's business telephone number, electronic mail address, and website information, if any;



2. the quantity of Usable Marijuana contained within the package;
3. the date that the Marijuana Retailer or Marijuana Cultivator packaged the contents and a statement of which Licensee performed the packaging;
4. a batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
5. the full Cannabinoid Profile of the Marijuana contained within the package, including THC and other Cannabinoid level;
6. a statement and a seal certifying that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
7. this statement, including capitalization:

This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN.;**

8. the following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana Product:



9. the following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:



10. 935 CMR 500.105(5)(a) shall not apply to Marijuana packaged by a Marijuana Cultivator for transport to a Marijuana Retailer in compliance with 935 CMR 500.105(13) provided however that the retailer is responsible for compliance with 935 CMR 500.105(5) for all Marijuana Products sold or displayed for Consumers.

(b) Labeling of Edible Marijuana Products. Prior to edible Marijuana Products being sold or transferred, the Marijuana Product Manufacturer shall place a legible, firmly affixed label on which the wording is no less than  $\frac{1}{16}$  inch in size on each edible Marijuana Product that it prepares for retail sale or wholesale, containing at a minimum the following information:

1. the name and registration number of the product manufacturer that produced the Marijuana Product, together with the product manufacturer's business telephone number, e-mail address, and website information, if any;
2. the name of the Marijuana Product;
3. refrigeration of the product is required, as applicable;
4. net weight or volume in US customary and metric units;
5. the quantity of Usable Marijuana contained within the product as measured in ounces;
6. the type of Marijuana used to produce the product, including what, if any, Processing technique or solvents were used;
7. a list of ingredients, including the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) and other cannabinoids in the package and in each serving of a Marijuana Product as expressed in

- absolute terms and as a percentage of volume;
8. the serving size of the Marijuana Product in milligrams;
  9. the number of serving sizes within the Marijuana Product based on the limits provided in 935 CMR 500.150: *Edible Marijuana Products*;
  10. the amount, in grams, of sodium, sugar, carbohydrates and total fat per serving;
  11. the date of creation and the recommended “use by” or expiration date which shall not be altered or changed;
  12. a batch number, sequential serial number and bar codes when used, to identify the batch associated with manufacturing and Processing;
  13. directions for use of the Marijuana Product;
  14. a statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
  15. a warning if nuts or other Known Allergens are contained in the product;
  16. this statement, including capitalization:

The impairment effects of edible products may be delayed by two hours or more. This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN;**

17. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana Product:



18. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:



19. 935 CMR 500.105(5)(b) shall apply to edible Marijuana Products produced by a Marijuana Product Manufacturer for transport to a Marijuana Retailer in compliance with 935 CMR 500.105(13) and shall be in addition to any regulation regarding the appearance of edible Marijuana Products under 935 CMR 500.150: *Edible Marijuana Products*.

- (c) Labeling of Marijuana Concentrates and Extracts. Prior to Marijuana concentrates or extracts being sold or transferred, the Marijuana Product Manufacturer shall place a legible, firmly affixed label on which the wording is no less than  $\frac{1}{16}$  inch in size on each Marijuana concentrate container that it prepares for retail sale or wholesale, containing at a minimum the following information:
1. the name and registration number of the product manufacturer that produced the Marijuana Product, together with the product manufacturer's business telephone number, e-mail address, and website information, if any;
  2. the name of the Marijuana Product;
  3. product identity including the word "concentrate" or "extract" as applicable;

4. net weight of volume expressed in US customary units and metric units;
5. the type of Marijuana used to produce the product, including what, if any, Processing technique or solvents were used;
6. a list of ingredients, including the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) and other cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume;
7. a statement of the serving size and number of servings per container or amount suggested for use based on the limits provided in 935 CMR 500.150: *Edible Marijuana Products*;
8. the date of creation and the recommended “use by” or expiration date;
9. a batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
10. directions for use of the Marijuana Product;
11. a statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
12. a warning if nuts or other Known Allergens are contained in the product;
13. this statement, including capitalization:

This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN.**;

14. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana Product:



15. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:



16. 935 CMR 500.105(5)(c) shall apply to Marijuana concentrates and extracts produced by a Marijuana Product Manufacturer for transport to a Marijuana Retailer in compliance with 935 CMR 500.105(13).

- (d) Labeling of Marijuana Infused Tinctures and Topicals. Prior to Marijuana infused Tinctures or topicals being sold or transferred the Marijuana Product Manufacturer shall place a legible, firmly affixed label on which the wording is no less than  $\frac{1}{16}$  inch in size on each container of Marijuana infused Tincture or topical that it prepares for retail sale or wholesale, containing at a minimum the following information:
1. the name and registration number of the product manufacturer that produced the Marijuana Product, together with the product manufacturer's business telephone number, e-mail address, and website information, if any;
  2. the Marijuana Product's identity;
  3. the type of Marijuana used to produce the product, including what, if any, Processing technique or solvents were used;

4. a list of ingredients, including the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) and other cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume;
5. net weight or volume as expressed in US customary units or metric units;
6. the date of product creation;
7. a batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
8. directions for use of the Marijuana Product;
9. a statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
10. a warning if nuts or other Known Allergens are contained in the product;
11. this statement, including capitalization:

This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN.**;

12. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana Product:



13. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:



14. 935 CMR 500.105(5)(d) shall apply to Marijuana-infused Tinctures and topicals produced by a Marijuana Product Manufacturer for transport to a Marijuana Retailer in compliance with 935 CMR 500.105(13).

(e) In circumstances where the labeling of the Marijuana Product is unreasonable or impractical, the Marijuana Establishment may include the labeling information on a peel-back label or may place the product in a sealed bag with an insert or additional, easily readable label firmly affixed to that bag.

(6) Packaging of Marijuana and Marijuana Products.

(a) Tamper and Child-resistant Packaging. Licensees licensed subject to 935 CMR 500.050(5) shall ensure that all Marijuana Products, other than those offered at wholesale by a Marijuana Cultivator, that are provided for sale to Consumers by a Licensee shall be sold in tamper and child-resistant packaging. To be in compliance with 935 CMR 500.105(6), Licensees shall ensure:

1. That to the extent it is not Unreasonably Impracticable for the specific type of product, Marijuana Products are packaged in containers that are:
  - a. opaque and plain in design;
  - b. resealable for any Marijuana Product intended for more than a single use or containing multiple servings; and
  - c. certified by a qualified third-party tamper and child-resistant packaging testing firm that the packaging is in compliance with the most recent poison prevention packaging regulations of the US Consumer Product Safety Commission as included at 16 CFR 1700; or
2. That where compliance with the requirements of tamper and child-resistant packaging is deemed to be Unreasonably Impracticable,



Marijuana Products shall be placed in an exit package that is:

- a. capable of being resealed and made tamper and child-resistant resistant again after it has been opened;
- b. not be able to be opened easily with scissors or knives if appealing to children;
- c. includes the following statement, including capitalization, in at least ten-point Times New Roman, Helvetica or Arial font: KEEP OUT OF REACH OF CHILDREN; and
- d. is certified by a qualified third-party tamper and child-resistant packaging testing firm that the packaging is in compliance with the most recent poison prevention packaging regulations of the US Consumer Product Safety Commission as included at 16 CFR 1700.

(b) Limits on Packaging Design. Packaging for Marijuana Products sold or displayed for Consumers, including any label or imprint affixed to any packaging containing Marijuana Products or any exit packages, shall not be attractive to minors. Packaging is explicitly prohibited from:

1. using bright colors, defined as colors that are “neon” in appearance;
2. imitating or having a semblance to any existing branded Consumer products, including foods and beverages, that do not contain Marijuana;
3. featuring cartoons;
4. featuring a design, brand or name that resembles a non-Cannabis Consumer product of the type that is typically marketed to minors;
5. featuring symbols or celebrities that are commonly used to market products to minors;
6. featuring images of minors; and
7. featuring words that refer to products that are commonly associated with minors or marketed to minors.

(c) Packaging of Multiple Servings.

1. Packaging for Marijuana Products sold or displayed for Consumers in multiple servings shall include the following statement on the exterior of the package in a printed font that is no smaller than ten-point Times New Roman, Helvetica or Arial, including capitalization: “INCLUDES MULTIPLE SERVINGS.”
2. Packaging for Marijuana Products in solid form sold or displayed for Consumers in multiple servings shall allow a Consumer to easily perform the division into single servings.
  - a. Edible Marijuana Products in a solid form shall be easily and permanently scored to identify individual servings.
  - b. Notwithstanding 935 CMR 500.105(6)(c)2a, where a product is unable, because of its form, to be easily and permanently scored to identify individual servings, the product shall be packaged in a single serving size. The determination of whether a product is able to be easily and permanently scored shall be decided by the Commission consistent with sub-regulatory guidelines established by the Commission and provided to Licensees.
  - c. Packaging for Marijuana Product beverages shall be packages solely in a single serving size. Multiple serving beverages are strictly prohibited for sale.
- (d) Each single serving of an edible Marijuana Product contained in a multiple-serving package shall be marked, stamped or otherwise imprinted with the symbol issued by the Commission under 935 CMR 500.105(5) that indicates that the single serving is a Marijuana Product.
- (e) Serving size shall be determined by the processor but in no instance shall an individual serving size of any Marijuana Product contain more than five milligrams of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) subject to the testing variance specified in 935 CMR 500.160(11).
- (7) Packaging and Labeling Pre-approval. Prior to a Marijuana Product being sold at a Marijuana Establishment, a Licensee or license applicant may submit an application, in a form and manner determined by the Commission, for packaging and label approval to the Commission. The Commission may charge a fee for packaging and labeling pre-approval. The packaging and labeling pre-approval process shall in no way substitute for compliance with 935 CMR 500.105(4) through (6).
- (8) Inventory and Transfer.

- (a) Subject to Marijuana or Marijuana Products being entered into the Seed-to-sale SOR, a Marijuana Establishment may Transfer product to an MTC; and an MTC may Transfer product to a Marijuana Establishment as long as there is no violation of the dosing limitations set forth in 935 CMR 500.150(4) or the limitations on total MTC inventory as set forth in 935 CMR 501.105(8)(k)2. and 3. Such Transfers cannot violate provisions protecting patient supply under 935 CMR 502.140(9). An MTC must limit its Transfer of inventory of seeds, plants, and Usable Marijuana to reflect the projected needs of registered Qualifying Patients.
- (b) Real-time inventory shall be maintained as specified by the Commission and in 935 CMR 500.105(8)(c) and (d), including, at a minimum, an inventory of Marijuana plants; Marijuana plant-seeds and Clones in any phase of development such as Propagation, Vegetation, and Flowering; Marijuana ready for dispensing; all Marijuana Products; and all damaged, defective, expired, or contaminated Marijuana and Marijuana Products awaiting disposal.
- (c) A Marijuana Establishment shall:
  - 1. Establish inventory controls and procedures for the conduct of inventory reviews, and comprehensive inventories of Marijuana Products in the process of cultivation, and finished, stored Marijuana;
  - 2. Conduct a monthly inventory of Marijuana in the process of cultivation and finished, stored Marijuana;
  - 3. Conduct a comprehensive annual inventory at least once every year after the date of the previous comprehensive inventory; and
  - 4. Promptly transcribe inventories if taken by use of an oral recording device.
- (d) The record of each inventory shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the names, signatures, and titles of the individuals who conducted the inventory.
- (e) A Marijuana Establishment shall attach plant tags to all Marijuana, Clones, and plants and attach package tags to all Finished Marijuana and Marijuana Products, and track all Marijuana seeds, Clones, plants, and Marijuana Products, using a seed-to-sale methodology in a form and manner to be approved by the Commission.
- (f) No Marijuana Product, including Marijuana, may be sold or otherwise marketed

for adult use that has not first been tested by Independent Testing Laboratories, except as allowed under 935 CMR 500.000: *Adult Use of Marijuana*.

(9) **Record Keeping.** Records of a Marijuana Establishment must be available for inspection by the Commission, on request. The financial records of a Marijuana Establishment shall be maintained in accordance with generally accepted accounting principles. Written records that are required and are subject to inspection include, but are not necessarily limited to, all records required in any section of 935 CMR 500.000: *Adult Use of Marijuana*, in addition to the following:

- (a) written operating procedures as required by 935 CMR 500.105(1);
- (b) inventory records as required by 935 CMR 500.105(8);
- (c) seed-to-sale tracking records for all Marijuana Products as required by 935 CMR 500.105(8)(e);
- (d) the following personnel records:
  - 1. job descriptions for each employee and volunteer position, as well as organizational charts consistent with the job descriptions;
  - 2. a personnel record for each Marijuana establishment agent. Such records shall be maintained for at least 12 months after termination of the individual's affiliation with the Marijuana Establishment and shall include, at a minimum, the following:
    - a. all materials submitted to the Commission pursuant to 935 CMR 500.030(2);
    - b. documentation of verification of references;
    - c. the job description or employment contract that includes duties, authority, responsibilities, qualifications, and supervision;
    - d. documentation of all required training, including training regarding privacy and confidentiality requirements, and the signed statement of the individual indicating the date, time, and place he or she received said training and the topics discussed, including the name and title of presenters;
    - e. documentation of periodic performance evaluations;

- f. a record of any disciplinary action taken; and
      - g. notice of completed Responsible Vendor and eight-hour related duty training.
    3. a staffing plan that will demonstrate accessible business hours and safe cultivation conditions;
    4. personnel policies and procedures; and
    5. all background check reports obtained in accordance with 935 CMR 500.030: *Registration of Marijuana Establishment Agents*.
  - (e) business records, which shall include manual or computerized records of:
    1. assets and liabilities;
    2. monetary transactions;
    3. books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices, and vouchers;
    4. sales records including the quantity, form, and cost of Marijuana Products; and
    5. salary and wages paid to each employee, or stipend, executive compensation, bonus, benefit, or item of value paid to any Persons Having Direct or Indirect Control over the Marijuana Establishment.
  - (f) waste disposal records as required under 935 CMR 500.105(12); and
  - (g) following closure of a Marijuana Establishment, all records must be kept for at least two years at the expense of the Marijuana Establishment and in a form and location acceptable to the Commission.
- (10) Liability Insurance Coverage or Maintenance of Escrow.
- (a) A Marijuana Establishment shall obtain and maintain general liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, and product liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, except as provided in 935 CMR 500.105(10)(b) or otherwise approved by the Commission. The deductible for each policy shall be no higher than \$5,000 per occurrence.

- (b) A Marijuana Establishment that documents an inability to obtain minimum liability insurance coverage as required by 935 CMR 500.105(10)(a) may place in escrow a sum of no less than \$250,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.
  - (c) The escrow account required pursuant to 935 CMR 500.105(10)(b) must be replenished within ten business days of any expenditure.
  - (d) Reports documenting compliance with 935 CMR 500.105(10) shall be made in a manner and form determined by the Commission pursuant to 935 CMR 500.000: *Adult Use of Marijuana*.
- (11) Storage Requirements.
- (a) A Marijuana Establishment shall provide adequate lighting, ventilation, temperature, humidity, space, and equipment, in accordance with applicable provisions of 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments* and 500.110: *Security Requirements for Marijuana Establishments*.
  - (b) A Marijuana Establishment shall have separate areas for storage of Marijuana that is outdated, damaged, deteriorated, mislabeled, or contaminated, or whose containers or packaging have been opened or breached, until such products are destroyed.
  - (c) Marijuana Establishment storage areas shall be maintained in a clean and orderly condition.
  - (d) Marijuana Establishment storage areas shall be free from infestation by insects, rodents, birds, and pests of any kind.
  - (e) Marijuana Establishment storage areas shall be maintained in accordance with the security requirements of 935 CMR 500.110: *Security Requirements for Marijuana Establishments*.
- (12) Waste Disposal.
- (a) All recyclables and waste, including organic waste composed of or containing Finished Marijuana and Marijuana Products, shall be stored, secured, and managed in accordance with applicable state and local statutes, ordinances, and regulations. All exterior waste receptacles located on the Marijuana Establishment's Premises shall be locked and secured as to prevent unauthorized

access.

- (b) Liquid waste containing Marijuana or by-products of Marijuana Processing shall be disposed of in compliance with all applicable state and federal requirements, including but not limited to, for discharge of pollutants into surface water or groundwater (Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53; 314 CMR 3.00: *Surface Water Discharge Permit Program*; 314 CMR 5.00: *Groundwater Discharge Program*; 314 CMR 12.00: *Operation Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers*; the Federal Clean Water Act, 33 U.S.C. 1251 *et seq.*, the National Pollutant Discharge Elimination System Permit Regulations at 40 CFR Part 122, 314 CMR 7.00: *Sewer System Extension and Connection Permit Program*), or stored pending disposal in an industrial wastewater holding tank in accordance with 314 CMR 18.00: *Industrial Wastewater Holding Tanks and Containers*.
- (c) Organic material, recyclable material and solid waste generated at a Marijuana Establishment shall be redirected or disposed of as follows:
1. Organic and recyclable material shall be redirected from disposal in accordance with the waste disposal bans described at 310 CMR 19.017: *Waste Bans*.
  2. To the greatest extent feasible:
    - a. Any recyclable material as defined in 310 CMR 16.02: *Definitions* shall be recycled in a manner approved by the Commission; and
    - b. Any Marijuana containing organic material as defined in 310 CMR 16.02: *Definitions* shall be ground up and mixed with other organic material as defined in 310 CMR 16.02: *Definitions* at the Marijuana Establishment such that the resulting mixture renders any Marijuana unusable for its original purpose. Once such Marijuana has been rendered unusable, the organic material may be composted or digested at an aerobic or anaerobic digester at an operation that is in compliance with the requirements of 310 CMR 16.00: *Site Assignment Regulations for Solid Waste Facilities*.
  3. Solid waste containing Marijuana generated at a Marijuana Establishment shall be ground up and mixed with other solid waste at the Marijuana Establishment such that the resulting mixture renders any Marijuana unusable for its original purpose. Once such Marijuana has been rendered unusable, the resulting solid waste may be brought to a solid waste transfer facility or a solid waste disposal facility (*e.g.*, landfill or

incinerator) that holds a valid permit issued by the Department of Environmental Protection or by the appropriate agency in the jurisdiction in which the facility is located.

- (d) No fewer than two Marijuana establishment agents must witness and document how the solid waste or organic material containing Marijuana is handled on-site, including, but not limited to, the grinding up, mixing, storage and removal from the Marijuana Establishment in accordance with 935 CMR 500.105(12). When Marijuana Products or waste is disposed or handled, the Marijuana Establishment must create and maintain an electronic record of the date, the type and quantity disposed or handled, the manner of disposal or other handling, the location of disposal or other handling, and the names of the two Marijuana Establishment Agents present during the disposal or other handling, with their signatures. A Marijuana Establishment shall keep these records for at least three years. This period shall automatically be extended for the duration of any enforcement action and may be extended by an order of the Commission.

(13) Transportation Between Marijuana Establishments.

(a) General Requirements.

1. A licensed Marijuana Establishment shall, as an element of its license, be licensed to transport its Marijuana Products to other licensed establishments, except as otherwise provided herein.
2. Marijuana products may only be transported between licensed Marijuana Establishments by registered Marijuana establishment agents.
3. A licensed Marijuana Transporter may contract with a licensed Marijuana Establishment to transport that Licensee's Marijuana Products to other licensed Marijuana Establishments.
4. The originating and receiving licensed Marijuana Establishments shall ensure that all transported Marijuana Products are linked to the Seed-to-Sale tracking program. For the purposes of tracking, seeds and Clones shall be properly tracked and labeled in a form and manner determined by the Commission.
5. Any Marijuana Product that is undeliverable or is refused by the destination Marijuana Establishment shall be transported back to the originating establishment.
6. All vehicles transporting Marijuana Products shall be staffed with a



minimum of two Marijuana establishment agents. At least one agent shall always remain with the vehicle when the vehicle contains Marijuana or Marijuana Products.

7. Prior to leaving a Marijuana Establishment for the purpose of transporting Marijuana Products, the originating Marijuana Establishment must weigh, inventory, and account for, on video, all Marijuana Products to be transported.
8. Within eight hours after arrival at the destination Marijuana Establishment, the destination establishment must re-weigh, re-inventory, and account for, on video, all Marijuana Products transported.
9. When videotaping the weighing, inventorying, and accounting of Marijuana Products before transportation or after receipt, the video must show each product being weighed, the weight, and the manifest.
10. Marijuana products must be packaged in sealed, labeled, and tamper and child-resistant packaging prior to and during transportation.
11. In the case of an emergency stop during the transportation of Marijuana Products, a log must be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle.
12. A Marijuana Establishment or a Marijuana Transporter transporting Marijuana Products shall ensure that all transportation times and routes are randomized.
13. A Marijuana Establishment or a Marijuana Transporter transporting Marijuana Products shall ensure that all transport routes remain within the Commonwealth.
14. All vehicles and transportation equipment used in the transportation of Cannabis products or edibles requiring temperature control for safety must be designed, maintained, and equipped as necessary to provide adequate temperature control to prevent the Cannabis products or edibles from becoming unsafe during transportation, consistent with applicable requirements pursuant to 21 CFR 1.908(c).
15. All vehicles shall be equipped with a video system that includes one or more video cameras in the storage area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which

shall have:

- a. the ability to produce a clear color still photo whether live or recorded; and
- b. A date and time stamp embedded in all recordings which shall always be synchronized and set correctly and shall not significantly obscure the picture.

(b) Reporting Requirements.

1. Marijuana establishment agents must document and report any unusual discrepancy in weight or inventory to the Commission and law enforcement authorities not more than 24 hours of the discovery of such a discrepancy.
2. Marijuana establishment agents shall report to the Commission and law enforcement authorities any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport, not more than 24 hours of such accidents, diversions, losses, or other reportable incidents.

(c) Vehicles.

1. A vehicle used for transporting Marijuana Products must be:
  - a. owned or leased by the Marijuana Establishment or the Marijuana Transporter;
  - b. properly registered, inspected, and insured in the Commonwealth (documentation of such status shall be maintained as records of the Marijuana Establishment or the Marijuana Transporter, and shall be made available to the Commission on request);
  - c. equipped with an alarm system approved by the Commission; and
  - d. equipped with functioning heating and air conditioning systems appropriate for maintaining correct temperatures for storage of Marijuana Products.
2. Marijuana Products must not be visible from outside the vehicle.
3. Any vehicle used to transport Marijuana Products shall not bear any markings indicating that the vehicle is being used to transport Marijuana Products, and any such vehicle shall not indicate the name of the

Marijuana Establishment or the Marijuana Transporter.

4. When transporting Marijuana Products, no other products may be transported or stored in the same vehicle.
5. No firearms may be located within the vehicle or on a Marijuana establishment agent.

(d) Storage Requirements.

1. Marijuana Products must be transported in a secure, locked storage compartment that is a part of the vehicle transporting the Marijuana Products.
2. The storage compartment must be sufficiently secure that it cannot be easily removed.
3. If a Marijuana Establishment, pursuant to a Marijuana Transporter License, or a Marijuana Transporter is transporting Marijuana Products for more than one Marijuana Establishment at a time, the Marijuana Products for each Marijuana Establishment shall be kept in a separate locked storage compartment during transportation and separate manifests shall be maintained for each Marijuana Establishment.
4. If a Marijuana Establishment is transporting Marijuana Products to multiple other establishments, it may seek the Commission's permission to adopt reasonable alternative safeguards.

(e) Communications.

1. Any vehicle used to transport Marijuana Products shall contain a global positioning system (GPS) monitoring device that is:
  - a. not a mobile device that is easily removable;
  - b. attached to the vehicle at all times that the vehicle contains Marijuana Products;
  - c. monitored by the Marijuana Establishment or Marijuana Transporter during transport of Marijuana Products; and
  - d. inspected by the Commission prior to initial transportation of Marijuana Products, and after any alteration to the locked storage

compartment.

2. Each Marijuana Establishment agent transporting Marijuana Products shall always have access to a secure form of communication with personnel at the originating location when the vehicle contains Marijuana and Marijuana Products.
3. Secure types of communication include, but are not limited to:
  - a. two-way digital or analog radio (UHF or VHF);
  - b. cellular phone; or
  - c. satellite phone.
4. When choosing a type of secure communications, the following shall be taken into consideration:
  - a. cellular signal coverage;
  - b. transportation area;
  - c. base capabilities;
  - d. antenna coverage; and
  - e. frequency of transportation.
5. Prior to, and immediately after leaving the originating location, the Marijuana Establishment agents shall use the secure form of communication to contact the originating location to test communications and GPS operability.
6. If communications or the GPS system fail while on route, the Marijuana Establishment agents transporting Marijuana Products must return to the originating location until the communication system or GPS system is operational.
7. The Marijuana Establishment agents transporting Marijuana Products shall contact the originating location when stopping at and leaving any scheduled location, and regularly throughout the trip, at least every 30 minutes.
8. The originating location must have a Marijuana Establishment agent assigned to monitoring the GPS unit and secure form of communication, who must log all official communications with Marijuana Establishment agents transporting Marijuana Products.

(f) Manifests.

1. A manifest shall be filled out in triplicate, with the original manifest remaining with the originating Marijuana Establishment, a second copy provide to the destination Marijuana Establishment on arrival, and a copy to be kept with the licensed Marijuana Establishment agent during transportation and returned to the Marijuana Establishment or Marijuana Transporter on completion of the transportation.
2. Prior to transport, the manifest shall be securely transmitted to the destination Marijuana Establishment by facsimile or email.
3. On arrival at the destination Marijuana Establishment, a Marijuana establishment agent at the destination Marijuana Establishment shall compare the manifest produced by the agents who transported the Marijuana Products to the copy transmitted by facsimile or email. This manifest must, at a minimum, include:
  - a. the originating Marijuana Establishment name, address, and registration number;
  - b. the names and registration numbers of the agents who transported the Marijuana Products;
  - c. the name and registration number of the Marijuana Establishment agent who prepared the manifest;
  - d. the destination Marijuana Establishment name, address, and registration number;
  - e. a description of the Marijuana Products being transported, including the weight and form or type of product;
  - f. the mileage of the transporting vehicle at departure from originating Marijuana Establishment and mileage on arrival at destination Marijuana Establishment, as well as mileage on return to originating Marijuana Establishment;
  - g. the date and time of departure from originating Marijuana Establishment and arrival at destination Marijuana Establishment for each transportation;
  - h. a signature line for the Marijuana establishment agent who receives the Marijuana Products;
  - i. the weight and inventory before departure and on receipt;
  - j. the date and time that the transported products were re-weighed and re-inventoried;
  - k. the name of the Marijuana Establishment agent at the destination Marijuana Establishment who re-weighed and re-inventoried products; and
  - l. the vehicle make, model, and license plate number.

4. The manifest shall be maintained within the vehicle during the entire transportation process, until the delivery is completed.
5. A Marijuana Establishment shall retain all transportation manifests for no less than one year and make them available to the Commission on request.

(g) Requirements for Agents.

1. Each employee or agent transporting or otherwise handling Marijuana Products for a Marijuana Transporter must be registered as a Marijuana establishment agent and have a driver's license in good standing issued by the Massachusetts Registry of Motor Vehicles for all classes of vehicle the Marijuana establishment agent will operate for the Marijuana Transporter prior to transporting or otherwise handling Marijuana Products.
2. A Marijuana establishment agent shall carry his or her agent registration card at all times when transporting Marijuana Products and shall produce his or her agent registration card to the Commission or law enforcement authorities on request.

(h) Marijuana Transporters shall use best management practices to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts.

(14) Access to the Commission, Emergency Responders and Law Enforcement.

- (a) The following individuals shall have access to a Marijuana Establishment or Marijuana Establishment transportation vehicle:
  1. representatives of the Commission in the course of responsibilities authorized by St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000: *Adult Use of Marijuana*;
  2. representatives of other state agencies of the Commonwealth; and
  3. emergency responders in the course of responding to an emergency.
- (b) 935 CMR 500.000: *Adult Use of Marijuana* shall not be construed to prohibit access by authorized law enforcement personnel or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.

- (15) Energy Efficiency and Conservation. A Marijuana establishment must demonstrate consideration of the following factors as part of its operating plan and application for licensure:
- (a) Identification of potential energy use reduction opportunities (such as natural lighting and energy efficiency measures), and a plan for implementation of such opportunities;
  - (b) Consideration of opportunities for renewable energy generation, including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
  - (c) Strategies to reduce electric demand (such as lighting schedules, active load management, and energy storage); and
  - (d) Engagement with energy efficiency programs offered pursuant to M.G.L. c. 25, § 21, or through municipal lighting plants.
- (16) Bond.
- (a) Prior to commencing operations, a Marijuana Establishment shall provide proof of having obtained a surety bond in an amount equal to its licensure fee payable to the Marijuana Regulation Fund to ensure payment of the cost incurred for the destruction of Cannabis goods necessitated by a violation of St. 2016, c. 334, as amended by St. 2017, c. 55 or 935 CMR 500.000: *Adult Use of Marijuana* or the cessation of operation of the Marijuana Establishment.
  - (b) All bonds required under 935 CMR 500.000: *Adult Use of Marijuana* must be issued by a corporate surety licensed to transact surety business in the Commonwealth.
  - (c) If the Marijuana Establishment is unable to secure a surety bond, as required by 935 CMR 500.105(16)(a), it may place in escrow a sum of no less than \$5,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.
  - (d) The escrow account required pursuant to 935 CMR 500.105(16)(c) must be replenished within ten business days of any expenditure required under 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments* unless the Marijuana Establishment has ceased operations. Documentation of the replenishment must be promptly sent to the Commission.

(17) Social Equity Program.

(a) There shall be a Social Equity Program established by the Commission to provide training and technical assistance to eligible applicants and Licensees which may include, but shall not be limited to:

1. Management, recruitment and employee trainings;
2. Accounting and sales forecasting;
3. Tax prediction and compliance;
4. Legal compliance;
5. Business plan creation and operational development;
6. Marijuana industry best practices; and
7. Assistance with identifying or raising funds or capital.

(b) Eligibility for the Social Equity Program shall be met if applicants or Licensees satisfy one or more of the following criteria:

1. Income does not exceed 200% of Area Median Income and Residency in an Area of Disproportionate impact, as defined by the Commission, for at least five of the preceding ten years, as established by:
  - a. A Massachusetts driver's record or Massachusetts ID card record;
  - b. A signed lease agreement that includes the subject's name;
  - c. Residential property deed that includes the subject's name;
  - d. School records;
  - e. Housing authority records;
  - f. Banking records;
  - g. Utility bills, which identifies energy and water use; or
  - h. Dated notices or correspondence from a local or state government entity that includes the subject's name.
2. Residency in Massachusetts for at least the preceding 12 months and a conviction or continuance without a finding for a c. 94C offense under M.G.L. c. 94C or an equivalent conviction in Other Jurisdictions; or
3. Residency in Massachusetts for at least the preceding 12 months and proof that the individual was either married to or the child of an individual convicted or continuance without a finding for a M.G.L. c. 94C offense or an equivalent conviction in Other Jurisdictions.

500.110: Security Requirements for Marijuana Establishments

(1) General Requirements. A Marijuana Establishment shall implement sufficient security measures to deter theft of Marijuana and Marijuana Products, prevent unauthorized



entrance into areas containing Marijuana and Marijuana Products and ensure the safety of Marijuana Establishment employees, Consumers and the general public. Security measures taken by the Licensee to protect the Premises, employees, Marijuana Establishment agents, Consumers and general public shall include, but not be limited to, the following:

- (a) Positively identifying individuals seeking access to the Premises of the Marijuana Establishment or to whom or Marijuana Products are being transported pursuant to 935 CMR 500.105(14) to limit access solely to individuals 21 years of age or older;
- (b) Adopting procedures to prevent loitering and ensure that only individuals engaging in activity expressly or by necessary implication permitted by these regulations and its enabling statute are allowed to remain on the Premises;
- (c) Disposing of Marijuana in accordance with 935 CMR 500.105(12) in excess of the quantity required for normal, efficient operation as established within 935 CMR 500.105: *General Operational Requirements for Marijuana Establishment*;
- (d) Securing all entrances to the Marijuana Establishment to prevent unauthorized access;
- (e) Establishing Limited Access Areas pursuant to 935 CMR 500.110(4), which shall be accessible only to specifically authorized personnel limited to include only the minimum number of employees essential for efficient operation;
- (f) Storing all Finished Marijuana Products in a secure, locked safe or vault in such a manner as to prevent diversion, theft and loss;
- (g) Keeping all safes, vaults, and any other equipment or areas used for the production, cultivation, harvesting, Processing or storage, including prior to disposal, of Marijuana or Marijuana Products securely locked and protected from entry, except for the actual time required to remove or replace Marijuana;
- (h) Keeping all locks and security equipment in good working order;
- (i) Prohibiting keys, if any, from being left in the locks or stored or placed in a location accessible to persons other than specifically authorized personnel;
- (j) Prohibiting accessibility of security measures, such as combination numbers, passwords or electronic or biometric security systems, to persons other than specifically authorized personnel;

- (k) Ensuring that the outside perimeter of the Marijuana Establishment is sufficiently lit to facilitate surveillance, where applicable;
- (l) Ensuring that all Marijuana Products are kept out of plain sight and are not visible from a public place, outside of the ME, without the use of binoculars, optical aids or aircraft;
- (m) Developing emergency policies and procedures for securing all product following any instance of diversion, theft or loss of Marijuana, and conduct an assessment to determine whether additional safeguards are necessary;
- (n) Developing sufficient additional safeguards as required by the Commission for Marijuana Establishments that present special security concerns;
- (o) At Marijuana Establishments where transactions are conducted in cash, establishing procedures for safe cash handling and cash transportation to financial institutions to prevent theft, loss and associated risks to the safety of employees, customers and the general public;
- (p) Sharing the Marijuana Establishment's floor plan or layout of the facility with law enforcement authorities, and in a manner and scope as required by the municipality and identifying when the use of flammable or combustible solvents, chemicals or other materials are in use at the Marijuana Establishment; and
- (q) Sharing the Marijuana Establishment's security plan and procedures with law enforcement authorities, including police and fire departments, in the municipality where the Marijuana Establishment is located and periodically updating law enforcement authorities, police and fire departments, if the plans or procedures are modified in a material way.

(2) Alternate Security Provisions.

- (a) Notwithstanding the requirements specified in 935 CMR 500.110(1), (5), (6) and (7), if a Marijuana Establishment has provided other, specific safeguards that may be regarded as an adequate substitute for those requirements, such measures may be taken into account by the Commission in evaluating the overall required security measures. For purposes of cash handling and cash transportation, only alternative safeguards that comply with the requirements of 935 CMR 500.110(7)(b) shall be considered to be adequate substitutes.
- (b) The applicant or Licensee shall submit a request for an alternative security provision to the Commission on a form as determined and made available by the Commission. On receipt of the form, the Commission shall submit the request to

the chief law enforcement officer in the municipality where the Marijuana Establishment is located or will be located. The Commission shall request that the chief law enforcement officer review the request and alternative security provision requested and, within 30 days,

1. certify the sufficiency of the requested alternate security provision; or
2. provide the Commission with a statement of reasons why the alternative security provision is not sufficient in the opinion of the chief law enforcement officer.

The Commission shall take the chief law enforcement officer's opinion under consideration in determining whether to grant the alternative security provision, provided that it shall not be determinative. If no response is received from the chief law enforcement officer or a delegee within 30 days of submitting the request to the chief law enforcement officer, the Commission shall proceed with a determination.

(3) Buffer Zone. The property where the proposed Marijuana Establishment is to be located, at the time the license application is received by the Commission, is not located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades one through 12, unless a city or town adopts an ordinance or bylaw that reduces the distance requirement. The distance under 935 CMR 500.110(3) shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment is or will be located.

(4) Limited Access Areas.

- (a) All Limited Access Areas must be identified by the posting of a sign that shall be a minimum of 12" x 12" and which states: "Do Not Enter—Limited Access Area—Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height.
- (b) All Limited Access Areas shall be clearly described by the filing of a diagram of the licensed Premises, in the form and manner determined by the Commission, reflecting entrances and exits, walls, partitions, counters, Propagation, Vegetation, Flowering, Processing, production, storage, disposal and retail sales areas.
- (c) Access to Limited Access Areas shall be restricted to employees, agents or volunteers specifically permitted by the Marijuana Establishment, agents of the Commission, Commission delegees, and state and local law enforcement authorities acting within their lawful jurisdictions, police and fire departments, and emergency medical services acting in the course of their official capacity.

- (d) Employees of the Marijuana Establishment shall visibly display an employee identification badge issued by the Marijuana Establishment at all times while at the Marijuana Establishment or transporting Marijuana.
  - (e) All outside vendors, contractors and Visitors shall obtain a Visitor Identification Badge prior to entering a Limited Access Area and shall be escorted at all times by a Marijuana establishment agent authorized to enter the Limited Access Area. The Visitor Identification Badge shall be visibly displayed at all times while the Visitor is in any Limited Access Area. All Visitors must be logged in and out and that log shall be available for inspection by the Commission at all times. All Visitor Identification Badges shall be returned to the Marijuana Establishment on exit.
- (5) Security and Alarm Requirements for Marijuana Establishments Operating Enclosed Areas.
- (a) A Marijuana Establishment located, in whole or in part, in a building, Greenhouse or other Enclosed Area shall have an adequate security system to prevent and detect diversion, theft or loss of Marijuana or unauthorized intrusion, utilizing commercial grade equipment which shall, at a minimum, include:
    - 1. A perimeter alarm on all building entry and exit points and perimeter windows, if any;
    - 2. A failure notification system that provides an audible, text or visual notification of any failure in the security system. The failure notification system shall provide an alert to designated employees of the Marijuana Establishment within five minutes after the failure, either by telephone, email or text message;
    - 3. A Duress Alarm, Panic alarm or Holdup alarm connected to local public safety or law enforcement authorities;
    - 4. Video cameras in all areas that may contain Marijuana or vaults or safes for the purpose of securing cash, at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas and areas where Marijuana is cultivated, harvested, processed, prepared, stored, handled or dispensed, or where cash is kept and processed. Cameras shall be angled so as to allow for the capture of clear and certain identification of any person entering or exiting the Marijuana Establishment or area;

5. Recordings from all video cameras which shall be enabled to record 24 hours each day and be available for immediate viewing by the Commission on request for at least the preceding 90 calendar days or the duration of a request to preserve the recordings for a specified period of time made by the Commission, whichever is longer. Video cameras may use motion detection sensors to begin recording, so long as the motion detection sensor system provides an alert to designated employees of the Marijuana Establishment in a manner established in the Marijuana Establishment's written security procedures and approved by the Commission or its delegee. If a Marijuana Establishment receives notice that the motion detection sensor is not working correctly, it must take prompt action to make corrections and document those actions. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;
  6. The ability to immediately produce a clear, color still image whether live or recorded;
  7. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and shall not significantly obscure the picture;
  8. The ability to remain operational during a power outage for a minimum of 48 hours; and
  9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.
- (b) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.
- (c) In addition to the requirements listed in 935 CMR 500.110(5)(a) and (b), the Marijuana Establishment shall have a back-up alarm system, with all the capabilities of the primary system, provided by a company supplying commercial

grade equipment, which shall not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.

- (d) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdictions, security system service personnel and the Commission.
- (e) A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Commission on request. If the surveillance room is on-site of the Marijuana Establishment, it shall remain locked and shall not be used for any other function.
- (f) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.
- (g) Trees, bushes and other foliage outside of the Marijuana Establishment shall be maintained so as to prevent a person or persons from concealing themselves from sight.

(6) Security and Alarm Requirements for Marijuana Establishments Operating Outdoors.

- (a) A Marijuana Establishment that is outdoors shall implement adequate security measures to ensure that outdoor areas are not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana which shall, at a minimum, include:
  - 1. A perimeter security fence designed to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area;
  - 2. Commercial-grade, nonresidential locks;
  - 3. A security alarm system that shall:
    - a. be continuously monitored, whether electronically, by a monitoring company or other means determined to be adequate by the Commission; and
    - b. provide an alert to designated employees of the Marijuana Establishment within five minutes after a notification of an alarm or a system failure, either by telephone, email or text message.
  - 4. Video cameras at all points of entry and exit and in any parking lot which

shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, and areas where Marijuana is cultivated, harvested, processed, prepared, stored, handled, transferred or dispensed and for the purpose of securing cash. Cameras shall be angled so as to allow for the capture of clear and certain identification of any person entering or exiting the Marijuana Establishment or area;

5. 24-hour recordings from all video cameras that are available immediate viewing by the Commission on request and that are retained for at least 90 calendar days. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;
  6. The ability to immediately produce a clear, color still image whether live or recorded;
  7. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and shall not significantly obscure the picture;
  8. The ability to remain operational during a power outage; and
  9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.
- (b) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.
- (c) In addition to the requirements listed in 935 CMR 500.110(4)(a) and (b), the Marijuana Establishment shall have a back-up alarm system, with all capabilities of the primary system, provided by a company supplying commercial grade equipment, which shall not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.

- (d) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdiction, police and fire departments, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Commission on request. If the surveillance room is on-site of the Marijuana Establishment, it shall remain locked and shall not be used for any other function.
- (e) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.
- (f) Security plans and procedures shared with law enforcement authorities pursuant to 935 CMR 500.110(1)(o) shall include:
  - 1. a description of the location and operation of the security system, including the location of the central control on the Premises;
  - 2. a schematic of security zones;
  - 3. the name of the security alarm company and monitoring company, if any;
  - 4. a floor plan or layout of the facility in a manner and scope as required by the municipality.
  - 5. a safety plan for the Manufacture and production of Marijuana Products as required pursuant to 935 CMR 500.101(1)(d)(3)(c).

(7) Cash Handling and Transportation Requirements.

- (a) A Marijuana Establishment that conducts any transaction in cash shall establish and implement adequate security measures and procedures for safe cash handling and cash transportation to financial institutions or DOR facilities to prevent theft and loss, and to mitigate associated risks to the safety of employees, customers and the general public. Adequate security measures shall include:
  - 1. An on-site secure locked safe or vault maintained in an area separate from retail sales areas used exclusively for the purpose of securing cash;
  - 2. Video cameras directed to provide images of areas where cash is kept, handled and packaged for transport to financial institutions or DOR facilities, provided that the cameras may be motion-sensor activated cameras and provided, further, that all cameras be able to produce a clear, still image whether live or recorded;
  - 3. A written process for securing cash and ensuring transfers of deposits to the Marijuana Establishment's financial institutions and DOR facilities on



an incremental basis consistent with the requirements for deposit by the financial institution or DOR facilities; and

4. Use of an armored transport provider that is licensed pursuant to M.G.L. c. 147, § 25 (watch, guard or patrol agency) and has been approved by the financial institution or DOR facility.
- (b) Notwithstanding the requirement of 935 CMR 500.110(7)(a)(4), a Marijuana Establishment may request an alternative security provision under 935 CMR 500.110(2) for purposes of cash transportation to financial institutions and DOR facilities. Any approved alternative security provision shall be included in the security plan shared with law enforcement in the municipality in which the Marijuana Establishment is licensed and periodically updated as required under 935 CMR 500.110(1)(q). To be determined to provide a sufficient alternative, any such alternative safeguard shall include, but may not be limited to:
1. Requiring the use of a locked bag for the transportation of cash from a Marijuana Establishment to a financial institution or DOR facility;
  2. Requiring any transportation of cash be conducted in an unmarked vehicle;
  3. Requiring two registered Marijuana Establishment agents employed by the Licensee to be present in the vehicle at all times during transportation of deposits;
  4. Requiring real-time GPS tracking of the vehicle at all times when transporting cash;
  5. Requiring access to two-way communications between the transportation vehicle and the Marijuana Establishment;
  6. Prohibiting the transportation of Marijuana or Marijuana Products at the same time that cash is being transported for deposit to a financial institution or DOR facility; and
  7. Approval of the alternative safeguard by the financial institution or DOR facility.
- (c) All written safety and security measures developed under this section shall be treated as security planning documents, the public disclosure of which would jeopardize public safety.

(8) Security Requirements for Delivery-Only Retailer Operations

(a) A Marijuana Establishment licensed as a Delivery-Only Retailer shall implement adequate security measures to ensure that each vehicle used for transportation of Marijuana and Marijuana Products is not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana. Security measures shall, at a minimum, include for each operational delivery vehicle:

1. A vehicle security system that includes an exterior alarm;
2. A secure, locked storage compartment in each vehicle and not easily removable for the purpose of transporting the Marijuana or Marijuana Products.
3. A secure, locked storage compartment in each vehicle and not easily removable for the purpose of transporting and securing cash used as payment for deliveries of Marijuana or Marijuana Products.
4. A means of secure communication between each vehicle and the Marijuana Establishment's dispatching location which shall be capable of being monitored at all times that a vehicle is performing a delivery route. Means of communication shall include:
  - a. two-way digital or analog radio (UHF or VHF);
  - b. cellular phone; or
  - c. satellite phone.
5. A global positioning system (GPS) monitoring device that is:
  - a. Not a mobile device and that is attached to the vehicle at all times that the vehicle contains Marijuana or Marijuana Products; and
  - b. Monitored by the Delivery-Only Retailer at a fixed location during the transportation of Marijuana or Marijuana Products for the purpose of home delivery with location checks occurring at least every 30 minutes. The Delivery-Only Retailer may delegate monitoring of the GPS to the Third-Party Technology Platform Provider with which the Delivery-Only Retailer has a contract, provided that the Delivery-Only Retailer shall be responsible for ensuring that monitoring occurs as required under these regulations.
6. A video system that includes one or more video cameras in the storage

area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which shall have:

- a. the ability to produce a clear color still photo whether live or recorded; and
  - b. A date and time stamp embedded in all recordings which shall be synchronized and set correctly at all times and shall not significantly obscure the picture.
7. All security equipment in each vehicle shall be in good working order and shall be inspected and tested at regular intervals, no to exceed 30 calendar days from the previous inspection and test.
- (b) Delivery-Only Retailer Agents engaged in the delivery of Marijuana or Marijuana Products to a Consumer shall have on their person an operational body camera during all times that the Marijuana Establishment Agent is outside of the delivery vehicle for the purpose of transacting a delivery.
1. The body camera shall record all deliveries.
  2. Consumers shall be notified of the use of body cameras to record delivery transactions at the time of order, on the proof of order and by the Marijuana Establishment Agent on arrival at the Residence.
  3. Video of deliveries shall be retained for a minimum of 90 days, or the duration of an investigation by the Commission or law enforcement that the Licensee has been notified about, whichever is longer, and shall be accessible to the Commission or law enforcement on request.
- (c) Delivery-Only Retailers transporting Marijuana and Marijuana Products for home delivery shall ensure that all vehicles used for deliveries are staffed with a minimum of two Marijuana Establishment Agents. At least one Marijuana Establishment Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.
- (d) All Marijuana Establishment Agents acting as delivery employees of a Delivery-Only Retailer shall have attended and successfully completed Responsible Vendor Training in accordance with 935 CMR 500.105(2)(b) prior to making a delivery which shall include, but may not be limited to, training on:
1. Safely conducting deliveries;
  2. Safe cash handling practices;
  3. Strategies for de-escalating potentially dangerous situations;
  4. Collecting and communicating information to assist in investigations;

5. Procedures for checking identification;
  6. Indications of impairment;
  7. Notification to Consumers of use of mandatory recording devices; and
  8. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.
- (e) A Delivery-Only Retailer Agent shall document and report any unusual discrepancy in inventory to the Commission and the local law enforcement authorities in which the establishment is licensed within 24 hours of the discovery of such a discrepancy.
- (f) A Delivery-Only Retailer shall report to the Commission and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport immediately and, under no circumstances, more than 24 hours of becoming aware of any accidents, diversions, losses, or other reportable incidents.
- (g) The following individuals shall have access to Delivery-Only Retailer operations and vehicles, including video recordings:
1. Representatives of the Commission in the course of responsibilities authorized by M.G.L. c. 94G or 935 CMR 500.000: *Adult Use of Marijuana*;
  2. Representatives of other state agencies acting within their jurisdiction; and
  3. Law enforcement, police and fire departments, and emergency medical services in the course of responding to an emergency.
- (h) This regulation shall not be construed to prohibit access to authorized law enforcement authorities or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.
- (i) All vehicles used by the Delivery-Only Retailer for home delivery are subject to inspection and approval by the Commission prior being put into use. It shall be the Delivery-Only Retailers responsibility to make the Commission aware of its intent to introduce a new vehicle into operation and ensure an inspection of the vehicle prior to commencing operation.
- (j) Firearms are strictly prohibited from Delivery-Only Retailer vehicles and from Marijuana Establishment Agents performing home deliveries.

(9) Incident Reporting

- (a) A Marijuana Establishment shall notify appropriate law enforcement authorities and the Commission of any breach of security or other reportable incident defined herein immediately and, in no instance, more than 24 hours following discovery of the breach or incident. Notification shall occur, but not be limited to, during the following occasions:
1. discovery of inventory discrepancies;
  2. diversion, theft or loss of any Marijuana Product;
  3. any criminal action involving or occurring on or in the Marijuana Establishment Premises or Licensee or agent;
  4. any suspicious act involving the sale, cultivation, distribution, Processing or production of Marijuana by any person;
  5. unauthorized destruction of Marijuana;
  6. any loss or unauthorized alteration of records related to Marijuana;
  7. an alarm activation or other event that requires response by public safety personnel, including but not limited to local law enforcement, police and fire departments, public works or municipal sanitation departments, and municipal inspectional services departments, or security personnel privately engaged by the Marijuana Establishment;
  8. the failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last more than eight hours; or
  9. any other breach of security.
- (b) A Marijuana Establishment shall, within ten calendar days, provide notice to the Commission of any incident described in 935 CMR 500.110(9)(a) by submitting an incident report in the form and manner determined by the Commission which details the circumstances of the event, any corrective action taken, and confirmation that the appropriate law enforcement authorities were notified.
- (c) All documentation related to an incident that is reportable pursuant to 935 CMR 500.110(9)(a) shall be maintained by a Marijuana Establishment for not less than one year or the duration of an open investigation, whichever is longer, and made available to the Commission and law enforcement authorities within their lawful jurisdiction on request.
- (10) Security Audits. A Marijuana Establishment must, on an annual basis, obtain at its own expense, a security system audit by a vendor approved by the Commission. A report of such audit must be submitted, in a form and manner determined by the Commission, no later than 30 calendar days after the audit is conducted. If the audit identifies concerns related to the establishment's security system, the Marijuana Establishment must also submit a plan to mitigate those concerns within ten business days of submitting the audit.

500.120: Additional Operational Requirements for Indoor and Outdoor Marijuana Cultivators

- (1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments*, Marijuana Cultivators shall comply with additional operational requirements required under 935 CMR 500.120: *Additional Operational Requirements for Indoor and Outdoor Marijuana Cultivators*.
- (2) A Marijuana Cultivator may cultivate its own Marijuana or acquire Marijuana from other Marijuana Establishments for the purposes of Propagation.
- (3) Only a licensed Marijuana Cultivator or Microbusiness is permitted to cultivate Marijuana for adult use for sale to Marijuana Establishments.
- (4) All phases of the cultivation, Processing, and packaging of Marijuana by a Marijuana Cultivator shall take place in a designated area that is not visible from a public place without the use of binoculars, aircraft or other optical aids.
- (5) Application of Pesticides shall be performed in compliance with M.G.L. c. 132B and the regulations promulgated at 333 CMR 2.00: General Information through 333 CMR 14.00. Any testing results indicating noncompliance shall be immediately reported to the Commission, who may refer any such result to the MDAR.
- (6) A Marijuana Cultivator selling or otherwise Transferring Marijuana to another Marijuana Establishment shall provide documentation of its compliance, or lack thereof, with the testing requirements of 935 CMR 500.160.
- (7) A Marijuana Cultivator may label Marijuana with the word “organic” only if all cultivation is consistent with US Department of Agriculture organic requirements at 7 CFR 205 and consistent with MDAR requirements for Pesticide usage;
- (8) Soil for cultivation shall meet federal standards identified by the Commission, including but not limited to the U.S. Agency for Toxic Substances and Disease Registry’s Environmental Media Evaluation Guidelines for residential soil levels.
- (9) The cultivation process shall use best practices to limit contamination including, but not limited to, mold, fungus, bacterial diseases, rot, pests, pesticides not in compliance with 500.120(5) for use on Marijuana, mildew, and any other contaminant identified as posing potential harm. Best practices shall be consistent with state and local law, including but not limited to the Commission’s *Guidance on Integrated Pest Management* in effect of the date of these regulations and as subsequently amended.
- (10) Any application of plant nutrient to land used for the cultivation of Marijuana shall

comply with St. 2012, c. 262, as amended by St. 2013, c. 118, § 26, and 330 CMR 31.00: *Plant Nutrient Application Requirements for Agricultural Land and Non-agricultural Turf and Lawns*.

- (11) A Marijuana Cultivator shall satisfy minimum energy efficiency and equipment standards established by the Commission and meet all applicable environmental laws, regulations, permits and other applicable approvals, including, but not limited to, those related to water quality and quantity, wastewater, solid and hazardous waste management, and air pollution control, including prevention of odor and noise pursuant to 310 CMR 7.00: *Air Pollution Control* as a condition of obtaining a final license under 935 CMR 500.103(2) and as a condition of renewal under 935 CMR 500.103(4). A Marijuana Cultivator shall adopt and use additional best management practices as determined by the Commission, in consultation with the working group established under St. 2017, c. 55, § 78(b) or applicable departments or divisions of the EOEEA, to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts, and shall provide energy and water usage reporting to the Commission in a form determined by the Commission. Each license renewal application under 935 CMR 500.103(4) must include a report of the Marijuana Cultivator's energy and water usage over the 12-month period preceding the date of application.

Marijuana Cultivators shall be subject to the following minimum energy efficiency and equipment standards:

- (a) The building envelope for all facilities, except Greenhouses, must meet minimum Massachusetts Building Code requirements and all Massachusetts amendments (780 CMR: *State Building Code*), International Energy Conservation Code (IECC) Section C.402 or The American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) Chapters 5.4 and 5.5 as applied or incorporated by reference in 780 CMR: *State Building Code*, except that facilities using existing buildings may demonstrate compliance by showing that the envelope insulation complies with code minimum standards for Type Factory Industrial F-1, as further defined in guidelines issued by the Commission.
- (b) Lighting used for Cannabis Cultivation must meet one of the following compliance requirements:
  - 1. Horticulture Lighting Power Density must not exceed 36 watts per square foot, except for Tier 1 and Tier 2 which must not exceed 50 watts per square foot; or
  - 2. All horticultural lighting used in a facility is listed on the current Design Lights Consortium Solid-State Horticultural Lighting Qualified Products List ("Horticultural QPL") or other similar list approved by the

Commission as of the date of license application, and lighting Photosynthetic Photon Efficacy (PPE) is at least 15 percent above the minimum Horticultural QPL threshold rounded up to the nearest 0.1  $\mu\text{mol/J}$  (micromoles per joule).

- (c) Heating Ventilation and Air Condition (HVAC) and dehumidification systems must meet Massachusetts Building Code requirements and all Massachusetts amendments (780 CMR *State Building Code*), IECC Section C.403 or ASHRAE Chapter 6 as applied or incorporated by reference in (780 CMR: *State Building Code*). As part of the documentation required under 935 CMR 500.120(11)(b), a Marijuana Cultivator must provide a certification from a Massachusetts Licensed Mechanical Engineer that the HVAC and dehumidification systems meet Massachusetts building code as specified in this 935 CMR 500.120(11)(c) and that such systems have been evaluated and sized for the anticipated loads of the facility.
- (d) Safety protocols shall be established and documented to protect workers and Consumers (e.g., eye protection near operating Horticultural Lighting Equipment).
- (e) Requirements in 935 CMR 500.120(11)(b) and (c) shall not be required if an indoor Marijuana cultivator is generating 80% or more of the total annual onsite energy use for all fuels (expressed on a MWh basis) from an onsite clean or renewable generating source, as defined by M.G.L. c. 25A § 11F, and/or alternative energy generating source, as defined by M.G.L. c. 25A § 11F ½. Additionally, the Marijuana Establishment must document that renewable energy credits or alternative energy credits representing the portion of the Licensee's energy usage not generated onsite has been purchased and retired on an annual basis.
- (f) Prior to final licensure, a Marijuana Cultivator Licensee must demonstrate compliance with 935 CMR 500.120(11), by submitting an energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with submission of building plans under 935 CMR 500.103(1) For a Microbusiness or Craft Marijuana Cooperative with a cultivation location sized as Tier 1 or Tier 2, or such other Marijuana Cultivator meeting the requirements of 935 CMR 500.050(1), compliance with any of the requirements of 935 CMR 500.120(11) may be demonstrated through an energy compliance letter or updated energy compliance letter prepared by one or more of the following energy professionals:
  - 1. A Certified Energy Auditor certified by the Association of Energy



Engineers;

2. A Certified Energy Manager certified by the Association of Energy Engineers;
3. A Massachusetts Licensed Professional Engineer; or
4. A Massachusetts Licensed Registered Architect.

(g) A co-located Marijuana Establishment and MTC with a final Certificate of Registration shall have until January 1, 2020 to comply with 935 CMR 500.120(11), except that any additions to or renovations to a facility must comply with 935 CMR 500.120(11).

(h) For purposes of 935 CMR 500.120(11), the following terms shall have the following meanings:

1. Horticultural Lighting Equipment (HLE) means any lighting equipment (e.g. fixtures, bulbs, ballasts, controls, etc.) that uses energy for the cultivation of plants, at any stage of growth (e.g. germination, cloning/mother plants, Propagation, Vegetation, Flowering, and harvest).
2. Horticulture Lighting Square Footage (HLSF) means Canopy, plus any additional areas(s) that will contain live plants at any point in time that will be exposed to horticultural lighting equipment.
3. Lighting Power Density (HLPD) means a measure of total watts of Horticultural Lighting Equipment per total Horticulture Lighting Square Footage,  $(HLE / HLSF = HLPD)$  expressed as number of watts per square foot.

(12) In addition to the written operating policies required under 935 CMR 500.105(1), a Marijuana Cultivator, including co-located Marijuana Cultivators and MTCs, shall maintain written policies and procedures for the cultivation, production, Transfer or distribution of Marijuana, as applicable, which shall include but not be limited to:

- (a) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(8);
- (b) Policies and procedures for handling voluntary and mandatory recalls of Marijuana. Such procedures shall be adequate to deal with recalls due to any action initiated at the request or order of the Commission, and any voluntary action by a Marijuana Establishment to remove defective or potentially defective Marijuana from the market, as well as any action undertaken to promote public health and safety;

- (c) Policies and procedures for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated Marijuana is segregated from other Marijuana and destroyed. Such procedures shall provide for written documentation of the disposition of the Marijuana. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(12);
- (d) Policies and procedures for transportation. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(13);
- (e) Policies and procedures to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(15) and 935 CMR 500.120(11); and
- (f) Policies and procedures for the Transfer, acquisition, or sale of Marijuana between Marijuana Establishments.

500.130: Additional Operational Requirements for Marijuana Product Manufacturers

- (1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments*, Marijuana Product Manufacturers shall comply with additional operational requirements required under 935 CMR 500.130: *Additional Operational Requirements for Marijuana Product Manufacturers*.
- (2) Production of edible Marijuana Products shall take place in compliance with the following:
  - (a) All edible Marijuana Products shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: *Minimum Sanitations Standards for Food Establishments*, and with the requirements for food handlers specified in 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements*; and
  - (b) Any Marijuana Product that is made to resemble a typical food or Beverage product must be packaged and labelled as required by 935 CMR 500.105(5) and 500.105(6).
- (3) A Marijuana Product Manufacturer shall meet all applicable environmental laws, regulations, permits and other applicable approvals, including, but not limited to, those related to water quality and quantity, wastewater, solid and hazardous waste management

and air pollution control, including prevention of odor and noise pursuant to 310 CMR 7:00: *Air Pollution Control*, and to use additional best management practices as determined by the Commission in consultation with the working group established under St. 2017, c. 55, § 78(b) or applicable departments or divisions of the EOEEA to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts.

- (4) A Marijuana Product Manufacturer selling or otherwise transferring Marijuana to another Marijuana Establishment shall provide documentation of its compliance, or lack thereof, with the testing requirements of 935 CMR 500.160: *Testing of Marijuana and Marijuana Products*, and standards established by the Commission for the conditions, including time and temperature controls, necessary to protect Marijuana Products against physical, chemical, and microbial contamination as well as against deterioration of finished products during storage and transportation.
- (5) In addition to the written operating policies required under 935 CMR 500.105(1), a Marijuana Product Manufacturer shall maintain written policies and procedures for the production or distribution of Marijuana Products, as applicable, which shall include, but not be limited to:
  - (a) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(8);
  - (b) Policies and procedures for handling voluntary and mandatory recalls of Marijuana Products. Such procedures shall be adequate to deal with recalls due to any action initiated at the request or order of the Commission, and any voluntary action by a Marijuana Establishment to remove defective or potentially defective Marijuana Products from the market, as well as any action undertaken to promote public health and safety;
  - (c) Policies and procedures for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated Marijuana Products is segregated from other product and destroyed. Such procedures shall provide for written documentation of the disposition of the Marijuana Products. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(12);
  - (d) Policies and procedures for transportation. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(13);
  - (e) Policies and procedures to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(15);

- (f) Policies and procedures for the Transfer, acquisition, or sale of Marijuana Products between Marijuana Establishments;
  - (g) Policies and procedures to ensure that all edible Marijuana Products are prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 500.000: *Good Manufacturing Practices for Food*, and with the requirements for food handlers specified in 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements*; and
  - (h) Policies and procedures for maintaining a product catalogue identifying all types of Marijuana Products actively manufactured at the facility. The catalog shall include a description of the product, photograph or illustration, packaging design, and dosage amounts, including expected Cannabinoid profile.
- (6) Notwithstanding a stricter municipal or state regulation, a Marijuana Product Manufacturer shall identify the method of extraction (e.g., Butane, Propane, CO<sub>2</sub>) on a physical posting at all entrances of the Marijuana Establishment. The Posting shall be a minimum of 12” x 12” and identify the method of extraction in lettering no smaller than one inch in height. A Marijuana Product Manufacturer shall post a copy of a permit to keep, store, handle or otherwise use flammable and combustible at each place of operation within the facility.

500.140: Additional Operational Requirements for Retail Sale.

- (1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments*, Licensees engaged in retail sales shall comply with 935 CMR 500.140: *Additional Operational Requirements for Retail Sale*.
- (2) On-Premises Verification of Identification.
  - (a) On entry into the Premises of a Marijuana Retailer by an individual, a Marijuana establishment agent shall immediately inspect the individual’s proof of identification and determine the individual’s age. An individual shall not be admitted to the Premises unless the Marijuana Retailer has verified that the individual is 21 years of age or older by an individual’s proof of identification.
  - (b) On point of sale by an individual, a Marijuana establishment agent shall inspect the individual’s proof of identification and determine the individual’s age.
  - (c) A Marijuana Retailer may not acquire or record Consumer personal information

other than information typically required in a retail transaction, which can include identifying information to determine the Consumer's age. A Marijuana Retailer may not record or retain any additional personal information from Consumer without the Consumer's voluntary written permission.

(d) A Marijuana Retailer that has entered into Delivery Agreements with Delivery-Only Retailers for the purpose of transacting home deliveries to Consumers under 935 CMR 500.050(9) shall establish a Pre-Verification process for Consumers who intend to place orders for delivery with the Marijuana Establishment. To comply with the requirements of pre-verification, the Marijuana Establishment shall:

1. Require the Consumer to appear in-person at the Marijuana Establishment to present the Consumer's valid, unexpired government-issued photo identification; and
2. Examine the identification and verify that the individual Consumer presenting the identification is the individual Consumer that matches the identification and that the individual Consumer is 21 years of age or older.

(e) Collect and maintain relevant information about the individual Consumer, for the purpose of transacting a delivery and ensuring that the recipient of a delivery under 935 CMR 500.145: *Additional Operational Requirements for Delivery of Marijuana and Marijuana Products to Consumers* is legally allowed to receive Marijuana and Marijuana Products:

1. The individual's name;
2. The individual's date of birth;
3. The individual's address,
4. The individual's primary telephone number; and
5. The individual's email address.

(f) Any such information collected by the Marijuana Establishment shall be used solely for the purpose of transacting a delivery of Marijuana or Marijuana Products under 935 CMR 500.145: *Additional Operational Requirements for Delivery of Marijuana and Marijuana Products to Consumers* and shall be otherwise maintained confidentially.

### (3) Limitation on Sales.

(a) In accordance with M.G.L. c. 94G, § 7, a Marijuana Retailer shall not knowingly sell more than one ounce of Marijuana or its combined dry weight equivalent in Marijuana concentrate or edible Marijuana Products to a retail customer per day.

1. One ounce of Marijuana flower shall be equivalent to five grams of active

tetrahydrocannabinol (THC) in Marijuana concentrate, including but not limited to Tinctures.

2. One ounce of Marijuana flower shall be equivalent to five hundred milligrams of active tetrahydrocannabinol (THC) in edible Marijuana Products.
3. Topicals and ointments shall not be subject to a limitation on daily sales.

- (b) A Marijuana Retailer shall not sell Marijuana or Marijuana Products in excess of the potency levels established by 935 CMR 500.150(4);
- (c) A Marijuana Retailer must demonstrate that it has a Point-of-Sale System that does not allow for a transaction in excess of the limit established in subsection (a) or the potency levels established in subsection (b).

(4) Unauthorized Sales and Right to Refuse Sales.

- (a) A Marijuana Retailer shall refuse to sell Marijuana to any Consumer who is unable to produce valid proof of identification.
- (b) A retailer may refuse to sell Marijuana Products to a Consumer if, in the opinion of the Marijuana establishment agent based on the information available to the agent at that time, the Consumer or the public would be placed at risk. This includes, but is not limited to, the Consumer engaging in daily transactions that exceed the legal possession limits or that create a risk of diversion.
- (c) A retailer shall not sell to an individual more than one ounce of Marijuana or its dry weight equivalent in Marijuana concentrate or edible Marijuana Products per transaction. A retailer shall not knowingly sell to an individual more than one ounce of Marijuana or its dry weight equivalency per day.
- (d) A retailer is prohibited from selling Marijuana Products containing nicotine.
- (e) A retailer is prohibited from selling Marijuana Products containing alcohol, if sales of such alcohol would require licensure pursuant to M.G.L. c. 138.

(5) Recording Sales.

- (a) A Marijuana Retailer shall only utilize a point-of-sale (POS) system approved by the Commission, in consultation with the DOR.
- (b) A retailer may utilize a sales recording module approved by the DOR.
- (c) A retailer is prohibited from utilizing software or other methods to manipulate or alter sales data.

- (d) A retailer shall conduct a monthly analysis of its equipment and sales data to determine that no software has been installed that could be utilized to manipulate or alter sales data and that no other methodology has been employed to manipulate or alter sales data. A Marijuana Retailer shall maintain records that it has performed the monthly analysis and produce it on request to the Commission. If a retailer determines that software has been installed for the purpose of manipulation or alteration of sales data or other methods have been utilized to manipulate or alter sales data:
1. it shall immediately disclose the information to the Commission;
  2. it shall cooperate with the Commission in any investigation regarding manipulation or alteration of sales data; and
  3. take such other action directed by the Commission to comply with 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments*.
- (e) A retailer shall comply with 830 CMR 62C.25.1: *Record Retention* and DOR Directive 16-1 regarding recordkeeping requirements.
- (f) A retailer shall adopt separate accounting practices at the point-of-sale for Marijuana and Marijuana Product sales, and non-Marijuana sales.
- (g) The Commission and the DOR may audit and examine the point-of-sale system used by a retailer in order to ensure compliance with Massachusetts tax laws and 935 CMR 500.000: *Adult Use of Marijuana*.
- (6) Consumer Education. A Marijuana Retailer shall make available educational materials about Marijuana Products to Consumers. A retailer must have an adequate supply of current educational material available for distribution. Educational materials must be available in commonly spoken languages designated by the Commission, which will include, but not be limited to appropriate materials for the visually- and hearing-impaired. Such materials shall be made available for inspection by the Commission on request. The Commission will establish fines or other civil penalties for a Marijuana Establishment's failure to provide these materials. The educational material must include at least the following:
- (a) A warning that Marijuana has not been analyzed or approved by the FDA, that there is limited information on side effects, that there may be health risks associated with using Marijuana, and that it should be kept away from children;
  - (b) A warning that when under the influence of Marijuana, driving is prohibited by M.G.L. c. 90, § 24, and machinery should not be operated;

- (c) Information to assist in the selection of Marijuana, describing the potential differing effects of various strains of Marijuana, as well as various forms and routes of administration;
  - (d) Materials offered to Consumers to enable them to track the strains used and their associated effects;
  - (e) Information describing proper dosage and titration for different routes of administration. Emphasis shall be on using the smallest amount possible to achieve the desired effect. The impact of potency must also be explained;
  - (f) A discussion of tolerance, dependence, and withdrawal;
  - (g) Facts regarding substance abuse signs and symptoms, as well as referral information for substance abuse treatment programs;
  - (h) A statement that Consumers may not sell Marijuana to any other individual;
  - (i) Information regarding penalties for possession or distribution of Marijuana in violation of Massachusetts law; and
  - (j) Any other information required by the Commission.
- (7) Testing. No Marijuana Product, including Marijuana, may be sold or otherwise marketed for adult use that has not first been tested by Independent Testing Laboratories, except as allowed under 935 CMR 500.000: *Adult Use of Marijuana*. The product must be deemed to comply with the standards required under 935 CMR 500.160: *Testing of Marijuana and Marijuana Products*.

500.141 Additional Operating Requirements for Marijuana Social Consumption Establishments

- (1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments*, and except as otherwise provided herein, a Marijuana Social Consumption Establishment shall comply with 935 CMR 500.110: *Security Requirements for Marijuana Establishments*; and additional operational requirements under 935 CMR 500.140: *Additional Operational Requirements for Retail Sale* and 935 CMR 500.141: *Additional Operating Requirements for Marijuana Social Consumption Establishments*.
- (2) In addition to the written operating policies required under 935 CMR 500.105(1), a Marijuana Social Consumption Establishment shall maintain written policies and procedures for the sale, distribution, and serving of Marijuana and Marijuana Products,



and provide Responsible Vendor Training to employees on the policies and procedures prior to commencing operations, which shall include but not be limited to:

(a) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories in compliance with 935 CMR 500.110(7) and 935 CMR 500.141(8);

(b) Procedures to ensure that all sales of Marijuana and Marijuana Products under a Marijuana Social Consumption Establishment license shall include a label or supplementary insert with the following information:

1.the symbols issued by the Commission under 935 500.105(b)(17)-(18);

2.the following statement, including capitalization:

This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN.;**

3.additionally, for edible products, the warning, “The impairment effects of edibles may be delayed by two hours or more”;

4.the name and contact information of the Marijuana Establishment that produced the Marijuana or Marijuana Product;

5.the results of sampling, testing and analysis conducted by an Independent Testing Laboratory;

6.a seal certifying the Marijuana or Marijuana Products meets such testing standards;

7.a unique batch number identifying the Production Batch associated with manufacturing, Processing, and cultivating;

8.a list of ingredients and possible allergens;

9.the amount of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) in the package and in each serving of Marijuana or Marijuana Product as expressed in absolute terms and as a percentage of volume;

10. an explanation of the number of “servings” in the package; and

11. a use-by date, if applicable;

- (c) security procedures, including specific plans for securing entrances and that all Marijuana and Marijuana Products are kept out of plain sight and not visible from a public place;
- (d) procedures to ensure prevention of diversion;
- (e) procedures to ensure the prevention of a Consumer from bringing Marijuana or Marijuana Products onto the Premises that have not been obtained from the Marijuana Social Consumption Establishment, including policies for ensuring Marijuana Accessories brought on site, do not contain Marijuana or Marijuana Products not obtained from the Marijuana Social Consumption Establishment;
- (f) procedures to ensure that Marijuana or Marijuana Products purchased on site does not leave the Premises;
- (g) procedures for the storage of Marijuana or Marijuana Products, including, but not limited to, disposal procedures for unconsumed Marijuana or Marijuana Products;
- (h) Procedural and operational plans making a diligent effort to assist Consumers who may be impaired in finding means of transportation. Such requirements must be tailored to the region in which the establishment is located.
- (i) Procedures to ensure that Consumers are not overserved;
- (j) Procedures to ensure that no one younger than 21 years old may access the establishment;
- (k) If vaporization or other non-smoking forms of consumption involving heat are permitted indoors, procedures and building plans or schematic to ensure that:
  - 1.the area(s) in which consumption involving heat takes place are isolated from the other areas, separated by walls and a secure door, with access only from the Marijuana Social Consumption Establishment;
  - 2.employees may monitor the consumption area from a smoke-free, vapor-free area; and
  - 3.a ventilation system directs air from the consumption area to the outside of the building through a filtration system sufficient to remove visible vapor, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line;

- (l) procedures to ensure that no sales occur within the consumption area.
- (m) procedures to ensure that smoking as defined by M.G.L. c. 137, § 22 is prohibited indoors.
- (n) Sanitary practices in compliance with 105 CMR 590.000: *Minimum Sanitation Standards for Food Establishments*; and
- (o) a detailed description of qualifications and intended training(s) for Marijuana establishment agents who will be employees;

(3) Limitation on Sales

- (a) Marijuana Social Consumption Establishment agents shall only sell Marijuana or Marijuana Products to individuals in an amount reasonable for on-site consumption. Notwithstanding the terms of 935 CMR 500.140(3)(a), 935 CMR 500.140(4)(c) and 935 CMR 500.150(4)(a) and (b), Consumers may not purchase more than 20 milligrams of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) within any single day.
- (b) A Marijuana Social Consumption Establishment shall not knowingly sell to a Consumer more than 20 milligrams of delta-nine-tetrahydrocannabinol ( $\Delta$ 9-THC) per day.
- (c) Sale of edible Marijuana Products shall be limited to pre-packaged Shelf-stable items. Products that are perishable, or time and temperature controlled to prevent deterioration shall not be allowed to be sold.
- (d) A Marijuana Social Consumption Establishment may sell food and drink items other than edible Marijuana products if it acquires all necessary licenses and permits to do so. A Marijuana Social Consumption Establishment may not sell alcohol or tobacco products.

(4) Social Consumption Sales

- (a) The sale of Marijuana and Marijuana Products for consumption on site shall take place in compliance with the following:

1. Marijuana and Marijuana Products may only be used by Consumers on the Premises who have demonstrated in compliance with 935 CMR 500.140(2)(b) that they are 21 years of age or older;
  2. In addition to the requirements of 935 CMR 500.140(8), A Marijuana Social Consumption Establishment must distribute to each Consumer a Consumer information card, which shall be provided by the Commission that informs Consumers about the impairment effects of different forms of consumption of Marijuana or Marijuana Products, including, but not limited to, the length of time that the Marijuana or Marijuana Products may take in order to take effect, and information to prevent impaired driving. The informational card will be scientifically based. The information card will be two-sided and presented in a form and manner determined by the Commission.
  3. Consumer shall orally affirm to a Marijuana establishment agent receipt and understanding of the Consumer information card prior to the dispensing of Marijuana or Marijuana Products.
- (b) A Marijuana Social Consumption Establishment shall not allow the consumption of alcohol or the smoking of tobacco, or the sale of alcohol or tobacco on the Premises.
  - (c) All Marijuana and Marijuana Product sales shall be tracked using the Seed-to-sale SOR.
  - (d) Limitations on the time for sales of Marijuana or Marijuana Products shall comply with all municipal bylaws and ordinances. Unless otherwise explicitly authorized by the municipality, sales shall only occur between the hours of 8:00 a.m. and 9:00 p.m.
  - (e) Every effort shall be made to minimize the amount of cash held by a Marijuana Social Consumption Licensee at any one time. Licensees shall use best efforts to implement platforms for the electronic payment of funds.

(5) Age Verification

- (a) Entry into the Premises of a Marijuana Social Consumption Establishment by persons under the age of twenty-one is prohibited;

(b) On entry into the Premises of a Marijuana Social Consumption Establishment by an individual, a Marijuana Establishment agent shall immediately inspect the individual's proof of identification and determine the individual's age. An individual shall not be admitted to the Premises unless the establishment has verified that the individual is 21 years of age or older by an individual's proof of identification.

(6) Consumption Areas

(a) Where needed for security or health reasons, a Brick-and-Mortar Social Consumption Establishment shall separate the designated sales and consumption areas. Each area shall be isolated from other areas of the establishment. The consumption area shall be separated by walls and a secure door and accessible only from the sales area.

(b) The consumption area shall be visible to individuals located in the sales area.

(c) The Marijuana Establishment shall maintain an updated diagram of the consumption area which must show the location of:

- 1.the licensed Premises of the Marijuana Establishment;
- 2.serving area or areas;
- 3.ventilation exhaust points, if applicable;
- 4.the employee monitoring area;
- 5.doors, windows, or other exists; and
- 6.any other information required by the Commission.

(d) Consumption of Marijuana or Marijuana Products through vaporization or other non-smoking forms of consumption involving heat shall require the following:

1. A ventilation system that directs air from the consumption area to the outside of the building through a filtration system sufficient to remove vapor, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line.
2. A smoke-free area for agents to monitor the Marijuana consumption area.

(e) The establishment shall have a standard operating procedure to ensure the health of agents in the cleaning and sanitation of all consumption areas.

- (f) A Marijuana Social Consumption Establishment shall provide Consumers with adequate, readily accessible toilet facilities that are maintained in a sanitary condition and in good repair.

(7) Waste Disposal

- (a) The Marijuana Social Consumption Establishment shall be responsible for ensuring Consumers dispose of any unused Marijuana or Marijuana Products prior to exiting the establishment.
- (b) The Marijuana Social Consumption Establishment shall provide a secure receptacle to dispose of Marijuana or Marijuana Products sold on-site but not consumed by the Consumer prior to exiting the establishment.
- (c) Marijuana or Marijuana Products returned by a Consumer shall be disposed of in accordance with 935 CMR 500.105(12).

(8) Incident Reporting

- (a) The Marijuana Social Consumption Establishment shall provide notice to appropriate law enforcement authorities and the Commission in accordance with 935 CMR 500.110(8).
- (b) In addition to the incidents identified in 935 CMR 500.110(8)(a), a Marijuana Social Consumption Establishment shall provide notification shall notify the Commission of any of the following incidents immediately, and in no instance, no more than 24 hours after the following occasions:
  - 1. Any instance involving the consumption of tobacco, tobacco products or alcohol on the Premises;
  - 2. Any instance involving the consumption of any Marijuana or Marijuana Product not purchased from the Marijuana Social Consumption Establishment; or
  - 3. Any instance involving the consumption of any Marijuana or Marijuana Product in a designated sales area or other area outside the designated consumption area.

- (9) Prohibitions. A Marijuana Social Consumption Establishment shall not:

- (a) Sell Marijuana or Marijuana Products other than those authorized pursuant to 935 CMR 500.141: *Additional Operating Requirements for Marijuana Social Consumption Establishments*.
  - (b) Allow a Consumer to smoke or otherwise consume Marijuana through combustible methods, except outdoors as otherwise authorized under 935 CMR 500.000 *Adult Use of Marijuana*, so long as smoking is not a nuisance to the non-smoking public.
  - (c) Allow any agent to consume Marijuana or Marijuana Products during the course of a work shift;
  - (d) Allow the consumption of tobacco or tobacco products or alcohol or alcoholic products on the Premises;
  - (e) Allow the possession or consumption of any Marijuana or Marijuana Product that was not purchased from the Marijuana Social Consumption Establishment;
  - (f) Offer to sell or sell any Marijuana or Marijuana Product for a discounted or promotional price or for any price other than the product's fixed price;
  - (g) Gift or discount Marijuana and Marijuana Products;
  - (h) Allow, encourage or permit any organized game or contest involving the consumption of Marijuana or Marijuana Product or awarding of Marijuana or Marijuana Products as a prize; or
  - (i) Advertise, market or brand any practice prohibited by this section or 935 CMR 500.105(4)(b).
- (10) Outdoor Smoking Waiver
- (a) The prohibition on smoking in an indoor area cannot be waived.
  - (b) The prohibition on smoking in a designated outdoor area may be subject to a waiver in accordance with the following process:
    - 1. The waiver request shall comply with the requirements outlined in 935 CMR 500.850(1);
    - 2. On receipt of the waiver request and written documentation, the Commission shall submit the request and documentation to the Board of Health or Health Commissioner in the municipality where the Marijuana Social Consumption Establishment is located. The Commission shall request that the local health authority examine the waiver and documentation and provide a determination whether the proposed outdoor smoking activity would:

- a. comply with the municipality's applicable local rules and regulations pertaining to smoking;
- b. be compatible with uses in the surrounding community; and
- c. not pose an unacceptable risk to public, health, safety or welfare greater than if consumption were to occur indoors.

500.145 Additional Operational Requirements for Delivery of Marijuana and Marijuana Products to Consumers

(1) General Requirements.

- (a) A Delivery-Only Retailer License is a necessary prerequisite for the delivery of Marijuana and Marijuana Products directly to Consumers.
- (b) Prior to commencing operations, Delivery-Only Retailers shall comply with all operational requirements imposed by:
  1. 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments*;
  2. 935 CMR 500.110(8); and
  3. 935 CMR 500.145: *Additional Operating Requirements for Delivery of Marijuana and Marijuana Products to Consumers*.
- (c) All individuals delivering Marijuana and Marijuana Products for a Delivery-Only Retailer directly to Consumers shall be employees of the Delivery-Only Retailer and shall hold a valid Marijuana Establishment Agent registration.
- (d) All Marijuana and Marijuana Products delivered by a Delivery-Only Retailer shall be obtained from a licensed Marijuana Retailer.
  1. Delivery-Only Retailers shall only obtain Marijuana or Marijuana Products for delivery from a licensed Marijuana Retailer with which the Delivery-Only Retailer Licensee has a Delivery Agreement.
  2. All agreements between a Delivery-Only Retailer and a Marijuana Retailer shall be disclosed under the requirements of licensure in 935 CMR 500.101: *Application Requirements* and subject to limitations on control over licenses under 935 CMR 500.050(1)(a).
  2. The Commission shall be notified in writing of any substantial



modification to a Delivery Agreement.

- (e) A Delivery-Only Retailer and Marijuana Retailer may use a Third-Party Technology Platform Provider to facilitate the ordering of Marijuana or Marijuana Products by Consumers.
  - 1. All agreements between a Delivery-Only Retailer and a Third-Party Technology Platform Provider shall be available for inspection as part of the requirements for licensure in 935 CMR 500.101: *Application Requirements* and shall be subject to the control limitations under 935 CMR 500.050 (1)(a).
  - 2. The Commission shall be notified in writing within five days of any substantial modification to an agreement between a Delivery-Only Retailer and a Third-Party Technology Platform Provider.
  - 3. Any Third-Party Technology Platform shall comply with privacy and Consumer protection standards established by the Commission.
  - 4. The Commission shall be notified in writing of an ongoing basis of any new or additional or assigned agreements between a Delivery-Only Retailer and a Third-Party Technology Platform Provider within five days.
- (f) The maximum retail value of Marijuana or Marijuana Products allowed in a Delivery-Only Retailer's vehicle at any one time shall be \$10,000.00.
- (g) All Marijuana and Marijuana Product deliveries shall be tracked using the Seed-to-Sale System of Record as designated by the Commission.
- (h) Deliveries of Marijuana or Marijuana Products by a Delivery-Only Retailer shall be geographically limited to:
  - 1. The municipality identified on the Marijuana Establishment license as the Delivery-Only Retailer's place of business; and
  - 2. Any municipality in which a Marijuana Retailer licensed under 935 CMR 500 *Adult Use of Marijuana* may operate, whether or not a Marijuana Retailer currently operates in the municipality, pursuant to the municipality's bylaws and ordinances.
- (i) Limitations on the time for delivery shall comply with all municipal bylaws and ordinances, provided, however, that all deliveries of Marijuana or Marijuana Products must be completed before 9:00 p.m. local time or the time determined by municipal bylaw or ordinance, whichever occurs first, and deliveries of Marijuana or Marijuana Products shall not occur between the hours of 9:00 p.m. and 8:00

a.m., unless otherwise explicitly authorized by municipal bylaw or ordinance.

- (j) Every effort shall be made to minimize the amount of cash carried in a Delivery-Only Retail vehicle at any one time. Marijuana Retailers utilizing a Delivery-Only Retailer for Consumer transactions shall use best efforts to implement platforms for the electronic payment of funds. Where cash is carried in a Delivery-Only Retailer vehicle the storage and transport of cash shall comply with the requirements of 935 CMR 500.110(7).

(2) Orders. All orders for deliveries made by Delivery-Only Retailers shall comply with the following requirements:

- (a) All Marijuana and Marijuana Products delivered by a Delivery-Only Retailer shall be obtained from a licensed Marijuana Retailer with which the Delivery-Only Retailer has a Delivery Agreement.
- (b) Orders for home delivery shall be received by a Marijuana Retailer and transmitted to a Delivery-Only Retailer for delivery to a Residence.
- (c) Only Marijuana Products that are Shelf-stable may be delivered. Products that are perishable, or time and temperature controlled to prevent deterioration shall not be allowed to be delivered by a Delivery-Only Retailer.
- (d) Delivery-Only Retailers shall deliver Marijuana or Marijuana Products only to the Residence address provided. Delivery-Only Retailers shall be prohibited from delivering to college or university dormitories; and federally- and state-subsidized housing, shelters or residential programs.
- (e) Delivery-Only Retailers shall only deliver Marijuana or Marijuana Products for which a specific order has been received by a licensed Marijuana Retailer with which the Delivery-Only Retailer has a Delivery Agreement. Delivery-Only Retailers are prohibited from delivering Marijuana or Marijuana Products without a specific order destined for an identified Residence. An order may be generated directly through a Marijuana Retailer or through a Third-Party Technology Platform identified to the Commission under 935 CMR 500.145(1)(d).
- (f) Delivery-Only Retailers are prohibited from delivery of more Marijuana or Marijuana Products to an individual Consumer than the individual possession amounts authorized by M.G.L. c. 94G, § 7(a)(1). An Individual Order shall not exceed one ounce of Marijuana or its dry-weight equivalent. The Individual Order shall only be delivered to the individual Consumer identified on the order after

verification of the individual's identity consistent with the requirements of 935 CMR 500.145(3). Delivery-Only Retailers shall only deliver one Individual Order, per Consumer, during each delivery.

- (g) A Delivery-Only Retailer shall not deliver to the same Consumer at the same Residence more than once each calendar day and only during authorized delivery hours.
- (h) For home delivery, each order must be packaged and labeled in accordance with 935 CMR 500.105(5) and (6) originating the order prior to transportation by the Delivery-Only Retailer to the Consumer.
- (i) Any Marijuana or Marijuana Product that is undeliverable or is refused by the Consumer shall be transported back to the originating Marijuana Establishment that provided the product once all other deliveries included on a delivery manifest have been made. Delivery-Only Retailers are prohibited from maintaining custody of Marijuana or Marijuana Products intended for delivery overnight. It shall be the responsibility of the Delivery-Only Retailer to ensure that any undelivered product is returned to the appropriate Marijuana Retailer and not retained by the Delivery-Only Retailer.

(3) Consumer Age Verification.

- (a) A Marijuana Retailer shall require any Consumer making a purchase for delivery by a Delivery-Only Retailer to have the government-issued photo identification a Consumer intends to use to verify her or his age at the time of delivery examined and authenticated by the Marijuana Retailer prior to the first Individual Order. Pre-Verification of the Consumer's identification shall be performed in-person at the Marijuana Retailer's physical location and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth. A Delivery-Only Retailer may make accommodations for a Consumer who is disabled, so long as Pre-Verification is performed in-person and includes examination of a valid, unexpired government-issued photo identification that bears a date of birth. A Delivery-Only Retailer is prohibited from performing a delivery to any Consumer who has not established an account for delivery through Pre-Verification of the Consumer's identification by the Marijuana Retailer.
- (b) A Delivery-Only Retailer shall not deliver Marijuana or Marijuana Products to any person other than the Consumer who ordered the Marijuana or Marijuana Products.

- (c) A Delivery-Only Retailer shall verify the age and identity of the Consumer at the time at which the Marijuana or Marijuana Products are delivered to the Consumer at a Residence to ensure that Marijuana and Marijuana Products are not delivered to individuals under the age of 21. Prior to relinquishing custody of the Marijuana or Marijuana Products to the Consumer, the Marijuana Establishment Agent conducting the delivery shall verify that the identification of the Consumer receiving the Marijuana or Marijuana Products matches the pre-verified identification of the Consumer who placed the order for delivery with the Marijuana Retailer by:
1. Viewing the valid government-issued photo identification as provided to the Marijuana Retailer for Pre-Verification under 935 CMR 500.145(3)(a);
  2. Viewing proof of order generated by the Marijuana Retailer at the time of order; and
  3. Receiving the signature of the Consumer who ordered the Marijuana or Marijuana Products on the manifest for the Marijuana or Marijuana Products and verifying that the signature matches the government-issued photo identification presented.

(4) Vehicle and Transport Requirements for Home Delivery.

- (a) Vehicles used for home delivery by a Delivery-Only Retailer shall be owned or leased by the Delivery-Only Retailer, shall be properly registered as commercial vehicles, and inspected and insured in the Commonwealth of Massachusetts.
- (b) Vehicles used for home delivery by a Delivery-Only Retailer may be parked overnight at the address identified as the Licensee's place of business or another location, provided that keeping the vehicle at the identified location complies with all general and special bylaws of the municipality.
- (c) Vehicles used for delivery by a Delivery-Only Retailer shall carry liability insurance in an amount not less than \$1,000,000 combined single limit.
- (d) Delivery-Only Retailer vehicles shall have no external markings, words or symbols that indicate the vehicle is being used for home delivery of Marijuana or Marijuana Products.
- (e) Delivery-Only Retailers transporting Marijuana and Marijuana Products for home delivery shall ensure that all vehicles used for deliveries are staffed with a minimum of two Marijuana Establishment Agents. At least one Marijuana Establishment Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.

- (f) Marijuana and Marijuana Products must not be visible from outside the vehicle.
- (g) A Delivery-Only Retailer shall transport Marijuana and Marijuana Products in a secure, locked storage compartment that is a part of the vehicle and complies with the requirements of 935 CMR 500.110(8).
- (h) A Delivery-Only Retailer shall maintain, in each vehicle used for deliveries of Marijuana and Marijuana Products, a secure, locked storage compartment for the purpose of transporting and securing cash used as payment. This compartment shall be separate from compartments required under 935 CMR 500.145(4)(h) for the transport of Marijuana and Marijuana Products.
- (i) In the case of an emergency stop during the transportation of Marijuana or Marijuana Products, a log must be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle. The Marijuana Establishment Agents in the vehicle shall provide notice of the location of the stop and employ best efforts to remain in contact with the Delivery-Only Retailer.
- (j) The Delivery-Only Retailer Marijuana Establishment Agents transporting Marijuana or Marijuana Products for home delivery shall contact the Delivery-Only Retailer fixed location when arriving at and leaving any delivery, and regularly throughout the trip, at least every 30 minutes.
- (k) The Delivery-Only Retailer shall maintain a separate log for each vehicle in use for home deliveries. For each delivery, the Delivery-Only Retailer shall record:
  - 1. The location of the originating Marijuana Retailer and date and time the vehicle leaves the location;
  - 2. The mileage of the transporting vehicle at departure from the Marijuana Retailer, mileage on arrival at each Consumer destination, and mileage on return to the Marijuana Establishment;
  - 3. The date and time of departure from the Marijuana Establishment and arrival at each Consumer destination for each delivery; and
  - 4. An entry indicating the date and time of the last delivery in an order.
- (l) A Delivery-Only Retailer shall ensure that all delivery routes remain within the Commonwealth of Massachusetts at all times.
- (m) A Delivery-Only Retailer shall make every effort to randomize its delivery routes.
- (n) Delivery-Only Retailers shall not transport products other than Marijuana and Marijuana Products during times when Delivery-Only Retailers are performing

home deliveries.

- (o) Firearms are strictly prohibited from Delivery-Only Retailer vehicles and from Marijuana Establishment Agents performing home deliveries.

(5) Manifests

- (a) Every home delivery shall have a manifest produced by the Marijuana Retailer and provided to the Delivery-Only Retailer. A manifest shall be completed in duplicate, with the original manifest remaining with the originating Marijuana Retailer, and a copy to be kept with the Delivery-Only Retailer during the delivery. The manifest shall be signed by the Consumer receiving the Marijuana or Marijuana Products and the Marijuana Establishment Agent acting on behalf of the Delivery-Only Retailer. A signed manifest shall serve as the written record of the completion of the delivery.

- (b) The manifest must, at a minimum, include:

1. The originating Marijuana Retailer name, address, and license number;
2. The name and license number of the Delivery-Only Retailer performing the home delivery;
3. The names and Marijuana Establishment Agent numbers of the Marijuana Establishment Agents performing the delivery;
4. The Consumer's name and address;
5. A description of the Marijuana or Marijuana Products being transported, including the weight and form or type of product;
6. Signature lines for the agents who transported the Marijuana or Marijuana Products;
7. A signature line for Consumer who receives the Marijuana or Marijuana Products; and
8. The Delivery-Only Retailer vehicle make, model, and license plate number.

- (c) The manifest shall be maintained within the vehicle during the entire transportation process, until all the deliveries are completed.

- (d) A Marijuana Establishment shall retain all transportation manifests for no less than one year and make them available to the Commission on request.

500.150: Edible Marijuana Products

- (1) Production of Edible Marijuana Products. Production of edibles shall take place in

compliance with the following:

- (a) Any edible Marijuana Product that is made to resemble a typical food or Beverage product must be packaged and labeled as required by M.G.L. c. 94G, § 4(a<sup>1/2</sup>)(xxvi) and 935 CMR 500.105(5) and (6).
  - (b) The Manufacture or sale of edibles in the following shapes and types is prohibited:
    1. The distinct shape of a human, animal, or fruit; or
    2. a shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.
  - (c) Edible Marijuana Products that are geometric shapes and simply fruit-flavored are not considered fruit and are permissible.
- (2) Sanitary Requirements. All edible Marijuana Products shall be prepared, handled, and stored in compliance with the requirements in 935 CMR 500.105(3) and 935 CMR 500.105(11).
- (3) Additional Labeling and Packaging Requirements for Edible Marijuana Products.
- (a) In addition to the requirements set forth in M.G.L. c. 94G, § 4(a<sup>1/2</sup>)(xxvi) and 935 CMR 500.105(5) and (6), every Marijuana Retailer must ensure that the following information or statement is affixed to every container holding an edible Marijuana Product:
    1. If the retail edible Marijuana Product is perishable or time and temperature controlled, a statement that the edible Marijuana Product must be refrigerated.
    2. The date on which the edible Marijuana Product was produced.
    3. A nutritional fact panel that must be based on the number of THC servings within the container.
    4. Information regarding the size of each serving for the product by milligrams, the total number of servings of Marijuana in the product, and the total amount of active THC in the product by milligrams (mgs). For example: “The serving size of active THC in this product is X mg(s), this product contains Y servings of Marijuana, and the total amount of active THC in this product is (X\*Y) mg(s).”
    5. A warning that the impairment effects of edible Marijuana may be delayed by two hours or more.

- (b) Once a label with a use-by date has been affixed to a container holding an edible Marijuana Product, a Licensee shall not alter that date or affix a new label with a later use-by date.
  - (c) A Marijuana Product Manufacturer must ensure that each single serving of an edible Marijuana Product is physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC.
  - (d) Each serving of an edible Marijuana Product within a multi-serving package of edible Marijuana Products must be easily separable in order to allow an average person 21 years of age or older to physically separate, with minimal effort, individual servings of the product.
  - (e) Each single serving of an edible Marijuana Product contained in a packaged unit of multiple edible Marijuana Product shall be marked, stamped, or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana Product.
- (4) Dosing Limitations. A Marijuana Product Manufacturer may not prepare, and a Marijuana Retailer may not deliver, sell or otherwise distribute an edible Marijuana Product with potency levels exceeding the following, as tested by an independent Marijuana testing facility licensed in accordance with M.G.L. c. 94G, § 15:
- (a) for a single serving of an edible Marijuana Product, five milligrams (5.00 mg) of active tetrahydrocannabinol (THC);
  - (b) in a single package of multiple edible Marijuana Product to be eaten, swallowed, or otherwise ingested, not more than 20 servings or 100 milligrams (100.00mg) of active THC; and
  - (c) the THC content must be homogenous, or evenly distributed throughout the edible Marijuana Product. A Retail Marijuana Product shall be considered to not be homogenous if 10% of the infused portion of the Marijuana Product contains more than 20% of the total THC contained within entire Marijuana Product.

500.160: Testing of Marijuana and Marijuana Products

- (1) No Marijuana Product, including Marijuana, may be sold or otherwise marketed for adult use that is not capable of being tested by Independent Testing Laboratories, except as allowed under 935 CMR 500.000: *Adult Use of Marijuana*. Testing of Marijuana Products shall be performed by an Independent Testing Laboratory in compliance with a



protocol(s) established in accordance with M.G.L. c. 94G, § 15 and in a form and manner determined by the Commission, including but not limited to, the *Protocol for Sampling and Analysis of Finished Medical Marijuana Products and Marijuana-infused Products*. Testing of environmental media (e.g., soils, solid growing media, and water) shall be performed in compliance with the *Protocol for Sampling and Analysis of Environmental Media for Massachusetts Registered Medical Marijuana Dispensaries* published by the Commission.

- (2) Marijuana shall be tested for the Cannabinoid Profile and for contaminants as specified by the Commission including, but not limited to, mold, mildew, heavy metals, plant-growth regulators, and the presence of Pesticides. The Commission may require additional testing.
- (3) A Marijuana Establishment shall have a written policy for responding to laboratory results that indicate contaminant levels are above acceptable limits established in the protocols identified in 935 CMR 500.160(1).
  - (a) Any such policy shall include
    1. notifying the Commission within 72 hours of any laboratory testing results indicating that the contamination cannot be remediated and disposing of the Production Batch.
    2. notifying the Commission of any information regarding contamination as specified by the Commission or immediately upon request by the Commission.
  - (b) The notification must be from both the Marijuana Establishment and the Independent Testing Laboratory, separately and directly.
  - (c) The notification from the Marijuana Establishment must describe a proposed plan of action for both the destruction of the contaminated product and the assessment of the source of contamination.
- (4) A Marijuana Establishment shall maintain the results of all testing for no less than one year. Testing results shall be valid for a period of one year. Marijuana or Marijuana Products with testing dates in excess of one year shall be deemed expired and may not be dispensed, sold, transferred or otherwise conveyed until retested.
- (5) The sale of seeds is not subject to these testing provisions.
- (6) Clones are subject to these testing provisions, but are exempt from testing for metals.
- (7) All transportation of Marijuana to and from Independent Testing Laboratories providing

Marijuana testing services shall comply with 935 CMR 500.105(13).

- (8) All storage of Marijuana at a laboratory providing Marijuana testing services shall comply with 935 CMR 500.105(11).
- (9) All excess Marijuana must be disposed of in compliance with 935 CMR 500.105(12), either by the Independent Testing Laboratory returning excess Marijuana to the source Marijuana Establishment for disposal or by the Independent Testing Laboratory disposing of it directly; and
- (10) No Marijuana Product shall be sold or otherwise marketed for adult use that has not first been tested by an Independent Testing Laboratory and deemed to comply with the standards required under 935 CMR 500.160: *Testing of Marijuana and Marijuana Products*.
- (11) Single-servings of Marijuana Products tested for potency in accordance with 935 CMR 500.150(4)(a) shall be subject to a potency variance of no greater than plus/minus ten percent (+/- 10%).
- (12) Marijuana and Marijuana Products submitted for retesting prior to remediation must be submitted to an Independent Testing Laboratory other than the laboratory which provided the initial failed result. Marijuana submitted for retesting after documented remediation may be submitted to the same Independent Testing Laboratory that produced the initial failed testing result prior to remediation.

#### 500.170: Municipal Requirements

- (1) Marijuana Establishments and Marijuana establishment agents shall comply with all local rules, regulations, ordinances, and bylaws.
- (2) Nothing in 935 CMR 500.000: *Adult Use of Marijuana* shall be construed so as to prohibit lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 935 CMR 500.000: *Adult Use of Marijuana*.

#### 500.200: Counties of Dukes County and Nantucket

- (1) To the extent permitted by law, Marijuana Establishments operating from locations in the Counties of Dukes County and Nantucket (the “island counties”) may operate in full compliance with 935 CMR 500.000: *Adult Use of Marijuana*.
- (2) If Marijuana Establishments operating from locations in the island counties are prevented

from operating in full compliance with 935 CMR 500.00: *Adult Use of Marijuana* by operation of law, they are not required to utilize Independent Testing Laboratories until such time as a laboratory is located on the island where the Marijuana Establishment is located or the establishment can transport Marijuana Products to the mainland of Massachusetts.

- (3) If Marijuana Establishments operating from locations in the island counties are prevented from utilizing Independent Testing Laboratories by operation of law, they are required to test Marijuana Products in a manner that is not Unreasonably Impracticable but also adequately protects the public health in the opinion of the Commission. Such testing may include:
- (a) a modified on-premises testing system approved by the Commission if the label on any Marijuana or Marijuana Product so tested discloses in capital letters: **WARNING: LIMITED TESTING FOR CONTAMINANTS AND PESTICIDES;**
  - (b) a testing facility in the island counties that does not meet the criteria for an Independent Testing Laboratory, but is approved by the Commission for testing by Marijuana Establishments located in the island counties; or
  - (c) Such other testing system approved by the Commission.
- (4) A Delivery-Only Retailer operating in a location in the island counties may only perform deliveries to Residences located in the same county as the Marijuana Establishment which the delivery order originates from until such time as it is permitted to deliver to other locations by law.

#### 500.300: Complaints Process

- (1) In a time and manner determined by the Commission, a dedicated telephone number, email address or other means shall be provided for members of the public or Consumers to notify the Commission of complaints regarding Marijuana Establishments or Marijuana establishment agents.
- (2) The Commission may, at its discretion, investigate or decline to investigate any complaint or refer a complaint to another law enforcement or regulatory authority.

#### 500.301: Inspections and Compliance.

- (1) Pursuant to M.G.L. c. 94G, §§ 4(a)(xvii)-(xx), the Commission or its delegee may inspect

a Marijuana Establishment and affiliated vehicles at any time without prior notice to determine the Marijuana Establishment's compliance with M.G.L. c. 94G and 935 CMR 500.000: *Adult Use of Marijuana*. All areas, activities and records of a Marijuana Establishment and activities and records of Marijuana establishment agents are subject to such inspection. Submission of an application by or issuance of a license to a Marijuana Establishment constitutes consent for such inspection.

- (2) A Marijuana Establishment shall allow immediate access to the facility on being presented with photo identification documenting the Commission representative's affiliation with the Commission or delegee's affiliation with a state agency with lawful jurisdiction over the operations of a Marijuana Establishment.
- (3) A Marijuana Establishment shall immediately on request make available to the Commission or its delegee all information that may be relevant to an inspection or investigation of an incident or a complaint.
- (4) A Marijuana Establishment shall make all reasonable efforts to facilitate the inspection or investigation of an incident or a complaint, including the taking of samples, photographs, video or other evidence or recordings, and complying with demands for examination and inspection in accordance with 935 CMR 500.302: *Compliance Examination*.
- (5) During an inspection, the Commission or its delegee may direct a Marijuana Establishment to test Marijuana for contaminants, including, but not limited to mold, mildew, heavy metals, plant-growth regulators, and the presence of pesticides not approved for use on Marijuana pursuant to 935 CMR 500.120(5).
- (6) An inspection or other investigation may be made prior to the issuance of a license or the renewal of a license. Additional inspections may be made whenever the Commission or its delegee deems it necessary for the enforcement of M.G.L. c. 94G and 935 CMR 500.000: *Adult Use of Marijuana*.
- (7) The failure to cooperate with an inspection or otherwise comply with this section may result in administrative or disciplinary action against the Licensee.

500.302: Compliance Examination.

- (1) The Commission or its delegee pursuant to M.G.L. c. 94G, § 4(a)(xx), has the authority to demand access to a Marijuana Establishment's papers, books, documents, records, correspondence, electronic communications, and other tangible things to examine and inspect. Such examination and inspection may include interrogatories to parties or subpoenas to compel the production of papers, books, documents, records, correspondence, electronic communications, and other tangible things. The examination and inspection of a Marijuana Establishment may also include the interview of material

witnesses, registered agents, or other persons whom the Commission has determined is involved in the financing, management or operation of an establishment.

- (2) Administrative Subpoenas. The Commission or its delegee may, during a preliminary investigation prior to a hearing, issue, modify, amend or rescind subpoenas. Material witnesses, registered agents, or other person whom the Commission has determined is involved in the financing, management or operation of an establishment may petition the Commission to modify, amend or rescind subpoenas.
- (3) General Provisions. Administrative subpoenas for compliance examination and inspection shall be issued in the name of the Commission by the Commission or its delegee. Service may be made in a form and manner determined by the Commission, including, but not limited to, by the consent of the parties.
- (4) Enforcement of Subpoenas. On the failure of a person to comply with a subpoena, and not subsequently vacated or modified by the Commission or its delegee, the Commission or its delegee may apply to the Superior Court for an order to compel compliance with the subpoena; an order for costs and fees associated with the issuance and enforcement of the subpoena; or an order of contempt for any failure by a party to comply with a court order.
- (5) The failure to cooperate with provisions of this section may result in administrative or disciplinary action against the Licensee.

500.303: Unannounced Purchase for Purpose of Investigative Testing (Secret Shopper Program).

- (1) Secret Shopper Program Authorized. The Commission or its delegee may, at any time and without prior notice, authorize an employee or other agent to pose as a customer and purchase any Marijuana or Marijuana Products from any licensed Marijuana Establishment. The Commission or its delegee may authorize such purchase for any investigative purposes that are consistent with St. 2016, c. 334, as amended by St. 2017, c. 55 or 935 CMR 500.000: *Adult Use of Marijuana*, including, but not limited to, investigative testing for compliance with laboratory testing standards and identification check requirements. The purchasing employee or agent shall document the purchase, including the date, time, and place of purchase, type and amount of Marijuana or Marijuana Products, and any other information required by the Commission.
- (2) Custody and Preservation of Purchases. The Marijuana or Marijuana Products purchased as part of the program shall be securely stored during transport in a manner to prevent contamination or spoilage.

- (3) Contamination and Spoilage During Storage or Transport. Any contamination or spoilage of purchases under the Secret Shopper Program during storage or transport while under the control of the purchaser shall be promptly documented by the purchaser in writing and reported to the Commission. The Commission or its delegee may authorize the disposal of the contaminated or spoiled purchase, pursuant to the regulations concerning waste disposal under 935 CMR 500.105(12).
- (4) Use of Secret Shopper Investigative Results. Results of investigations conducted under Secret Shopper Program shall be promptly submitted to the Commission.
- (a) All investigative results shall be retained as part of the records for the licensed Marijuana Establishment from which the purchase originated.
  - (b) The Marijuana Establishment may be notified of any investigative results determined to be noncompliant at a time and manner determined by the Commission.
  - (c) After the Marijuana Establishment is notified of the investigative results, such results may be used by the Commission to take action on the license of the Marijuana Establishment pursuant to 935 CMR 500.340: *Quarantine Order*, 500.350: *Cease and Desist Order and Summary Suspension Order*, 500.450: *Marijuana Establishment License: Grounds for Denial of Renewal Applications, Suspension and Revocation*, or 500.500: *Hearings and Appeals of Actions on Licenses* or assess fines or other civil penalties pursuant to 935 CMR 500.360: *Fines*.
  - (d) Without notice to the Marijuana Establishment, the Commission may share such investigative results with any other law enforcement or regulatory authorities.
  - (e) The Commission may elect to conduct further evaluation of the investigative results at any time for verification or for other purposes reasonably related to sanitation, public health or public safety.
- (5) The failure to cooperate with provisions of this section may result in administrative or disciplinary action against the Licensee.

500.310: Deficiency Statements

After an inspection in which a violation of St. 2016, c. 334, as amended by St. 2017, c. 55 or 935 CMR 500.000: *Adult Use of Marijuana* is observed or a violation is otherwise determined to have occurred, the Commission shall issue a deficiency statement citing every violation identified, a copy of which shall be left with or sent to

the Marijuana Establishment.

500.320: Plans of Correction

- (1) A Marijuana Establishment shall submit to the Commission a written plan of correction for any violations cited in the deficiency statement issued pursuant to 935 CMR 500.310: *Deficiency Statements*, within ten business days after receipt of the statement.
- (2) Every plan shall state, with respect to each deficiency, the specific corrective step(s) to be taken, a timetable for such steps, and the date by which compliance with 935 CMR 500.000: *Adult Use of Marijuana* will be achieved. The timetable and the compliance dates shall be consistent with achievement of compliance in the most expeditious manner possible.
- (3) The Commission shall review the plan of correction for compliance with the requirements of St. 2016, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000: *Adult Use of Marijuana*, and shall notify the Marijuana Establishment of either the acceptance or rejection of the plan.
- (4) An unacceptable plan must be amended and resubmitted within five business days after receipt of such notice.

500.321 Administrative Hold

- (1) Pursuant to M.G.L. c. 94G, § 4(a)(xix), the Commission or its delegee may order an Administrative Hold of Marijuana or Marijuana Products to examine and inspect a Marijuana Establishment to ensure compliance with the provisions of 935 CMR 500.000: *Adult Use of Marijuana*, prevent the destruction of evidence, prevent the diversion of Marijuana or Marijuana Products, or as otherwise necessary to protect the public health, safety or welfare.
- (2) A Marijuana Establishment subject to an Administrative Hold shall retain its inventory pending further investigation by the Commission or its delegee pursuant to the following procedure:
  - (a) If during an investigation or inspection of a Marijuana Establishment, the Commission has reasonable cause to believe certain Marijuana or Marijuana Products constitutes evidence of non-compliance with 935 CMR 500.000: *Adult Use of Marijuana*, or otherwise constitutes a threat to the public health, safety or welfare, the Commission may issue a notice to administratively hold any Marijuana or Marijuana Products. The notice shall identify the Marijuana or Marijuana Products subject to the Administrative Hold and a concise statement stating the reasons relied on in the issuance of the Administrative Hold.

- (b) Following the issuance of a notice of Administrative Hold, the Commission will identify and mark the Marijuana or Marijuana Product subject to the Administrative Hold in the Commission's Seed-to-Sale SOR. The Marijuana Establishment shall continue to comply with all inventory requirements, including, but not limited to, 935 CMR 500.105(8).
- (c) The Marijuana Establishment shall completely and physically segregate the Marijuana or Marijuana Products subject to the Administrative Hold in a Limited Access Area, where it shall be safeguarded by the establishment.
- (d) While the Administrative Hold is in effect, the Marijuana Establishment shall be prohibited from selling, transporting or otherwise transferring or destroying the Marijuana or Marijuana Products subject to the Administrative Hold, except as otherwise authorized by the Commission.
- (e) While the Administrative Hold is in effect, the Marijuana Establishment must safeguard the Marijuana or Marijuana Product(s) subject to the Administrative Hold and must fully comply with all security requirements including, but not limited to, 935 CMR 500.110: *Security Requirements for Marijuana Establishments*.
- (f) An Administrative Hold shall not prevent a Marijuana Establishment from the continued possession, cultivation or harvesting of the Marijuana or Marijuana Products subject to the Administrative Hold unless otherwise provided by an order of the Commission. All Marijuana or Marijuana Products subject to an Administrative Hold must be put into separate tracked Production Batches.
- (g) An Administrative Hold shall not prevent a Marijuana Establishment from voluntarily surrendering Marijuana or Marijuana Products subject to an Administrative Hold, except that the establishment shall comply with the waste disposal requirements in 935 CMR 500.105(12).
- (h) At any time after the initiation of the Administrative Hold, the Commission or its delegee may modify, amend or rescind the Administrative Hold.
- (i) The failure to cooperate with provisions of this section may result in administrative or disciplinary action against the Licensee.

500.330: Limitation of Sales

- (1) If the Commission or its delegee determines that a Marijuana Establishment does not substantially comply with applicable provisions of St. 2016, c. 334, as amended by



St. 2017, c. 55, M.G.L. c. 94G, and or 935 CMR 500.000: *Adult Use of Marijuana*, the Commission or its delegee may order that the Marijuana Establishment shall not sell Marijuana or Marijuana Products, after a date specified.

- (2) The Commission or its delegee shall not make such a determination until a Marijuana Establishment has been notified that the establishment does not substantially comply with applicable provisions of St. 2016, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000: *Adult Use of Marijuana*, that an order to limit sales is contemplated, and that the establishment has a reasonable opportunity to correct the deficiencies.
- (3) An order that a Marijuana Establishment shall not sell Marijuana or Marijuana Products pursuant to 935 CMR 500.330(1) may be rescinded when the Commission or its delegee finds that the establishment is in substantial compliance with the applicable provisions of 935 CMR 500.000: *Adult Use of Marijuana*.

500.335: Removal and Prohibition of Marijuana and Marijuana Products.

- (1) Pursuant to M.G.L. c. 94G, § 4(a ½)(xxxii), the Commission or its delegee may order the removal of or prohibition of sales by more than one Licensee of categories of product types, specific product types or specific brands of products after notice and a determination that Marijuana, Marijuana Products, and Marijuana Accessories (for the purposes of this section, “product”), which based on preliminary evidence, pose a substantial risk to the public health, safety or welfare, including, but not limited to, that the product is especially appealing to persons under 21 years of age.
  - (a) A majority of the voting Commissioners may vote to initiate a complaint about a product and refer that complaint to the Executive Director and Enforcement staff for investigation.
  - (b) In consultation with the Executive Director, Enforcement staff may conduct an investigation and make a recommendation as to the Removal of Product. The recommendation shall be based on credible and reliable evidence and provide a specific description of the scope of removal and specify whether the removal or prohibition on sales applies to one of the following:
    1. Category of Product Type(s). A type of product including but not limited to Marijuana edibles, beverages, topical products, ointments, oils, Tinctures, oral dosage forms or any other product identified by the Commission or its delegee.
    2. Specific Product Type(s). A specific type of product within a category of products but not including other types of product within the same category.

3. Specific Brand of Product(s). One or more specific product types or category types manufactured by a Marijuana Product Manufacturer or a specific product type or category type manufactured by multiple Marijuana Product Manufacturers subject to an agreement, including, but not limited to, a partnership, product licensing, distribution, branding, advertising, marketing or sales agreement.
- (2) After receiving a recommendation from Enforcement staff, the Executive Director may act to address the substantial risk to the public health, safety or welfare, including, but not limited to:
    - (a) Refer the matter to a Hearing Officer with expertise to evaluate scientific evidence to conduct an informal hearing;
    - (b) If credible and reliable evidence has been evaluated and found to meet the standard of a substantial risk to public health, safety or welfare, if one is not yet issued, order the quarantine or Removal of Product or prohibition on sales a product pending consideration by a Hearing Officer; or
    - (c) Refer the matter to the Commission.
  - (3) When a matter is referred by the Executive Director, the Hearing Officer may conduct an informal hearing.
    - (a) If necessary and in consultation with the Executive Director, the Hearing Officer may develop a process for the purposes of identifying the Licensees and Registrants that may be impacted by a current or future order, including, but not limited to, identifying those Licensees and Registrants to whom providing adequate notice and an opportunity to be heard shall be given.
    - (b) The Hearing Officer shall exercise discretion in admitting and weighing evidence including, but not limited to testimony and evidence from:
      1. Licensees and Registrants; and
      2. subject-matter experts.
    - (c) The Hearing Officer shall issue findings of fact and make a recommended decision to the Executive Director.
    - (d) To the extent that the Hearing Officer recommends that products be removed or prohibited, this recommendation shall be based on credible and reliable evidence that the product poses a substantial risk to the public health, safety and welfare.

- (4) The Executive Director may refer the matter to the Commission and make a recommendation.
- (5) On referral by the Executive Director, prior to issuing any order, the Commission shall deliberate on the Executive Director's recommendation at a public meeting of the Commission.
  - (a) If there is a recommendation that the products be removed and prohibited, this recommendation shall be based on credible and reliable evidence that the product poses a substantial risk to the public health, safety and welfare.
  - (b) An order shall require a majority vote of the voting Commissioners.
  - (c) The Commission or its designee shall send written notice of the action taken against an identified Licensee or Registrant and the basis for that action. The notice shall include, but not be limited to, the following information:
    1. the Commission's statutory and regulatory authority, including its jurisdiction over the subject matter; and its authority to take action with regards to the license or registration;
    2. the factual basis for that action;
    3. the extent to which the product poses a substantial risk to the public health, safety and welfare; and
    4. the current restrictions on the Licensee's or Registrant's operations or sales or other use of products, if any, including the method and timing of the Removal of Product, including, but not limited to, whether the product must be destroyed in accordance with 935 CMR 500.105(12).
  - (d) The Commission or its designee may modify, amend or rescind a notice on condition(s) just to all the parties.
- (6) On receipt of the order, the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested by the Commission, post notice at public entrances to the establishment or other notice in a form and manner determined by the Commission.
- (7) The order shall be transmitted immediately to all other Licensee(s) or Registrant(s) that may reasonably be affected by the order by electronic and certified mail.
- (8) In consultation with the Executive Director, the order may be posted on the

Commission's website.

- (9) It shall be a violation of these regulations for Licensees to produce, sell or otherwise make available the categories of Product Types, Specific Product Types or Specific Brands of Products identified in the order.
- (10) A Marijuana Establishment subject to the order shall accept Consumer returns of unused and unopened product for a period of 30 days after the effective date of the order.
- (11) The failure to cooperate with provisions of this section may result in further administrative or disciplinary action against the Licensees or Registrants.

500.340: Quarantine Order.

- (1) Pursuant to its authority under M.G.L. c. 94G, § 4(a)(xix) and (a<sup>1/2</sup>)(xxviii), a Quarantine Order may be imposed by the Commission or its delegee to immediately quarantine or otherwise restrict the sale or use of Marijuana or Marijuana Products by a Licensee or Registrant to protect the public health, safety or welfare.
- (2) If, based on complaint(s), inspection(s), affidavit(s) or other credible evidence, the Commission or its delegee determines that a Licensee or Registrant, or the Marijuana or Marijuana Products cultivated, produced or sold by a Licensee or Registrant pose an immediate or serious threat to the public health, safety or welfare, the Commission or its delegee may issue an order to the Licensee that:
  - (a) quarantines or otherwise restricts the sale or use of Marijuana or Marijuana Products prepared by or in the possession of the Licensee; or
  - (b) quarantines or otherwise restricts the sales or use of Marijuana or Marijuana Products to the extent necessary to avert a threat, pending final investigation results.
- (3) On receipt of the order, the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested by the Commission, post notice at public entrances to the establishment or other notice in a form and manner determined by the Commission or its delegee.
- (4) The Commission or its delegee may modify, amend or rescind the order at any time after its issuance on condition(s) to all the parties.
- (5) To the extent that the issuance of a Quarantine Order is to investigate a substantial risk to public safety, health and welfare, a Licensee shall not have a right to a hearing, unless

and until the order remains in effect beyond 21 calendar days without any further action by the Commission or its delegee.

- (6) The failure to cooperate with provisions of this section may result in administrative or disciplinary action against the Licensees or Registrants.

500.350: Cease and Desist Order and Summary Suspension Order.

- (1) Pursuant to its authority under M.G.L. c. 94G, § 4(a) and (a<sup>1/2</sup>), a Cease and Desist Order or a Summary Suspension Order may be imposed by the Commission or its delegee prior to a hearing to protect the public health, safety, or welfare.

- (2) If based on inspection(s), affidavit(s), or other credible evidence, the Commission or its delegee determines that a Licensee or Registrant or the Marijuana or Marijuana Products cultivated, produced or sold by a Licensee or Registrant pose an immediate or serious threat to the public health, safety or welfare, the Commission or its delegee may:

- (a) Issue a Cease and Desist Order that requires cessation of any or all operations, including, but not limited to, the cultivation, product manufacturing, Transfer, sale, delivery or transportation of Marijuana or Marijuana Products; or
- (b) Issue a Summary Suspension Order that requires the immediate suspension of a license and its associated registrations and cessation of all operations.

(3) Notice of Violations

- (a) For a Cease and Desist or Summary Suspension Order issued under 935 CMR 500.350(2), the Commission or its delegee shall send written notice of the action taken against a Licensee or Registrant and the basis(es) for that action, which shall include, but not be limited to, the following information:

- 1. the Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to take action with regards to the license or registration;
- 2. the factual basis(es) of the action;
- 3. the immediate threat to the public health, safety, and welfare;
- 4. the alleged violation(s) of law, including the alleged noncompliance with law, regulation, guideline or other applicable requirement;
- 5. the current restriction(s), if any, on the Licensee's or Registrant's operations;
- 6. requirements for the continued maintenance and security of any Marijuana and Marijuana Products;

7. the potential for further disciplinary action(s), sanction(s) or fine(s); and
8. the Licensee's right to a hearing, if any.

(b) The Commission or its delegee may modify, amend or rescind the order at any time after its issuance on condition(s) just to all the parties.

(4) On receipt of the order issued under 935 CMR 500.350(2), the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested, post notice at public entrances to the establishment or other notice in a form and manner determined by the Commission or its delegee.

(5) Hearings. The Commission has the authority to administer the administrative hearing process and to delegate to a Hearing Officer the authority to conduct an administrative hearing. M.G.L. c. 94G, § 4(a)(xxiv) and (g).

(a) Hearing Request. On written request filed with the Commission, a Licensee shall be afforded a hearing on an order issued under 935 CMR 500.350(2). The hearing request shall be submitted in a form and a manner determined by the Commission or its delegee, including, but not limited to, the request shall be made no later than 21 calendar days after the effective date of the order. A request for a hearing is filed on the date the request is received by the Commission.

1. A timely request for a hearing must specifically identify each issue and fact in dispute and state the position of the Licensee, the pertinent facts to be adduced at the hearing, and the reasons supporting that position.
2. The failure to timely file a request for a hearing or to state the basis of the hearing request will result in dismissal of the challenge to the findings set forth in the notice of violation(s) or action(s).

(b) Hearing Notice. If a hearing is requested in a timely manner under 935 CMR 500.350(5)(a), the Hearing Officer shall provide notice and a hearing promptly after that request, or as soon as is practicable, or at a time mutually agreed by the parties.

(c) Conduct of the Hearing

1. The hearing shall be conducted pursuant to Standard Adjudicatory Rules of Practice and Procedure, which includes 801 CMR 1.01: *Formal Rules*, 801 CMR 1.02: *Informal/Fair Hearing Rules*, and/or 801 CMR 1.03: *Miscellaneous Provisions Applicable to All Administrative Proceedings*.
2. The scope of the hearing shall be limited to whether there existed prior to,

- or at the time of the order(s) issued pursuant to 935 CMR 500.350(2), or an amended or a modified order, an immediate or serious threat to the public health, safety, or welfare.
3. If the Commission proves by a preponderance of the evidence that there existed an immediate or serious threat to the public health, safety, or welfare, the Hearing Officer shall affirm the order.
  4. The Hearing Officer shall electronically mail a copy of the recommended decision to each Licensee or Registrant and their attorney(s) of record, and mail a copy on written request.
- (6) The requirements of an order issued under 930 CMR 500.350(2) shall remain in effect until one of the following events has occurred:
- (a) the Commission modifies, amends or rescinds the order;
  - (b) there is a Final Decision on the merits of the order, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or rescinded by the Commission;
  - (c) there is a Final Decision on the merits of a subsequently issued Order to Show Cause under 935 CMR 500.370: *Orders to Show Cause*, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or rescinded by the Commission; or until such time as is otherwise established under the procedures set forth in 935 CMR 500.500: *Hearings and Appeals of Actions on Licenses*.

#### 500.360: Fines

The Commission or its delegee may issue an order to a Licensee to show cause as to why a fine or other financial penalty against a Licensee or Registrant should not be imposed for any acts or omissions determined to be in violation of the state Marijuana laws, including M.G.L. c. 94G and 935 CMR 500.000: *Adult Use of Marijuana*.

- (1) Notice of Fines. The Commission or its delegee shall send written notice of the action taken against a Licensee or Registrant and the basis(es) for that action, which shall include, but not be limited to, the following information:
  - (a) the Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to issue the order with regards to the license or registration;

- (b) the factual basis(es) of the order;
  - (c) the alleged violation(s) of law;
  - (d) an assessment of an administrative fine of up to \$50,000 per violation, or an order for corrective action fixing a reasonable time for correction of the violation or both; and
  - (e) notice to the Licensee or Registrant that they may request a hearing in accordance with 935 CMR 500.500: *Hearings and Appeals of Actions on Licenses*.
- (2) An administrative fine of up to \$50,000 may be assessed for each violation.
- (a) The decision to impose any fine or financial penalty shall identify the factors considered by the Commission or its delegee in setting the amount.
  - (b) Each day during which a violation continues may constitute a separate violation, and each instance and provision of the state Marijuana laws, including M.G.L. c. 94G and 935 CMR 500.000: *Adult Use of Marijuana*, may constitute a separate violation.
- (3) The Commission or its delegee, in determining the amount of fine or financial penalty to impose may consider greater or lesser amount depending on aggravating or mitigating circumstances including, but not limited to:
- (a) Aggravating Circumstances
    1. Duration and severity of violation;
    2. Whether the Licensee has previously been subject to an administrative action against its provisional or final license, including, but not limited to, a notice of deficiency;
    3. Whether the Licensee knew or had reason to know of the violation, including but not limited to warning or issuance of a notice of deficiency; and
    4. Whether the offense:
      - a. constitutes grounds for denial of a renewal application or suspension or revocation of licensure;
      - b. Involved multiple Persons or Entities Having Direct or Indirect Control or agents of the Licensee;
      - c. Involved any compensating features associated with a valid waiver issued pursuant to 935 CMR 500.850: *Waivers*;
      - d. Involved a person younger than 21 years of age or a Registered



Qualifying Patient or Caregiver;

- e. Involved or affected multiple Consumers;
- f. Involved or exposed the public to risk of diversion; or
- g. Created a risk to the public health, safety or welfare.

(b) Mitigating Circumstances.

1. Whether the Commission learned of the violation or risk of violation from the Licensee or Registrant prior to investigation;
  2. The financial impact of corrective measures, if any, which provide safeguards exceeding the minimum requirements of 935 CMR 500.000: *Adult Use of Marijuana*. However, financial impact shall not include any cost associated with loss of economic opportunity due to non-compliance or costs of corrective action necessary to achieve compliance with minimum requirements of 935 CMR 500.000: *Adult Use of Marijuana*;
  3. the Licensee's or Registrant's good faith efforts to avoid a violation;
  4. the Licensee's or Registrant's degree of cooperation in the investigation;
  5. the Licensee's or Registrant's willingness to accept responsibility;
  6. the Licensee's or Registrant's compliance with the training requirements pursuant to 935 CMR 500.105(2)(b); and
  7. the Licensee's or Registrant's status as current or past leader pursuant to the Leadership Ratings Program under 935 CMR 500.040: *Leadership Rating Program for Marijuana Establishments and Marijuana-related Businesses*.
- (4) The fine or financial penalty shall be due and payable within 30 calendar days of the date of one of the following:
- (a) the date of the assessment; or
  - (b) if a hearing is requested pursuant to 935 CMR 500.500: *Hearings and Appeals of Actions on Licenses*, the date of the final agency action.
- (5) Failure to timely pay the fine or financial penalty may result in further action being taken by the Commission or its delegee including, but not limited to, suspension or revocation of a license or registration.
- (6) If remaining unpaid at the time of licensure renewal, the fine or financial penalty shall be added to the fee for renewal of the license. A license shall not be renewed without the

payment of the renewal fee and if applicable, an unpaid fine or financial penalty.

- (7) All fines and financial penalties collected by or on behalf of the Commission, pursuant to this section, shall be made payable to the Commission and deposited into the Marijuana Regulation Fund. The failure to cooperate with provisions of this section may result in administrative or disciplinary action against the Licensees or Registrants.

500.370: Order to Show Cause

- (1) If, after investigation, the Commission or its delegee determines that there are grounds to suspend or revoke a license or registration, it may also issue an Order to Show Cause why the Licensee or registration should not be suspended or revoked.
- (2) Notice of Violations. The Commission or its delegee shall send written notice of the action taken against a Licensee or Registrant and the basis for that action, which shall include, but not be limited to, the following information:
- (a) the Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to issue the order with regards to the license or registration;
  - (b) the factual basis(es) of the order;
  - (c) the alleged violation(s) of law, including the alleged noncompliance with law, regulation, guideline or other applicable requirement;
  - (d) the restriction(s) on the Licensee's or Registrant's operations or the sale or use of Marijuana or Marijuana Products, if any;
  - (e) the potential for further disciplinary action(s), sanction(s) or fine(s); and
  - (f) the right to a hearing, if any.
- (3) The Commission or its delegee may modify, amend or rescind an order issued pursuant to 935 CMR 500.370: *Orders to Show Cause*, on condition(s) to all the parties.

500.400: Marijuana Establishment: Grounds for Denial of Application for Licensure.

Each of the following, in and of itself, constitutes full and adequate grounds for denying an applicant on an application for a Marijuana Establishment license and the associated individuals and entities, but not for the renewal of a license.

- (1) The applicant failed to complete the application process within the time required by the Commission.
- (2) Information provided by the applicant was deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity.
- (3) The application indicates an inability to maintain and operate a Marijuana Establishment in compliance with the requirements of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, 935 CMR 500.00: *Adult Use of Marijuana*, including, but not limited to, 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments* and 935 CMR 500.110: *Security Requirements for Marijuana Establishments*, based on the submission of information required by 935 CMR 500.101(1).
- (4) The applicant has been determined to be unsuitable pursuant to any one or more of the factors listed in 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration* and 500.801: *Suitability Standard for Licensure*.
- (5) The applicant failed to comply with the control limitations listed in 935 CMR 500.050(1)(b)-(c) or would likely fail to comply with such limitations if a license were granted.
- (6) An applicant had its license or registration revoked or application denied in the Commonwealth or an Other Jurisdiction.
- (7) Any other ground that serves the purposes of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000: *Adult Use of Marijuana*.

500.415: Void Marijuana Establishment License.

A Marijuana Establishment license is void if the establishment Ceases to Operate or transfers its location without Commission approval or adds a Person or Entity Having Direct or Indirect Control to the license without Commission approval.

500.450: Marijuana Establishment License: Grounds for Suspension, Revocation and Denial of Renewal Applications

Each of the following, in and of itself, constitutes full and adequate grounds for suspending or revoking a Marijuana Establishment's license or denying a renewal application for a Marijuana establishment license.

- (1) The Marijuana Establishment is not operational within the time projected in the license application or the time otherwise approved by the Commission.
- (2) Information provided by the Marijuana Establishment was deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity.
- (3) The Marijuana Establishment has failed to comply with any requirement of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000: *Adult Use of Marijuana*, or any applicable law or regulation, including, but not limited to, the laws and regulations of the Commonwealth relating to taxes, child support, workers' compensation, and professional and commercial insurance coverage.
- (4) The Marijuana Establishment has failed to submit a plan of correction as required or to implement the plan as submitted pursuant to 935 CMR 500.320: *Plans of Correction*.
- (5) The Marijuana Establishment has assigned or attempted to change ownership or assign its license to another entity without prior approval of the Commission under 935 CMR 500.104: *Notification and Approval of Changes*.
- (6) The Licensee failed to comply with the control limitations listed in 935 CMR 500.050(1)(b)-(c) or would likely fail to comply with such limitations if a renewal license were granted.
- (7) There has been a lack of responsible operation of the Marijuana Establishment, as shown by, but not limited to, one or more of the following:
  - (a) failure to maintain the Marijuana Establishment in a clean, orderly, and sanitary fashion;
  - (b) permitting a Marijuana establishment agent to use a registration card belonging to a different person;
  - (c) repeated sales of Marijuana Products to individuals younger than 21 years old, unless in each instance, the Marijuana establishment agent reasonably relied on validly issued government identification in compliance with M.G.L. c. 94G, § 9(b);
  - (d) repeated failure to verify the age of an individual prior to permitting that individual on the Premises of a Marijuana Establishment or making sales of Marijuana Products to that individual; or

- (e) other incompetent or negligent operation;
- (8) The financial management of the Marijuana Establishment has resulted in the filing of a petition for bankruptcy or receivership related to the financial solvency of the Marijuana Establishment.
- (9) An individual or entity on a Marijuana establishment license has maintained a substandard level of compliance with the statutory and regulatory requirements for the operation of a Marijuana Establishment in an Other Jurisdiction including, but not limited to: a failure to correct deficiencies, a limitation on, or a suspension, revocation or refusal to grant or renew a registration or license to operate.
- (10) The conduct or practices of the Marijuana Establishment demonstrate a lack of suitability as specified in 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration* and 500.801: *Suitability Standard for Licensure*.
- (11) An individual or entity on a Marijuana Establishment license or Marijuana establishment agent has a history of criminal conduct as evidenced by any criminal proceedings that resulted in conviction, guilty plea, plea of *nolo contendere*, or admission to sufficient facts in the Commonwealth or Other Jurisdictions.
- (12) An individual or entity on a Marijuana establishment license has committed, permitted, aided or abetted, or conspired to commit any illegal practice(s) in the operation of any Marijuana Establishment including, but not limited to, engaging in the diversion of Marijuana or Marijuana Products.
- (13) The Marijuana Establishment has failed to cooperate or give information to a law enforcement official acting within his or her lawful jurisdiction related to any matter arising out of conduct at any Marijuana Establishment.
- (14) The conduct or practices of the Marijuana Establishment have been detrimental to the safety, health, or welfare of the public.
- (15) Any other ground that serves the purposes of St. 2016, c. 334, as amended by St. 2017, c. 55 or 935 CMR 500.000: *Adult Use of Marijuana*.

500.500: Hearings and Appeals of Actions on Licenses.

- (1) The Commission has the authority to administer the administrative hearing process under M.G.L. c. 94G, § 4(a)(xxiv) and (g).

- (2) A Licensee shall be afforded a hearing on any adverse action taken pursuant to:
- (a) 935 CMR 500.360: *Fines*;
  - (b) 935 CMR 500.370: *Orders to Show Cause*;
  - (c) 935 CMR 500.450: *Marijuana Establishment License: Grounds for Denial of Renewal Applications, Suspension, and Revocation*; or
  - (d) Any other notice of the Commission that specifies that the Licensee or Registrant has a right to challenge the findings of fact and conclusions of law set forth in the Commission's notice using the process set forth in 935 CMR 500.500: *Hearings and Appeals of Actions on Licenses*.
- (3) Notice(s).
- (a) Notice of Violation(s) includes a notice issued in accordance with 935 CMR 500.360: *Fines* and 935 CMR 500.370: *Orders to Show Cause*.
  - (b) Notice of Other Action(s). The Commission or its delegee shall send written notice of the action, including, but not limited to, a denial of a renewal license, taken against a Licensee and the basis(es) for that action, which shall include, but not be limited to, the following information:
    - 1. the Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to take action with regards to the license or registration;
    - 2. the factual basis(es) for that action;
    - 3. the alleged violation(s) of law, including its jurisdiction over the subject matter and its authority to issue the order with regards to the license or registration;
    - 4. the current restriction(s) on the Licensee's operations or the sale or use of Marijuana or Marijuana Products, if any;
    - 5. the potential for further disciplinary action(s), sanction(s) or fine(s); and
    - 6. the Licensee's right to a hearing, if any.
  - (c) The Commission or its delegee may modify, amend or rescind a notice issued on condition(s) just to all the parties.
- (4) Hearing Request. The hearing request shall be submitted in a form and a manner determined by the Commission or its delegee, including, but not limited to, the request shall be made no later than 30 days after the effective date of the notice. A request for a

hearing is filed on the date the request is received by the Commission.

1. A timely request for a hearing must specifically identify each issue and fact in dispute and state the position of the Licensee, the pertinent facts to be adduced at the hearing, and the reasons supporting that position.
  2. The failure to timely file a request for a hearing or to state the basis of the hearing request will result in dismissal of the challenge to the findings set forth in the notice of violation(s) or action(s).
  3. If a timely request for an hearing is made, the Licensee may also seek to stay any action until there has been a final agency action pursuant to 935 CMR 500.500(7) or (12); provided, however, that if the Commission issues an order or notice on the basis of information that ongoing operations pose an immediate or serious threat to the public health, safety or welfare, and that operations without restrictions during the pendency of the administrative appeal could reasonably be expected to endanger the health, safety or welfare of the public, there will be no stay.
  4. Nothing in this section shall preclude the Commission or its delegee from issuing a stay.
- (5) Hearing Officer. The Commission shall designate a Hearing Officer or delegate this designation to the Executive Director.
- (6) Hearing Officer's Authority to Take Action in the Event of Waiver, Default or Summary Decision.
- (a) Waiver. If a Licensee fails to request a hearing in a timely manner or otherwise waives their right to a hearing, the Hearing Officer may assume the truth of the allegations set forth in the notice and recommend to the Commission disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.
  - (b) Default. If a Licensee defaults, the Hearing Officer or other delegee may assume the truth of the allegations set forth in the notice and recommend to the Commission appropriate disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.
  - (c) Summary Decision. If there is no genuine issue of fact to be determined by a hearing, the Hearing Officer may assume the truth of the allegations set forth in the notice and recommend to the Commission disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

- (d) For actions without a hearing under (a) through (c), the Hearing Officer may conduct an evidentiary hearing on the appropriateness of disciplinary action(s), sanction(s) or fine(s).
- (7) Commission's Authority to Review, Approve or Reject Informal Dispositions. At any time, the Commission or its delegee may, in its discretion, review, approve or reject an informal disposition, but only on a showing that the alleged violations have been corrected, and a submission of a written waiver of its right to judicial review.
- (8) Hearing Notice. If a hearing is requested in a timely manner under 935 CMR 500.500(4), the Hearing Officer shall provide notice and a hearing within a reasonable time after that request, or as soon as is practicable, or at a time mutually agreed by the parties.
- (a) The hearing notice should comply with M.G.L. c. 30A, § 11(1).
- (b) Prior to the commencement of a proceeding, a Hearing Officer may conduct conference(s) and refer or require the parties to participate in settlement negotiations. If the parties reach a settlement, the Hearing Officer shall suspend the proceedings pending Commission consideration of the matter under 935 CMR 500.500(7).
- (9) Conduct of the Hearing
- (a) To the extent that a Hearing Officer conducts a proceeding, it shall be conducted pursuant to M.G.L. c. 30A and the Standard Adjudicatory Rules of Practice and Procedure, which includes 801 CMR 1.01: *Formal Rules*, 801 CMR 1.02: *Informal/Fair Hearing Rules*, and/or 801 CMR 1.03: *Miscellaneous Provisions Applicable to All Administrative Proceedings*.
- (b) In the case of an Order to Show Cause why a license should not be suspended or revoked, the hearing shall be conducted pursuant to M.G.L. c. 30A, § 14.
- (c) If after the commencement of the hearing, the parties reach a settlement, the Hearing Officer shall suspend the proceedings pending Commission consideration of the matter under 935 CMR 500.500(7).
- (d) Reopening of Hearings. At any time before the Commission's Final Decision is issued, on the motion of any party or on their own initiative, the Commission by a majority vote or the Hearing Officer may on good cause shown reopen the hearing for the purpose of receiving new evidence.



(10) Hearing Officer's Recommended Decision

(e) Burden of proof.

1. For a notice of violation(s), the Commission or its delegee bears the burden of proving the Licensee(s)' violation(s) of law.
2. For a notice of action(s), including, but not limited to the denial of a renewal license, the Licensee bears the burden of proving the qualifications for licensure.

(f) The Hearing Officer will make a recommended decision to the Commission.

1. The recommended decision may affirm, modify, or overturn the actions proposed in the notice of violation(s) or action(s).
2. The recommended decision shall be in writing to the Commission for its consideration, which shall include, but not be limited to, a statement of reasons including a determination of each issue of fact or law necessary to the decision.
3. The Hearing Officer may recommend disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter and provide reasons for the recommendation, including whether the recommendation is consistent with the notice of violation(s) or action(s) and the Commission's prior disciplinary action(s), sanction(s) or fine(s).
4. The Hearing Officer shall electronically mail a copy of the recommended decision to each Licensee or their attorney(s) of record and on request, mail a copy of the recommended decision to each Licensee or their attorney(s) of record.

(g) Within 21 calendar days of the issuance of the recommended decision, the parties may submit to the Commission written objections and arguments regarding the Hearing Officer's recommended decision.

(10) Commission's Final Decision

- (h) The Commission may affirm, adopt, modify, amend, or reverse the recommended decision of the Hearing Officer or remand the matter for further consideration.
- (i) The Commission's decision shall be considered the Final Decision, unless its authority to render a Final Decision is delegated.

1. The Final Decision shall be in writing. The drafting of the decision may be delegated to the General Counsel so long as the Commission votes on the substance of the Final Decision.
2. The Final Decision may incorporate by reference the Hearing Officer's recommended decision in whole or in part. The Commission shall consider the parties' written objections and arguments regarding the Hearing Officer's recommended decision under 935 CMR 501.500(11)(c), but is not required to respond to these submissions.
3. The Final Decision shall include, but not be limited to the following:
  - a. A statement of reasons including determination of each issue of fact or law necessary to the decision; and
  - b. Any disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.
- (j) The vote on the Final Decision shall be supported and signed by at least three Commissioners. As part of its vote, the Commission may delegate to the General Counsel action(s) needed to finalize the decision, including, but not limited to the stamping of Commissioners' signatures.
- (k) The Commission's Final Decision is a final agency action reviewable under M.G.L. c. 30A, § 14.
- (l) The Commission or its delegee shall electronically mail a copy of the recommended decision to each Licensee or their attorney(s) of record and on request, mail a copy of the recommended decision to each Licensee or their attorney(s) of record.

(12) Appeals. Any person aggrieved by a Final Decision may appeal that decision to the Superior Court in accordance with M.G. L. c. 30A, § 14. The filing of an appeal shall not operate as a stay of enforcement of the Commission's decision, but the Commission may in its discretion stay enforcement.

500.800: Background Check Suitability Standard for Licensure and Registration

- (1) Pursuant to M.G.L. c. 94G, § 4(a)(xii), (xiv), and § 21(a)(ii), the Commission may make, in an exercise of its discretion, a suitability determination.
- (2) The Commission may also delegate suitability determinations to the Executive Director, who may appoint a Suitability Review Committee (Committee) to advise

the Executive Director.

- (3) All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration*.
- (4) Suitability Review Process.
- (a) Designated Enforcement staff (staff) shall conduct background checks and gather information and evidence applicable to a subject's suitability and make a recommendation as to suitability. Staff may make an adverse suitability recommendation on finding information and evidence that would result in a Mandatory Disqualification, Presumptive Negative Suitability Determination or that would support a Negative Suitability Recommendation.
  - (b) Before making an adverse suitability recommendation, staff shall consult with the Executive Director or the Executive Director's delegee(s). The Executive Director may dispose of the matter or direct the Committee to institute a review of suitability or take any action consistent with M.G.L. c. 94G.
  - (c) If the Executive Director institutes a suitability review, the staff shall send the written notice of an adverse suitability recommendation that identifies the person or entity subject to suitability review, the particular offenses or conduct relied on and whether that the offenses or conduct results in a Mandatory Disqualification or Presumptive Negative Suitability Determination, or supports a Negative Suitability Recommendation, and reasons for that determination.
  - (d) The notice of an adverse suitability recommendation shall provide an opportunity to cure the suitability issue by removing the subject from its application. To the extent that an applicant removes a subject from an application, the removal must be done in a manner determined by the Commission.
  - (e) The notice of an adverse suitability recommendation shall provide the subject with the opportunity to request an informal proceeding before the Suitability Review Committee.
  - (f) A request for an informal proceeding must be submitted in a form and manner determined by the Commission and no later than 14 business days following the effective date of the adverse suitability recommendation. Requests received after 14 business days may be considered at the discretion of the Executive Director or the Committee.

- (g) On notification of an adverse suitability recommendation and receipt of an informal proceeding request, the Committee shall initiate a proceeding, make a recommendation and/or take other action(s) after consultation with the Executive Director.
  - (h) If an applicant or a subject does not make a timely request for an informal proceeding before the Committee, the Executive Director may forward the adverse suitability recommendation to the Committee for a review, make a suitability determination, or take any action consistent with M.G.L. c. 94G.
- (5) The Committee shall:
- (a) consider and review whether offense(s) or information resulting in a Mandatory Disqualification or a Presumptive Negative Suitability Determination under Tables A-E, in 935 CMR 500.801: *Suitability Standard for Licensure* through 500.803: *Suitability Standard for Registration as a Laboratory Agent*, as applied to the subject, renders the subject unsuitable for licensure or registration;
  - (b) consider and review whether offense(s) or information not otherwise set forth in Tables A-E would result in a Negative Suitability Recommendation and renders the subject unsuitable for licensure or registration; and
  - (c) subsequent to its review of a suitability matter, make recommendations to the Executive Director, or the Commission, or their delegee(s).
- (6) When reviewing an adverse suitability recommendation by staff that there is an offense resulting in a Mandatory Disqualification, the Commission shall consider credible and reliable information demonstrating that:
- (a) the disqualifying event was based on erroneous information or evidence; and
  - (b) the subject can demonstrate that prior to the informal proceeding, the adverse suitability recommendation can no longer be supported because the error was corrected.
- (7) When reviewing an offense resulting in a Presumptive Negative Suitability Determination, the committee shall take into consideration the following factors:
- (a) Nature and specific circumstances of the offense or incident:
    - 1. time since the offense or incident;

2. number of offenses or incidents;
3. if criminal, sentence imposed and length, if any, of incarceration;
4. if criminal, sentence imposed and length, if any, of parole or probation; and
5. relationship of offense or incident to nature of work to be performed;

(b) Mitigating factors:

1. age of the subject at the time of the offense or incident; and
2. whether offenses or incidents were committed in association with dependence on drugs or alcohol from which the subject has since recovered;

(c) Conduct since time of the offense or incident:

1. if criminal, any relevant evidence of rehabilitation or lack thereof, such as information about compliance with conditions of parole or probation, including orders of no contact with victims and witnesses; and
2. the subject's conduct and experience since the time of the offense including, but not limited to, professional or educational certifications obtained; and

(d) any other relevant information, including information submitted by the subject to the Committee or requested by the Commission.

(8) The Committee may make a Negative Suitability Determination in the following circumstances:

(a) On the receipt of the staff's Negative Suitability Recommendation that there is credible and reliable information in the five years immediately preceding the application:

1. The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare if a license or registration is granted or renewed; and
2. the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.

(b) On review of this recommendation, the Committee shall consider whether the staff has carried its burden of demonstrating:

1. The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare if a license or registration is granted or renewed; and
2. The risk posed by the applicant's or Licensee's actions relates or

would likely relate to the operation of a Marijuana Establishment.

- (9) Where a Marijuana establishment agent listed on the application for licensure in accordance with 935 CMR 500.101(1), is found to have no suitability issue under Table A, or to have overcome any suitability issue, the agent shall not be subject to a subsequent suitability review under Tables B-E.
- (a) Nothing in this subsection relieves the requirement that the applicant or Licensee conduct background checks on its agents and disclose to the Commission's staff any suitability issue(s) that arise as a result of those checks.
  - (b) Any subsequent disclosure of background check information for a Marijuana establishment agent required to be listed and evaluated pursuant to 935 CMR 500.101(1), will be assessed pursuant to Table A or on other grounds for a Negative Suitability Determination only.
  - (c) Nothing in subsection precludes the Commission from initiating a suitability review based on background information received after the Commission's initial suitability review.
- (10) The Executive Director in consultation with the Committee may determine that a subject's suitability warrants the Commission's consideration. The Executive Director may also remand a matter to staff for further investigation prior to making a determination. The Commission may consider the determination when acting on the application or renewal.

500.801: Suitability Standard for Licensure

- (1) In accordance with M.G.L. c. 94G, § 5, the Commission is prohibited from licensing a Marijuana Establishment where an individual who is a Person Having Direct or Indirect Control has been convicted of a felony or offense in an Other Jurisdiction that would be a felony in the Commonwealth, except a prior conviction solely for a Marijuana offense or solely for a violation of M.G.L. c. 94C, § 34, unless the offense involved distribution of a controlled substance, including Marijuana, to a minor.
- (2) For purposes of determining suitability based on background checks in accordance with 935 CMR 500.101(1)(b):
- (a) All conditions, offenses, and violations are construed to include Massachusetts law or like or similar law(s) of Other Jurisdictions.

- (b) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation.
- (c) Juvenile dispositions shall not be considered as a factor for determining suitability.
- (d) Where applicable, all look back periods for criminal conditions, offenses, and violations included in Table A commence on the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence on release from incarceration.

(e)

Unless otherwise specified in Table A, a criminal condition, offense or violation shall include both convictions, which include guilty pleas and pleas of nolo contendere, and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts, but shall exclude other non-conviction dispositions.

(3) Licensees and Registered Agents shall remain suitable at all times a license or registration remains in effect. An individual subject to this section shall notify the Commission in writing of any charge or conviction of an offense that would result in a presumptive negative suitability determination or mandatory disqualification under Tables A-E within ten days of such individual's arrest or summons, and within ten days of the disposition on the merits of the underlying charge. Failure to make proper notification to the Commission may be grounds for disciplinary action. If the Commission lawfully finds a disqualifying event and the individual asserts that the record was sealed, the Commission may require the individual to provide proof from a court evidencing the sealing of the case.

**Table A: Marijuana Establishment Licensees.** Shall apply solely to Persons or Entities Having Direct or Indirect Control in accordance with 935 CMR 500.101(1) and 935 CMR 500.103(4).

<b>Time Period</b>	<b>Precipitating Issue</b>	<b>Result</b>
Present (during time from start of application process through action on application or renewal)	<p><b>Open/Unresolved Criminal Proceedings:</b></p> <p>Any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or Other Jurisdictions, but excluding any criminal proceeding based solely on a Marijuana-related offense or a violation of M.G.L. c. 94C, § 34.</p>	Mandatory Disqualification
Present	<b>Outstanding or Unresolved Criminal Warrants</b>	Presumptive Negative Suitability Determination
Present	<p><b>Submission of untruthful information to the Commission including, but not limited to:</b></p> <p>Submission of information in connection with a license application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity; or</p> <p>Making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity.</p>	Presumptive Negative Suitability Determination
Present	<b>Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)</b>	Presumptive Negative Suitability Determination
Present	<b>Open Professional or Occupational License Cases</b>	Presumptive Negative Suitability Determination



Indefinite	<b>Sex Offender Registration:</b> Required to register as a sex offender in Massachusetts or Other Jurisdictions.	Mandatory Disqualification
Indefinite	<b>Felony Convictions in Massachusetts or Other Jurisdictions Including, but not Limited to:</b> Felony weapons violation involving narcotics; Felony involving violence against a person; Felony involving theft or fraud; Felony drug, excluding conviction solely for a Marijuana-related offense or solely for a violation of M.G.L. c. 94C, § 34.	Mandatory Disqualification
Indefinite	<b>Conviction or Continuance Without a Finding (CWOFF) for any Distribution of a Controlled Substance to a Minor</b>	Mandatory Disqualification
Indefinite	<b>Non-Felony Weapons Violations, Including Firearms, Involving Narcotics</b>	Presumptive Negative Suitability Determination
Indefinite	<b>Firearms-Related Crimes</b>	Presumptive Negative Suitability Determination
Indefinite	<b>Multiple Crimes of Operating Under the Influence</b> Two offenses within a ten-year period; or Three or more offenses within any period of time.	Presumptive Negative Suitability Determination
Preceding Five Years	<b>Multiple Crimes</b> during the five years immediately preceding the application for licensure that separately may not result in a negative determination of suitability but may, if taken together and tending to show a pattern of harmful behavior, result in a negative determination of suitability depending on the type and severity of the crimes.	Presumptive Negative Suitability Determination
Preceding Five Years	<b>Crimes of Domestic Violence including, but not limited to:</b> Violation of an abuse prevention restraining order under M.G.L. c. 209A	Presumptive Negative Suitability Determination

	Violation of a harassment prevention order under M.G.L. c. 258E	
Preceding Five Years	<p><b>Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)</b></p> <p>The applicant or a Licensee held a license that was revoked, a renewal application that was denied, or a similar action taken with relation to their Marijuana business in Massachusetts or Other Jurisdiction, whether by administrative action or stipulated agreement.</p>	Mandatory Disqualification
More Than Five and less than Ten Years	<p><b>Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)</b></p> <p>The applicant or a Licensee held a license that was revoked, a renewal application that was denied, or a similar action taken with relation to their Marijuana business in Massachusetts or Other Jurisdiction, whether by administrative action or stipulated agreement.</p>	Presumptive Negative Suitability Determination
Preceding Five Years	<p>The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and</p> <p>the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.</p>	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

500.802: Suitability Standard for Registration as a Marijuana Establishment Agent

- (1) In accordance with M.G.L. c. 94G, § 4(a½)(iii), the Commission has established qualifications for licensure and minimum standards for employment that are directly and demonstrably related to the operation of a Marijuana Establishment and similar to qualifications for licensure and employment standards in connection with alcoholic beverages as regulated under M.G.L. c. 138; provided, that a prior conviction solely for a Marijuana-related offense or for a violation of M.G.L. c. 94C, § 34 shall not disqualify an individual or otherwise affect eligibility for employment or licensure in connection with a Marijuana establishment, unless the offense involved the distribution of a controlled substance, including Marijuana, to a minor.
- (2) For purposes of determining suitability based on background checks in accordance with 935 CMR 500.030: *Registration of Marijuana Establishment Agents*:
  - (a) All conditions, offenses, and violations are construed to include Massachusetts law or like or similar law(s) of Other Jurisdictions.
  - (b) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy and solicitation.
  - (c) Juvenile dispositions shall not be considered as a factor for determining suitability.
  - (d) Where applicable, all look back periods for criminal conditions, offenses, and violations included in Tables B-D commence on the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence on release from incarceration.
  - (e) Unless otherwise specified in Tables B-D, a criminal condition, offense or violation shall include both convictions, which include guilty pleas and pleas of nolo contendere, and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts, but shall exclude other non-conviction dispositions. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration*. In addition to the requirements established in 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration*, the Suitability Review Committee shall:
    1. Consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under Table B-D renders the subject unsuitable for registration regardless of the determination of the Licensee; and
    2. Consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17: *Requirement to Maintain a Secondary Dissemination Log* and 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS*.
- (3) Registered Agents shall remain suitable at all times a license or registration remains in effect. An individual subject to this section shall notify the Commission in writing of any charge or conviction of an offense that would result in a presumptive negative suitability determination or mandatory disqualification under Tables B-D within ten days of such individual's arrest or summons, and within ten days of the disposition on the merits of the underlying charge. Failure to make proper notification to the Commission

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may be grounds for disciplinary action. If the Commission lawfully finds a disqualifying event and the individual asserts that the record was sealed, the Commission may require the individual to provide proof from a court evidencing the sealing of the case.

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**Table B: Retail, Delivery-Only Retailer, Social Consumption Establishment, and Transporter Marijuana Establishment Agents.** Shall apply solely to applicants for registration as an agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100: *Application for Licensing of Marijuana Establishments*, as a Marijuana Retailer, Delivery-Only Retailer Social Consumption Establishment or as a Marijuana Transporter, under 935 CMR 500.050: *Marijuana Establishments*.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal.)	<p><b>Open/Unresolved Criminal Proceedings:</b></p> <p>Any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or Other Jurisdictions, but excluding any criminal proceeding based solely on a Marijuana-related offense or a violation of M.G.L. c. 94C, § 32E(a) or § 34.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Open Professional or Occupational License Cases</b></p>	Presumptive Negative Suitability Determination
Present	<p><b>Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):</b></p> <p>An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000: <i>Adult Use of Marijuana</i> or a similar statute or regulations of an Other Jurisdiction, which has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Submission of untruthful information to the Commission including, but not limited to:</b></p> <p>Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity; or</p> <p>Making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity.</p>	Presumptive Negative Suitability Determination
Indefinite	<p><b>Sex Offense:</b></p>	Mandatory Disqualification

	Felony conviction for a “sex offense” as defined in M.G.L. c. 6, § 178C and M.G. L. c. 127, § 133E or like offenses in Other Jurisdictions.	
Indefinite	<b>Felony Convictions in Massachusetts or Other Jurisdictions</b> for trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in Other Jurisdictions, except convictions for solely Marijuana-related crimes under § 32E (a), or like crimes in Other Jurisdictions.	Mandatory Disqualification
Indefinite	<b>Conviction or Continuance Without a Finding (CWOFF) for Any Distribution of a Controlled Substance to a Minor</b>	Mandatory Disqualification
Indefinite	<b>Failure to Register as a Sex Offender in Any Jurisdiction</b>	Mandatory Disqualification
Preceding Five Years	<b>Crimes of Domestic Violence including, but not limited to:</b> Violation of an abuse prevention restraining order under M.G.L. c. 209A Violation of a harassment prevention order under M.G.L. c. 258E	Presumptive Negative Suitability Determination
Indefinite	<b>(For Agents working for a Transporter and Delivery-Only Retailer)</b>  <b>Multiple Crimes of Operating Under the Influence</b>  Two offenses within a ten-year period; or  Three or more offenses within any period of time.	Presumptive Negative Suitability Determination
Preceding Five Years	<b>Felony Convictions in Massachusetts or Other Jurisdictions</b> for crimes of violence against a person or crimes of dishonesty or fraud, “violent crime” to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E.	Mandatory Disqualification
Preceding Seven Years	<b>CWOFF for Crimes of Violence, Fraud</b>	Presumptive Negative Suitability Determination
Preceding Five Years	The applicant’s or Licensee’s prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant’s or Licensee’s actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

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**Table C: Product Manufacturer Marijuana Establishment Agents.** Shall apply solely to applicants for registration as an agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100: *Application for Licensing of Marijuana Establishments* as a Marijuana Product Manufacturer under 935 CMR 500.050: *Marijuana Establishments*.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal.)	<p><b>Open/Unresolved Criminal Proceedings:</b> Any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in an Other Jurisdiction, but excluding any criminal proceeding based solely on a Marijuana-related offense or a violation of M.G.L. c. 94C, § 32E (a) and § 34.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Open Professional or Occupational License Cases</b></p>	Presumptive Negative Suitability Determination
Present	<p><b>Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):</b> An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000: <i>Adult Use of Marijuana</i> or a similar statute or regulations in an Other Jurisdiction, that has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Submission of untruthful information to the Commission including, but not limited to:</b></p> <p>Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity; or</p> <p>Making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Felony Convictions in Massachusetts or Other Jurisdictions</b> for trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in Other Jurisdictions, except convictions for solely Marijuana-related crimes under § 32E (a), or like crimes in Other Jurisdictions.</p>	Mandatory Disqualification
Indefinite	<p><b>Conviction or Continuance Without a Finding (CWOFF) for Any Distribution of a Controlled Substance to a Minor</b></p>	Mandatory Disqualification
	<p><b>Failure to Register as a Sex Offender in Massachusetts or an Other Jurisdiction</b></p>	Mandatory Disqualification



Preceding Five Years	<b>Felony Convictions in Massachusetts or Other Jurisdictions</b> for crimes of violence against a person or crimes of dishonesty or fraud, “violent crime” to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E.	Mandatory Disqualification
Preceding Seven Years	<b>CWOF for Crimes of Violence, Fraud</b>	Presumptive Negative Suitability Determination
Preceding Ten Years	<b>Sex Offense:</b> Felony conviction for a “sex offense” as defined in M.G.L. c. 6, § 178C and M.G. L. c. 127, § 133E or like offenses in Other Jurisdictions.	Mandatory Disqualification
Preceding Five Years	The applicant’s or Licensee’s prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant’s or Licensee’s actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

**Table D: Cultivation Marijuana Establishment Agents.** Shall apply solely to applicants for registration as an agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100: *Application for Licensing of Marijuana Establishments* as a Marijuana Cultivator or Craft Marijuana Cooperative under 935 CMR 500.050: *Marijuana Establishments*.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal.)	<p><b>Open/Unresolved Criminal Proceedings:</b> Any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in an Other Jurisdiction, but excluding any criminal proceeding based solely on a Marijuana-related offense or a violation of M.G.L. c. 94C, § 32E (a) or § 34.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Open Professional or Occupational License Cases</b></p>	Presumptive Negative Suitability Determination
Present	<p><b>Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):</b> An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000: <i>Adult Use of Marijuana</i> or a similar statute or regulations in an Other Jurisdiction, that has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Submission of information to the Commission including, but not limited to:</b></p> <p>Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity; or</p> <p>Making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity.</p>	Presumptive Negative Suitability Determination
Indefinite	<p><b>Conviction or Continuance Without a Finding (CWOFF) for Any Distribution of a Controlled Substance to a Minor</b></p>	Mandatory Disqualification
Indefinite	<p><b>Felony Convictions in Massachusetts or Other Jurisdictions</b> for crimes of violence against a person, “violent crime” to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E</p>	Presumptive Negative Suitability Determination
Indefinite	<p><b>Felony Convictions in Massachusetts or Other Jurisdictions</b> for trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in Other Jurisdictions, except convictions for solely Marijuana-related crimes under §32E(a), or like crimes in Other Jurisdictions.</p>	Mandatory Disqualification

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Preceding Three Years	<b>Felony Convictions in Massachusetts or Other Jurisdictions</b> for crimes of dishonesty or fraud.	Mandatory Disqualification
Preceding Seven Years	<b>CWOF for Crimes of Violence, Fraud</b>	Presumptive Negative Suitability Determination
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

500.803: Suitability Standard for Registration as a Laboratory Agent

- (1) 935 CMR 500.803: *Suitability Standard for Registration as a Laboratory Agent* shall apply to Laboratory agents in their capacity as employees or volunteers for an Independent Testing Laboratory licensed pursuant to 935 CMR 500.050: *Marijuana Establishments* and shall be used by the Independent Testing Laboratory executive registered with the DCJIS pursuant to 803 CMR 2.04: *iCORI Registration* and the Commission for purposes of determining suitability for registration as a Laboratory agent with the Licensee.
- (2) In accordance with M.G.L. c. 94G, § 15(b)(5), the Commission is prohibited from issuing a registration to a Laboratory agent who has been convicted of a felony drug offense in the Commonwealth or Other Jurisdictions that would be a felony drug offense in the Commonwealth.
- (3) For purposes of determining suitability based on background checks performed in accordance with 935 CMR 500.803: *Suitability Standard for Registration as a Laboratory Agent*:
  - (a) All conditions, offenses, and violations are construed to include Massachusetts law or similar law(s) of Other Jurisdictions.
  - (b) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation.
  - (c) Juvenile dispositions shall not be considered as a factor for determining suitability.
  - (d) Where applicable, all look back periods for criminal conditions, offenses, and violations included in Table E commence on the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence on release from incarceration.
  - (e) Unless otherwise specified in Table E, a criminal condition, offense or violation shall include both convictions, which include guilty pleas and pleas of nolo contendere, and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts, but shall exclude other non-conviction dispositions.
  - (f) All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration*. In addition to the requirements established in 935 CMR 500.800: *Background Check Suitability Standard for Licensure and Registration*, the Suitability Review Committee shall:
    1. consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under Table E renders the subject unsuitable for registration regardless of the determination of the Licensee; and
    2. consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17: *Requirement to Maintain a Secondary Dissemination Log* and 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS*.

Table E: Registration as a Laboratory Agent. Shall apply solely to applicants for registration as a Laboratory agent in accordance with 935 CMR 500.803: *Suitability Standard for Registration as a Laboratory Agent* at a Marijuana Establishment licensed pursuant to 935 CMR 500.050: *Marijuana Establishments*.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal.)	<p><b>Open/Unresolved Criminal Proceedings:</b> any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in Other Jurisdictions.</p>	Mandatory Disqualification
Present	<p><b>Open/Unresolved Marijuana Business-Related License Violations (Massachusetts or Other Jurisdictions):</b> an outstanding or unresolved violation of the regulations as included in 935 CMR 500.000: <i>Adult Use of Marijuana</i> or a similar statute or regulations in Other Jurisdictions that has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Submission of false or misleading information to the Commission including, but not limited to:</b></p> <p>Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity; or</p> <p>Making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity.</p>	Presumptive Negative Suitability Determination
Present	<p><b>Open Professional or Occupational License Cases</b></p>	Mandatory Disqualification
Indefinite	<p><b>Felony Convictions in Massachusetts or Other Jurisdictions</b> for drug offenses or trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in Other Jurisdictions.</p>	Mandatory Disqualification
Preceding Five Years	<p><b>Felony Convictions or CWOFF in Massachusetts or Other Jurisdictions</b> for crimes of violence against a person, “violent crime” to be defined the same way as under M.G.L. c. 140, § 121</p>	Presumptive Negative Suitability Determination

	and M.G.L. c. 127, § 133E.	
Preceding Seven Years	<b>Felony Convictions or CWOFF in Massachusetts or Other Jurisdictions</b> for crimes of dishonesty or fraud.	Presumptive Negative Suitability Determination
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

500.820: Confidentiality

(1) All records made or received by the Commission shall be public records and shall be available for disclosure on request pursuant to this section and 950 CMR 32.00: *Public Records Access*, except the following, which shall be exempt from disclosure to the extent permitted by law:

- (a) All records exempt from disclosure pursuant to M.G.L. c. 4, § 7, cl. 26;
- (b) All records to the extent that they contain "personal data" pursuant to M.G.L. c. 66, § 1;
- (c) All records to the extent that they contain "personal information" pursuant M.G.L. c. 93H, § 1;
- (d) All records which contain CORI as defined by 803 CMR 2.02: *Definitions*;
- (e) All records which contain CHRI as defined by 803 CMR 7.02: *Definitions*;
- (f) All Confidential Records as defined in 935 CMR 500.002: *Definitions*.

(2) All records protected from disclosure under 935 CMR 500.820(1) may be disclosed by the Commission:

- (a) If disclosure is required pursuant to a state or federal law;
- (b) To the individual or the individual's authorized representative, if the individual executes a written release in a form and manner determined by the Commission;
- (c) To the Commission staff for the purpose of carrying out their official duties;
- (d) To the Commission delegee(s) as authorized by the Commission;
- (e) To other government officials and agencies acting within their lawful jurisdiction;
- (f) To a healthcare professional who has a bona fide healthcare professional-patient relationship with the Qualifying Patient to facilitate dispensing of medical-use Marijuana;

- (g) To an MTC or any state agency to facilitate the dispensing of medical-use Marijuana;
  - (h) To the Commission staff if required in the course of an administrative or a judicial proceeding; or
  - (i) If an individual or entity obtains an order from a court of competent jurisdiction.
- (3) Nothing in this provision shall prevent the Commission from acting in accordance with its authority.

500.830: Petitions for the Adoption, Amendment or Repeal of Regulations.

- (1) Any interested person may file a petition with the Commission pursuant to M.G.L. c. 30A, § 4, for the adoption, amendment or repeal of any regulation. Such petition shall be submitted in written and electronic form, be signed by the petitioner or petitioner's representative, and include the following information:
- (a) The name, address, and relevant contact information for the petitioner or the petitioner's representative;
  - (b) The petitioner's specific interest in the regulation;
  - (c) The petitioner's request for the adoption, amendment or repeal of a regulation, including proposed regulatory language;
  - (d) If the request is to amend an existing regulation, a copy of the existing regulation with changes clearly marked on paper and electronic copies;
  - (e) The reasons for the request, including, but not limited to citation to any relevant legal authority, arguments and evidence, including data, that supports the request.
- (2) After receipt of a petition for submitted in accordance with this section, the Commission may consider the petition at an open meeting pursuant to M.G.L. c. 30A, § 20, and determine, in its discretion, whether to take any action on or as a result of the petition. The Commission may also delegate the review of petitions to its Executive Director.
- (3) Within a reasonable time, the Commission or its delegee will notify the petitioner as to its determination, if any, concerning the petition.
- (4) The submission of a petition for the adoption, amendment or repeal of any regulation pursuant to 935 CMR 500.830(1), and any action, inaction, determination or notice by the Commission pursuant to 935 CMR 500.830(2) with respect thereto, shall not constitute the adoption, amendment or repeal of a regulation unless or until regulations are duly promulgated by the Commission in accordance with M.G.L. c. 30A, *The Administrative Procedure Act*, and 950 CMR 20:00: *Preparing and Filing Regulations*, and the regulatory process requirements of the Secretary of the Commonwealth.

500.840: Non-conflict with Other Laws.

- (1) Nothing in 935 CMR 500.000: *Adult Use of Marijuana* shall be construed to limit the applicability of any other law as it pertains to the rights of landlords, employers, law enforcement authorities, or regulatory agencies, except as otherwise provided in 935 CMR 500.000: *Adult Use of Marijuana*.

- (2) Nothing in 935 CMR 500.000: *Adult Use of Marijuana*:

- (a) allows the operation of a motor vehicle, boat, or aircraft while under the influence

- of Marijuana;
- (b) requires the violation of federal law or purports to give immunity under federal law; or
- (c) poses an obstacle to federal enforcement of federal law.

500.850: Waivers

- (1) The Commission may delegate its authority to the Executive Director to waive a regulatory requirement promulgated under M.G.L. c. 94G, § 4. The Executive Director may determine the form and manner of the waiver process. There can be no waiver of statutory requirements.
- (2) The Commission may waive applicability of one or more of the requirements imposed by 935 CMR 500.000: *Adult Use of Marijuana* on the submission of written documentation and a finding that:
  - (a) compliance would cause undue hardship to the requestor;
  - (b) if applicable, the implementation of compensating features acceptable to the Commission;
  - (c) the noncompliance with the regulatory requirement would not jeopardize the health, safety, or welfare of any patient or the public; and
  - (d) the granting of the waiver would not constitute a waiver of any statutory requirements.
- (3) Waiver of Security Requirements. Any waiver of security requirements under this section, shall be requested under 935 CMR 500.110(2)(b).
- (4) An adverse decision on a waiver request does not entitle an applicant or Licensee to a hearing or judicial review.

500.860: Notice

- (1) The Commission shall maintain a list of individuals or entities that request notice.
- (2) Notice shall be provided, in a time and manner to be determined by the Commission, to those individuals or entities on the list in advance for:
  - (a) meetings of the Cannabis Control Commission;
  - (b) meetings of the Cannabis Advisory Board; and
  - (c) other events determined by the Commission, in its discretion.
- (3) The individual or entity is responsible for ensuring that the information provided to the Commission for the purpose of receiving notice remains current.

500.900: Severability

The provisions of 935 CMR 500.000: *Adult Use of Marijuana* are severable. If a court of competent jurisdiction declares any section, subsection, paragraph, or provision unconstitutional or invalid, the validity of the remaining provisions shall not be affected.

REGULATORY AUTHORITY

935 CMR 500.000: St. 2016, c. 334, as amended by St. 2017, c. 55 and M.G.L. 94G.



NON-TEXT PAGE