935 CMR 500.000: ADULT USE OF MARIJUANA

Section

500.001: Purpose
500.002: Definitions
500.003: Colocated Marijuana Operations (CMOs)
500.005: Fees
500.029: Registration and Conduct of Laboratory Agents
500.030: Registration of Marijuana Establishment Agents
500.031: Denial of a Marijuana Establishment Agent Registration Card
500.032: Revocation of a Marijuana Establishment Agent Registration Card
500.033: Void Registration Cards
500.040: Leadership Rating Program for Marijuana Establishments and Marijuana-related Businesses
500.050: Marijuana Establishments
500.100: Application for Licensing of Marijuana Establishments
500.101: Application Requirements
500.102: Action on Applications
500.103: Licensure and Renewal
500.104: Notification and Approval of Changes
500.105: General Operational Requirements for Marijuana Establishments
500.110: Security Requirements for Marijuana Establishments
500.120: Additional Operational Requirements for Indoor and Outdoor Marijuana Cultivators
500.130: Additional Operational Requirements for Marijuana Product Manufacturers
500.140: Additional Operational Requirements for Retail Sale
500.141: Additional Operational Requirements for Social Consumption Establishments
500.145: Additional Operational Requirements for Delivery of Marijuana, Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods to Consumers and as Permitted, to Patients or Caregivers
500.146: Additional Operational Requirements for Marijuana Delivery Operators
500.147: Operational Requirements for Marijuana Research Facility Licensees and Research Permits
500.150: Edibles
500.160: Testing of Marijuana and Marijuana Products
500.170: Municipal Requirements
500.180: Host Community Agreement Requirements for License Applicants, Marijuana Establishments, and Host Communities
500.181: Minimum Acceptable Equity Standards Governing Municipalities and Host Communities
500.200: Counties of Dukes County and Nantucket
500.300: Complaints Process
500.301: Inspections and Compliance
500.302: Compliance Examination
500.303: Unannounced Investigative Activities (Secret Shopper Program)
500.310: Deficiency Statements
500.320: Plans of Correction
500.321: Administrative Hold
500.330: Limitation of Sales
500.335: Removal and Prohibition of Marijuana and Marijuana Products
500.340: Quarantine Order
500.350: Cease and Desist Order and Summary Suspension Order
500.360: Fines
500.370: Order to Show Cause
500.400: Marijuana Establishments: Grounds for Denial of Application for Licensure
500.415: Void Marijuana Establishment License
500.450: Marijuana Establishment License: Grounds for Suspension, Revocation and Denial of Renewal Applications
500.500: Hearings and Appeals of Actions on Licenses
500.800: Suitability Standard for Licensure and Registration
500.801: Suitability Standard for Licensure
500.802: Suitability Standard for Registration as a Marijuana Establishment Agent

Section: continued

500.803: Suitability Standard for Registration as a Laboratory Agent
500.820: Confidentiality
500.830: Petitions for the Adoption, Amendment or Repeal of Regulations
500.840: Non-conflict with Other Laws
500.850: Waivers
500.860: Notice
500.900: Severability

500.001: Purpose

The purpose of 935 CMR 500.000 is to implement St. 2017, c. 55, An Act to Ensure Safe Access to Marijuana, and M.G.L. c. 94G.

500.002: Definitions

For the purposes of 935 CMR 500.000, the following terms shall have the following meanings:

Administrative Hold means a hold requiring temporary isolation of Marijuana or Marijuana Products by a 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 pursuant to M.G.L. c. 94G.

Adult-use Cannabis or Marijuana Products means Marijuana Products that are Processed, Manufactured, Transferred, tested or sold to adults 21 years of age or older pursuant to M.G.L. c. 94G.

Advanced Core Curriculum means the advanced training curriculum taught by a Responsible Vendor Trainer that may be taken by Marijuana Establishment Agents after completing the Basic Core Curriculum under 935 CMR 500.105(2)(b).

Advertising means a form of marketing communication that employs a sponsored, non-personal message to sell or promote a Marijuana Establishment's Brand Name, Marijuana Establishment Branded Good, service, product or idea.

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

Agent Registration Card means an identification card currently and validly issued by the Commission to a Marijuana Establishment, MTC or Laboratory Agent. The Agent Registration Card allows access into Commission supported databases. The 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 exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94G and 94I, and 935 CMR 500.000 and 501.000: *Medical Use of Marijuana*.

Area of Disproportionate Impact means a geographic area identified by the Commission for the purposes identified in M.G.L. c. 94G, § 4(a½)(iv), and 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.

Assignment for the Benefit of Creditors means a contractual agreement with a third-party by which the Licensee assigns all of its assets and liabilities to such third-party in order to satisfy the Licensee's obligations to its creditors by liquidating the assets.

Automatic Identification Technology or AIT means technology that enables a Consumer to access information without manual data entry by scanning, tapping, or interacting with a code, tag, or similar marker, including but not limited to QR codes and RFID tags.

500.002: continued

Basic Core Curriculum means the foundational training curriculum required of all Marijuana Establishment Agents taught by a Responsible Vendor Trainer under 935 CMR 500.105(2)(b).

Beverage means a non-alcoholic Marijuana-infused Product intended for drinking, which is manufactured, tested, packaged and labeled as a Marijuana Product prior to sale or service to a Consumer.

Bona Fide Healthcare Provider Patient Relationship means a relationship between a Certifying Healthcare Provider, acting in the usual course of their professional practice, and a Patient in which the healthcare provider has conducted a Clinical Visit, completed and documented a full assessment of the Patient's medical history and current medical condition, has explained the potential benefits and risks of Marijuana use, and has a role in the ongoing care and treatment of the Patient.

Brand Name means a brand name (alone or in conjunction with any other word), registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker associated with a Marijuana Establishment.

Brand Name Sponsorship means the payment by a Marijuana Establishment in exchange for use of a Brand Name:

(a) to sponsor an athletic, musical, artistic, or other social or cultural event; or

(b) to identify, advertise, or promote such event, or an entrant, or participant of such an event.

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 Marijuana Product. Amounts of other Cannabinoids may be required by the Commission.

Cannabis means Marijuana as defined herein.

Canopy means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain Flowering and/or Vegetative plants larger than eight inches tall and eight inches wide 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 includes, but is not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If Flowering and/or Vegetative plants larger than eight inches tall and eight inches wide 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 Institutional Caregiver.

Caregiving Institution means a hospice program, long-term care facility, or hospital duly registered currently and 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, Marijuana Products or Marijuana-infused Products (MIPs) by a Licensee or Registrant to protect the public health, safety or welfare.

500.002: continued

Ceases to Operate means a Marijuana Establishment, Medical Marijuana Treatment Center (MTC) or Independent Testing Laboratory that 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 a Marijuana Establishment has Ceased to Operate based on its actual or apparent termination of operations.

Certificate of Licensure means the certificate issued by the Commission that confirms that an MTC or Independent Testing Laboratory has met all applicable requirements pursuant to M.G.L. c. 94I, and 935 CMR 501.000, and is currently and validly licensed by the Commission. An MTC or Independent Testing Laboratory may be eligible for a provisional or final Certificate of Licensure.

Certificate of Registration means a certificate currently and validly issued by the Commission, that confirms an individual or entity has met all applicable requirements pursuant to M.G.L. c. 94I, and 935 CMR 501.000 and is registered by the Commission.

Certifying Certified Nurse Practitioner (CNP) means a Massachusetts licensed certified nurse practitioner 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.

Clinical Visit means an in-person or telehealth visit during which a Certifying Healthcare Provider establishes a *Bona Fide* Healthcare Provider Patient Relationship and conducts a full assessment of the Patient's medical history and current medical condition, including the Debilitating Medical Condition, and explains the potential benefits and risks of Marijuana use. A Clinical Visit for an initial Certificate of Registration shall be performed in-person or upon request of the patient, via a telehealth visit that includes a synchronous face-to-face encounter between the Certifying Healthcare Provider and patient. Synchronous telehealth happens in live, real-time settings where the patient interacts with a provider, usually via phone or video.

Clone means a clipping from a Cannabis or Marijuana plant that 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 corporate governance of a Marijuana Establishment, an MTC or Independent Testing Laboratory licensed under 935 CMR 500.000 or 935 CMR 501.000. A Close Associate is deemed to be a Person or Entity Having Direct or Indirect Control. A Hospitality On-site Consumption Licensee may contract with a Non-Cannabis Entity to operate within the Non-Cannabis Entity's physical space and the Non-Cannabis Entity shall not be considered a Close Associate by virtue of this relationship alone. A Marijuana Event Organizer Licensee may contract with a Non-Cannabis Entity to operate within the Non-Cannabis Entity's physical space and the Non-Cannabis Entity shall not be considered a Close Associate by virtue of this relationship alone.

Colocated Marijuana Operations (CMO) means an MTC operating under a License 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 on the same Premises. Colocated Marijuana Operations pertain to cultivation, product manufacturing, and retail licenses, but not any other adult-use License.

500.002: continued

Commission means the Massachusetts Cannabis Control Commission as 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 and 935 CMR 501.000: *Medical Use of Marijuana*.

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

Community Impact Fee (CIF) means impact fee(s) claimed by a Host Community in relation to the operations of a particular Marijuana Establishment or MTC which have been certified by the Commission or ruled upon by a court of competent jurisdiction as being Reasonably Related to the actual costs imposed on a Host Community by a Marijuana Establishment or MTC's operations.

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:

(a) Qualifying Patients issued a Registration Card for medical use of Marijuana;
(b) Healthcare professionals registered to issue Written Certifications;
(c) MTCs;
(d) Quantity of medical-use Marijuana dispensed to a Card Holder; and
(e) 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, §§ 2(e) and 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; or
(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, Confidential Investigatory Materials, and Protected Patient Records (as defined in 935 CMR 501.002: *Protected Patient Records*).

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 in 803 CMR 7.02: *Definitions*.

500.002: continued

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

Consumption Area means a designated space approved by the Commission within a Social Consumption Establishment's Premises where Consumers may purchase and consume Marijuana or Marijuana Products. Consumption Areas may be considered an Indoor Smoking Consumption Area, an Indoor Non-Smoking Consumption Area, an Outdoor Smoking Consumption Area or an Outdoor Non-Smoking Consumption Area; provided however, that sales and service shall not occur in Indoor Smoking Consumption Areas or Outdoor Smoking Consumption Areas.

Court Appointee shall mean a person or entity appointed by a court of competent jurisdiction to exercise court oversight with respect to the property, assets, management, or operations of a Licensee or Person or Entity Having Direct or Indirect Control over a Licensee including, without limitation, a receiver, custodian, guardian, trustee, and executor or administrator of estate. This could include a person or entity preapproved or recommended by the Commission or its delegee appointed by the court.

Court Supervised Proceeding shall mean a proceeding where a court of competent jurisdiction supervises the property, assets, management, or operations of a Licensee or Person or Entity Having Direct or Indirect Control over a Licensee through a Court Appointee.

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 defined by 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 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.

Debilitating means causing weakness, cachexia, wasting syndrome, intractable pain, or nausea, or impairing strength or ability, and progressing to such an extent that one or more of a patient's major life activities is substantially limited.

Debilitating Medical Condition means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, and multiple sclerosis (MS), when such diseases are debilitating, and other Debilitating conditions as determined in writing by a Qualifying Patient's healthcare provider.

Delivery Agreement means a contract between a licensed Marijuana Establishment and a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement to deliver Marijuana or Marijuana Products from the Marijuana Establishment directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers, under the provisions of a Delivery License.

Delivery Endorsement means authorization granted to Licensees in categories of Marijuana Establishments identified by the Commission to perform deliveries directly from the establishment to Consumers.

Delivery Items means Finished Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods.

500.002: continued

Delivery License means either a Marijuana Courier License or a Marijuana Delivery Operator License.

Delivery Licensee means either a Marijuana Courier or a Marijuana Delivery Operator authorized to deliver Marijuana and Marijuana Products directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers.

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 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.

Diversion means the unauthorized or intentional removal of Marijuana or Marijuana Products from the Cannabis Control Commission's regulated market.

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, as an entity or through an individual certified by the Commission in 2018, meets and continues to meet three or more of the following six criteria, at least one of which shall be a majority-equity-ownership criterion:

(a) Majority-equity-ownership Criteria:

1. A majority (more than 50%) 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.

2. A majority (more than 50%) 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.

3. A majority (more than 50%) of the ownership is made up of individuals from Black, African American, Hispanic or Latino descent.

(b) Additional Criteria:

1. 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%.

2. At least 51% of employees or subcontractors have drug-related CORI and are otherwise legally employable in Cannabis enterprises.

3. 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.

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

500.002: continued

Electronic Certification means a document signed or executed electronically by a Certifying Healthcare Provider, 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 Provider-patient Relationship and shall specify the Qualifying Patient's Debilitating Medical Condition. Electronic Certifications, on submission by a Certifying Healthcare Provider 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, Marijuana Establishment Agents, Registered Qualifying Patients, or Caregivers.

Enclosed Space means an area possessing walls, ceilings, or other barriers on all sides sufficient to prevent the free undirected flow of air, smoke, vapor, or particulate matter, except for that which occurs when entering or exiting the space. Such barriers may be removable, but the designated area shall not be considered an Enclosed Space when barriers are removed.

Equity Holder means a person or entity that holds, or may hold as a result of one or more of the following including, without limitation, vesting, conversion, exercising an option, a right of first refusal, or any agreement that would trigger an automatic transfer of or conversion to equity, any amount of equity in a Marijuana Establishment or an MTC.

Event Plan means a document, or series of documents, submitted by a Marijuana Event Organizer in accordance with 935 CMR 500.050(6)(f)3.g.

Executive means members of the board of directors, executive officers, executive director, manager, or their equivalent, of a Marijuana Establishment, MTC, or Independent Testing Laboratory.

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

Existing Licensee 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 or MTCs to other establishments, but not to Consumers.

Expedited Applicant means an applicant for a Marijuana Microbusiness, Marijuana Craft Cooperative, Independent Testing Laboratory, or Outdoor Marijuana Cultivator license; a Social Equity Participant; a minority, woman, and/or veteran-owned business; eligible for expedited review prior to other General Applicants.

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

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

Finished Marijuana Product means a Marijuana Product that is completely manufactured and ready for retail sale and shall include Finished Marijuana that has been separated into individual packages or containers for sale.

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.

General Applicant means an applicant that has not been certified as an Economic Empowerment Priority Applicant or an MTC Priority Applicant; and is not eligible to be an Expedited Applicant.

500.002: continued

Greenhouse means a structure or thermally isolated Enclosed Area of a building that maintains a specialized sunlit environment used for and essential to the cultivation, protection or maintenance of plants.

Gross Annual Sales means the total revenue generated by an ME or MTC under an individual license pertaining to the sale of Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment or MTC Branded Goods or the provision of services used by the Commission to calculate limits under M.G.L. c. 94G, § 3(d)(2)(i) regarding the Community Impact Fee amount properly due and payable to a Host Community.

Hardship Cultivation Registration means a registration issued to a Registered Qualifying Patient under the requirements of 935 CMR 501.027: *Hardship Cultivation Registration*.

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

Hospitality On-site Consumption means a type of license within the Social Consumption Establishment license classes where an eligible applicant or licensee may establish a new business or operate within a Non-Cannabis Entity to sell Marijuana or Marijuana Products to Consumers for consumption within the Social Consumption Establishment's Premises and in designated Consumption Areas.

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

Host Community Agreement (HCA) means an agreement entered into and executed between a Host Community and a License Applicant or between a Host Community and a Marijuana Establishment or MTC pursuant to M.G.L. c. 94G, § 3(d).

Host Community Agreement (HCA) Waiver means a written statement executed by a Host Community and a License Applicant, or by a Host Community and a Marijuana Establishment or MTC, which expresses the parties' mutual intent to waive the regulatory requirement to have a Host Community Agreement.

500.002: continued

Immature Plant means a rooted plant in the Vegetation stage of development that is no taller than eight inches, no wider than eight inches, and is in a growing/cultivating container.

Immediate Family Member means a spouse, parent, child, grandparent, grandchild, or sibling, including in-laws.

Impassible Barrier means, for the purposes of determining the 500 feet buffer zone, a highway, public or private way or path, inaccessible structure, body of water, or other obstruction that renders any part of the 500-foot straight-line distance between a Marijuana Establishment Entrance and a School Entrance inaccessible by a pedestrian or automobile.

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, or formerly and validly registered by the Commission;

(b) Accredited to ISO 17025: 2017 or the 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 MTC Marijuana Establishment or Licensee; and

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

Individual Order means a delineated amount of Finished Marijuana Products to be delivered by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement to an individual Consumer and as permitted, a Marijuana Courier to a Patient or Caregiver, and not to exceed the individual possession amount limits as determined by statute.

Indoor Non-Smoking Consumption Area means an Enclosed Space on the Premises of a Social Consumption Establishment where Consumers may consume Marijuana or Marijuana Products in the form of Edibles, MIPs, and Beverages; provided however, Consumers may not consume Marijuana or Marijuana Products through combustion, heat, vaporization, or aerosolization. Tobacco shall not be sold or consumed in any Indoor Non-Smoking Consumption Area.

Indoor Smoking Consumption Area means an Enclosed Space on the Premises of a Social Consumption Establishment where Consumers may consume Marijuana or Marijuana Products through combustion, heat, vaporization, or aerosolization, in addition to Edibles, MIPs, and Beverages. Tobacco shall not be sold or consumed in any Indoor Non-Smoking Consumption Area.

Inducement means money or any other thing of substantial value intended to persuade or influence a person or entity to take an action or refrain from taking an action.

Informed Consent means the consent obtained by a Research Licensee from potential participants in a research project that explains to potential participants the risks and potential benefits of a study, and the rights and responsibilities of the parties involved.

Informed Consent Form means the document provided to potential participants in a research project that explains to potential participants the risks and potential benefits of a study, and the rights and responsibilities of the parties involved.

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.

Institutional Review Board means a specifically constituted administrative body established or designated by a Marijuana Research Facility Licensee to review and oversee the design and methods of a research project and, where human or animal subject are a component of the research, to protect the rights and welfare of persons recruited to participate in research.

500.002: continued

Inversion means the unauthorized insertion of Marijuana or Marijuana Products cultivated or produced by an individual or entity not licensed by the Cannabis Control Commission into the regulated market.

Known Allergen means milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, and soybeans, or such other allergen identified by the U.S. Food and Drug Administration (FDA).

Laboratory Agent means an employee of an Independent Testing Laboratory registered in accordance with 935 CMR 500.029, who transports, possesses or tests Cannabis or Marijuana in compliance with 935 CMR 500.000.

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. A Marijuana Establishment or Independent Testing Laboratory may hold a provisional or final License.

License Applicant means a person or entity pursuing a license to operate a Marijuana Establishment or MTC who has submitted or intends to submit a license application to the Commission. A License Applicant may also be considered a prospective Marijuana Establishment.

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. 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.

Life-limiting Illness means a Debilitating Medical Condition that does not respond to curative treatments, where reasonable estimates of prognosis suggest death may occur within two years.

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 after receipt of a Final License.

Local Approval Process means the steps required by a Host Community in order for a License Applicant to operate as an ME or MTC in the Host Community, including, but not limited to, zoning, all associated fees, deadlines, and meeting schedules for local bodies involved in such processes.

Local Authorities means local municipal authorities, unless otherwise indicated.

500.002: continued

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

Marijuana (or Cannabis) means all parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002(a) through (c) 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.

Marijuana Accessories (or Cannabis 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.

Marijuana Courier means an entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from an MTC, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under M.G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

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 Delivery Operator or Delivery Operator means an entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative, and White Label, Repackage, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers. A Delivery Operator is an additional license type under M.G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

Marijuana Establishment (ME) means a Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Independent Testing Laboratory, Standards Laboratory, Marijuana Retailer, Marijuana Transporter, Delivery Licensee, Marijuana Research Facility Licensee (as defined in 935 CMR 500.002: *Marijuana Research Facility Licensee*) Social Consumption Establishment (as defined in 935 CMR 500.002: *Social Consumption Establishment*) or any other type of licensed Marijuana-related business, except a Medical Marijuana Treatment Center (MTC).

Marijuana Establishment Agent means any Owner, employee, Executive, or volunteer of a Marijuana Establishment, who shall be 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.

500.002: continued

Marijuana Establishment Branded Good or Branded Good means a merchandise item offered for sale by a Marijuana Establishment, and identifiable as being of a particular Marijuana Establishment, distinct from those of other entities, by having the Marijuana Establishment's Brand Name. A Marijuana Establishment Branded Good does not include Marijuana, Marijuana Products, or Marijuana Accessories. It may include apparel, water bottles or other similar non-edible merchandise.

Marijuana Establishment Entrance means the entrance or entrances that provides ingress and egress to Consumers, Registered Qualifying Patients and Caregivers to the Marijuana Establishment.

Marijuana Event Organizer means a type of license within the Social Consumption Establishment license classes where an eligible applicant or Licensee may coordinate Temporary Consumption Events by submitting an Event Plan for approval by the Commission.

Marijuana-infused Product (MIP) means a Marijuana Product infused with Marijuana that is intended for use or consumption including, but not limited to, Edibles, ointments, aerosols, oils, and Tinctures. A Marijuana-infused Product (MIP), when created or sold by a Marijuana Establishment or an 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 Products (or Cannabis Products) means Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been Manufactured and contain Cannabis, 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 Edibles, Beverages, topical products, ointments, oils and Tinctures. Marijuana Products include Marijuana-infused Products (MIPs) defined in 935 CMR 500.002.

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 Research Facility means the Premises at which a Marijuana Research Facility Licensee is approved to conduct research.

Marijuana Research Facility Licensee or Research Licensee means an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth, including a licensed Marijuana Establishment or MTC, that is licensed to conduct research.

Marijuana Retailer means an entity licensed to purchase, Repackage, White Label, and transport and Transfer Marijuana or Marijuana Products to and from 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 Transporter means an entity that is licensed to possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or MTCs, but not to Consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third-party Transporter.

Marijuana Vaporizer Device means a product containing concentrated marijuana oil that is converted into inhalable marijuana aerosolized vapors.

500.002: continued

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* that acquires, cultivates, possesses, Processes (including development of related products such as Edibles, MIPs, Tinctures, aerosols, oils, or ointments), Repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing 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 Marijuana for medical use.

Medical-use Marijuana (or Medical-use Cannabis) means Marijuana that is cultivated, Processed, Transferred, tested or sold in compliance with M.G.L. c. 94I, and 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 M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana*.

Member means a member of a nonprofit entity incorporated pursuant to M.G.L. c. 180.

Microbusiness means an entity that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each License type as applicable and, if in receipt of a Delivery Endorsement issued by the Commission, may deliver Marijuana or Marijuana Products produced at the licensed location directly to Consumers in compliance with established regulatory requirements for retail sale as it relates to delivery.

Model Host Community Agreement means a template published by the Commission to illustrate a compliant Host Community Agreement. Host Community Agreements that conform to the model Host Community Agreement are presumed compliant and must be executed by the parties.

Mother Plant means a marijuana plant that is grown or maintained for the purpose of generating Clones, and that will not be used to produce plant material for sale to another Marijuana Establishment or Medical Marijuana Treatment Center.

MTC Agent means any Owner, employee, Executive, or volunteer of an MTC, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to an MTC related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana or Marijuana Products for medical purposes.

MTC Priority Applicant means a Medical Marijuana Treatment Center (MTC) (previously, Registered Marijuana Dispensary (RMD)) certified by the Commission as an MTC Priority Applicant in 2018 upon demonstrating that it had at least a provisional Certification of Registration prior to April 1, 2018. 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 purposes of 935 CMR 500.000, and 501.000: *Medical Use of Marijuana*, Mycotoxin shall include aflatoxin B1, aflatoxin B2, aflatoxin G1, aflatoxin G2, and ochratoxin A.

Non-Cannabis Entity means an entity not licensed by the Commission who may house a Hospitality On-site Consumption Licensee, or host a Temporary Consumption Event for a Marijuana Event Organizer Licensee.

Open Bill means an arrangement in which a Consumer maintains a single ongoing account for the sale of Marijuana, Marijuana Products, Marijuana Accessories, or other items permitted by the Commission while patronizing a Social Consumption Establishment, regardless of whether payment is tendered at the time of each Point-of-Service or upon conclusion of patronage.

500.002: continued

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

Other Jurisdiction means the United States, another state, or foreign jurisdiction, or a military, territorial or Native American tribal authority.

Outdoor Cultivation means 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 or Vegetative Mother Plants.

Outdoor Non-Smoking Consumption Area means an outdoor space on the Premises of a Social Consumption Establishment where Consumers may consume Marijuana or Marijuana Products in the form of Edibles, MIPs, and Beverages; provided however, Consumers may not consume Marijuana or Marijuana Products through combustion, heat, vaporization, or aerosolization. Tobacco shall not be sold or consumed in any Outdoor Non-Smoking Consumption Area.

Outdoor Smoking Consumption Area means an outdoor space on the Premises of a Social Consumption Establishment where Customers may consume Marijuana or Marijuana Products through combustion smoke, heat, vaporization, or aerosolization, in addition to Edibles, MIPs, and Beverages. Tobacco shall not be sold or consumed in any Outdoor Smoking Consumption Area.

Owner means any Equity Holder that possesses 10% equity or more in a Marijuana Establishment, MTC 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 temporary or an annual Registration Card currently and validly issued by the Commission to a Registered Qualifying Patient. The Patient 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* through Commission-supported databases. 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.

Personal Caregiver means a person, registered by the Commission, who shall be 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 as a second Personal Caregiver to patients younger than 18 years old.

Personal Caregiver Registration Card means 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.

500.002: continued

Person or Entity 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:

(a) An Owner that possesses a financial interest in the form of equity of 10% or greater in a Marijuana Establishment;

(b) A Person or Entity that possesses a voting interest of 10% or greater in a Marijuana Establishment or a right to veto significant events;

(c) A Close Associate;

(d) A Person or Entity that has the right to control or authority, through contract or otherwise including, but not limited to:

1. To make decisions regarding operations and strategic planning, capital allocations, acquisitions and divestments;
2. To appoint more than 50% of the directors or their equivalent;
3. To appoint or remove Corporate-level officers or their equivalent;
4. To make major marketing, production, and financial decisions;
5. To execute significant (in aggregate of $10,000 or greater) or exclusive contracts; or
6. To earn 10% or more of the profits or collect more than 10% of the dividends.

(e) A Court Appointee or assignee pursuant to an agreement for a general assignment or Assignment for the Benefit of Creditors; or

(f) A Third-party Technology Platform Provider that possesses any financial interest in a Delivery Licensee including, but not limited to, a Delivery Agreement or other agreement for services.

Person or Entity Having Indirect Control means any person or entity having indirect control over operations of a Marijuana Establishment. It specifically includes any Person or Entity Having Direct Control over a holding or parent company of the applicant, the chief executive officer and executive director of those companies, or any person or entity in a position to control the decision-making of a Marijuana Establishment indirectly. A Hospitality On-site Consumption Licensee may contract with a Non-Cannabis Entity to operate within the Non-Cannabis Entity and the Non-Cannabis Entity shall not be considered a Person or Entity Having Indirect Control by virtue of this relationship alone. A Marijuana Event Organizer Licensee may contract with a Non-Cannabis Entity to operate within the Non-Cannabis Entity's physical space and the Non-Cannabis Entity shall not be considered a Person or Entity Having Indirect Control by virtue of this relationship alone.

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(v) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 321(v)), 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(w) of such act (21 U.S.C. § 321(w)).

Point-of-Service means the act of a Marijuana Establishment Agent serving Marijuana or Marijuana Products to a Consumer at a bar, table, counter, or other service location within a Social Consumption Establishment, regardless of whether payment occurs at that time or through an Open Bill.

Preapproved Court Appointee means a person or entity preapproved by the Commission pursuant to 935 CMR 500.104(3)(c) to serve as a Court Appointee over a Licensee or its delegee which may be recommended to a court of competent jurisdiction.

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.

500.002: continued

Pre-verification means the process of a Marijuana Establishment 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 935 CMR 500.000 prior to that Consumer being able to receive deliveries of Marijuana or Marijuana Products to the Consumer's Residence. A Marijuana Establishment may not acquire or record personal information about Consumers other than information typically required in a retail transaction.

Pre-verification or Verification of Eligibility as a Social Equity Business means the process through which the Commission confirms whether an applicant is a Social Equity Business.

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

Principal Place of Business means the primary location where a Licensee manages its licensed operations.

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.

Product Database means a Commission-operated technology platform displaying information about Marijuana Products produced by licensed Marijuana Product Manufacturers and sold by a licensed Marijuana Retailer or Delivery Operator pursuant to 935 CMR 500.000 or an MTC pursuant to 935 CMR 501.000: *Medical Use of Marijuana*.

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.

Program Transfer means the transfer of the medical use of Marijuana program pursuant to St. 2017, c. 55, §§ 64 through 71, and 82, and M.G.L. c. 94I.

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

Protected Patient Records means any document, record or electronic or written communication related to their care provided by a medical-use Marijuana Licensee or establishment or by a Certifying Healthcare Provider that is required to be confidential or protected from disclosure by law.

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.

500.002: continued

Qualifying Patient means:

(a) a Massachusetts Resident or a non-Massachusetts Resident receiving end-of-life or palliative care or cancer treatment in Massachusetts as determined by a Certifying Healthcare Provider, who is 18 years of age or older who has been diagnosed by a Certifying Healthcare Provider as having a Debilitating Medical Condition; or

(b) a Massachusetts Resident, or a non-Massachusetts Resident receiving end-of-life or palliative care or cancer treatment in Massachusetts as determined by a Certifying Healthcare Provider, who is 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, pediatric subspecialist, oncologist, neurologist, or family physician as having a Debilitating Medical Condition that is also a Life-limiting Illness, subject to 935 CMR 501.010(11).

Quality Control Sample means a sample of Marijuana or Marijuana Product developed by a Marijuana Cultivator, a Marijuana Product Manufacturer, a Microbusiness, or a Craft Marijuana Cooperative that is provided internally to employees for purposes of ensuring product quality and making determinations about whether to sell the Marijuana or Marijuana Product.

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

Reasonably Related means a demonstrable nexus between the actual operations of a Marijuana Establishment or MTC and an enhanced need for a Host Community's goods or services in order to offset the impact of operations. Fees customarily imposed on other non-marijuana businesses operating in a Host Community shall not be considered Reasonably Related.

Registered Qualifying Patient or Patient means a Qualifying Patient who is currently and validly issued a temporary or an annual Registration Card by the Commission.

Registrant means the holder of a Registration Card currently and validly registered with the Commission.

Registration Card means an identification card currently and validly issued by the Commission, to a Registered Qualifying Patient, Personal Caregiver, Institutional Caregiver, 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, M.G.L. c. 94I, and 935 CMR 501.000: *Medical 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 or Marijuana Product poses a substantial risk to the public health, safety or welfare including, but not limited to, when the product is especially appealing to persons younger than 21 years old.

Repackage means to uniformly wrap or seal Marijuana that has already been wrapped or sealed, into a ready-made product for retail sale, without combining, infusing, or changing the chemical composition of the Marijuana.

Research Permit means a certificate indicating Commission approval to conduct a specified research project over a specified and finite period. To the extent that a Research Licensee is subject to other IRB, institutional, industry, or professional standards, they shall demonstrate compliance with those standards.

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 federal public housing identified at https://resources.hud.gov/, shelters or residential programs.

500.002: continued

Residual Solvent means a volatile organic chemical used in the Manufacture of a Marijuana Product 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 Trainer means an independent business entity certified by the Commission to provide Responsible Vendor Training Program courses. No owner, manager, or employee of a Responsible Vendor Trainer may be a Person or Entity Having Direct or Indirect Control of a Marijuana Establishment.

Responsible Vendor Training (RVT) Program means a mandatory program that provides training courses taught by a Responsible Vendor Trainer for Marijuana Establishment Agents in order to satisfy the minimum training hours required under 935 CMR 500.105(2).

School Entrance means the entrance(s) that provide ingress and egress to students of the preexisting public or private or private school providing education in kindergarten or any grades 1 through 12 at the time of the newspaper publication of the proposed Marijuana Establishment's community outreach meeting under 935 CMR 500.101(1)(a)9.a.

SDO means the Supplier Diversity Office of the Massachusetts Operational Services Division (OSD).

Second Confirmatory Test means a second full panel of tests performed for reanalysis of a sample of Marijuana or Marijuana Products that failed an initial test for contaminants.

Secret Shopper means an individual authorized by the Commission or a Commission Delegee pursuant to 935 CMR 500.303, including an employee or a third-party acting as an agent of the Commission or a Commission Delegee, who conducts unannounced purchases of or otherwise obtains Marijuana or Marijuana Products while posing as a Consumer for the purpose of assessing compliance with applicable statutes, regulations, and Commission-approved procedures at Marijuana Retailers, Social Consumption Establishments, other Marijuana Establishments, or Marijuana Treatment Centers. A Secret Shopper may include an individual authorized by the Commission or a Commission Delegee pursuant to 935 CMR 500.303, including an employee or a third-party acting as an agent of the Commission or a Commission Delegee who may obtain Marijuana or Marijuana Products from Marijuana Product Manufacturers and Marijuana Cultivators for comparative or investigative purposes. A Secret Shopper may also include an individual authorized by the Commission or a Commission Delegee pursuant to 935 CMR 500.303, including an employee or third-party acting as an agent of the Commission or a Commission Delegee, who is under 21 years old, for the limited purpose of assessing a Marijuana Establishment's or Marijuana Treatment Center's compliance with age verification and identification requirements.

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 an 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 an MTC or an Independent Testing Laboratory shall 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.

500.002: continued

Shelf-stable means able to be safely stored at room temperature in a sealed container. Shelf-stable does not include food that must have certain Time/Temperature Control for Safety in accordance with 105 CMR 590.000.

Small Business means, for the purposes of 935 CMR 500.005(1)(b), an applicant or Licensee that
(a) currently employs a combined total of 50 or fewer full-time equivalent employees in all locations or employees work less than a combined total of 2,600 hours per quarter; and
(b) has gross revenues of $5 million or less, as reported to the Massachusetts Department of Revenue the year prior to the date of the Licensee's renewal application or as otherwise demonstrated in a form and manner determined by the Commission.

Social Consumption Establishment means an entity licensed to sell Marijuana or Marijuana Products to Consumers for consumption on its Premises and in a Consumption Area approved by the Commission. A Social Consumption Establishment may be either a Supplemental On-site Consumption, a Hospitality On-site Consumption, or a Marijuana Event Organizer Licensee. Social Consumption Establishments may allow Consumption Areas to be Indoor Non-Smoking, Indoor Smoking, Outdoor Non-Smoking or Outdoor Smoking.

Social Equity Business (SEB) means a Marijuana Establishment comprised of at least 51% (majority) ownership of individuals who are Social Equity Program Participants, or who have been certified as meeting the Commission's criteria for designation as an Economic Empowerment Priority Applicant, or both.

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.

Substantial Modification means a material change to a term of a contract that a reasonable person would understand alters the relationship between the parties. A Substantial Modification shall include, but is not limited to, shifting responsibility for the performance of a contract term or increasing or decreasing the amount of consideration being paid for performance of the contract above an amount that is de minimis.

Summary Suspension means the suspension of any License or registration issued under 935 CMR 500.000, and the cessation of all operations in order to protect the public health, safety and welfare.

Supplemental On-site Consumption means a type of license within the Social Consumption Establishment license classes where an eligible Retailer, Cultivator, Product Manufacturer, Microbusiness, Craft Marijuana Cooperative, Third-party Transporter, Delivery Operator or Courier may sell Marijuana or Marijuana Products to Consumers to consume in a designated Consumption Area within the Marijuana Establishment's Premises.

Temporary Consumption Event means an event that a Marijuana Event Organizer facilitates after obtaining approval from the Commission and the municipality where the Temporary Consumption Event is to be located.

Temporary Patient Registration means an interim registration document for patients and their Personal Caregivers generated automatically upon the Commission's receipt of a Certifying Healthcare Provider's Electronic Certification. The temporary registration document shall constitute a Registration Card for patients and their Personal Caregivers to access an MTC. Temporary registration shall expire 14 days after the Commission issues the Registration Card or on the issuance and receipt of an annual Registration Card, whichever occurs first.

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 Finished Marijuana Products, Marijuana Accessories and Branded Goods for sale or delivery by a Marijuana Retailer, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement to a Consumer. A proprietary application developed by a Licensee exclusively for that Licensee's use shall not be considered to be a Third-party Technology Platform Provider. A Third-party Technology Platform Provider may not be an investor in a Delivery Licensee.

500.002: continued

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 Edibles under 935 CMR 500.000 and are not subject to the dosing limitations applicable to Edibles.

Tobacco means a product containing, made or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed or ingested by any other means including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, electronic cigarettes, electronic cigars, electronic pipes, electronic nicotine delivery systems or any other similar products that rely on vaporization or aerosolization; provided however, that "tobacco product"' shall also include any component, part or accessory of a tobacco product; and provided further, that "'tobacco product"' shall not include a product that has been approved by the United States Food and Drug Administration for the sale of or use as a tobacco cessation product and is marketed and sold exclusively for the approved purpose.

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 (U.S.) 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, M.G.L. c. 94I, 935 CMR 500.000, or 501.000: *Medical 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, Marijuana Products or MIPs, 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).

Vault means a secured, limited access storage room within a Marijuana Establishment that is outfitted with adequate security features for the purposes of storing Marijuana or Marijuana Products or cash. A vault must be adequately sized to store inventory that is not being actively handled for purposes of dispensing, packaging, processing or transportation.

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.

Vegetative Plant means a plant in a stage of Vegetation.

Vendor Sample means a sample of Marijuana or Marijuana Product developed by a Marijuana Cultivator or a Marijuana Product Manufacturer licensed under the provisions of 935 CMR 500.000 that is provided to a Marijuana Product Manufacturer, a Marijuana Retailer or a Delivery Operator to promote product awareness.

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 air, or space 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 or Laboratory Agent, authorized by the Marijuana Establishment or Independent Testing Laboratory to be 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, M.G.L. c. 94G, and 935 CMR 500.000; provided, however, that no such individual shall be younger than 21 years old.

500.002: continued

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 an MTC or Independent Testing Laboratory. These identification badges shall be issued in a form and manner determined by the Commission.

Waiver of Consent means the document signed by potential participants or the legal guardians of potential participants that waives one or more elements of consent.

Warehouse means an indoor structure or a portion of the structure on the Licensee's Premises used by a Marijuana Establishment for the on-site storage of Marijuana and Marijuana Products in compliance with the regulatory requirements of 935 CMR 500.000, including the requirements for security, storage and disposal. For Delivery Operators and Marijuana Event Organizers, the location of the Warehouse shall be the Licensee's Principal Place of Business in the Host Community.

Warehousing means the on-site storage of Marijuana and Marijuana Products that have been purchased at wholesale for eventual resale.

White Labeling means to affix a product label that includes the branding, including the name and logo, of a specific Marijuana Establishment Licensee to a Finished Marijuana Product that was previously produced and packaged by a licensed Product Manufacturer, Cultivator, Microbusiness or Craft Marijuana Cooperative for sale to Consumers. Vaporizer Devices shall not be white labeled. White labeled products shall be required to comply with 935 CMR 500.105(5), and (6), 935 CMR 500.130(6) and 935 CMR 500.146(7).

Wholesale means the Transfer of Marijuana or Marijuana Product between Marijuana Establishments.

Wholesale Agreement means a contract between Marijuana Establishments defining the terms of Transfer of Marijuana or Marijuana Products between the Marijuana Establishments.

Written Certification means a form submitted to the 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.

14-day Supply means that amount of Marijuana, or equivalent amount of Marijuana in MIPs, that a Registered Qualifying Patient would reasonably be expected to need over a period of 14 calendar days for the Patient's personal medical use, which is 2.5 ounces, subject to 935 CMR 501.010(10), unless otherwise determined by a Certifying Healthcare Provider.

60-day Supply means that amount of Marijuana, or equivalent amount of Marijuana in MIPs, that a Registered Qualifying Patient would reasonably be expected to need over a period of 60 calendar days for his or her personal medical use, which is ten ounces, subject to 935 CMR 501.010(10), unless otherwise determined by a Certifying Healthcare Provider.

500.003: Colocated Marijuana Operations (CMOs)

An adult-use Marijuana Cultivator, Product Manufacturer or Retailer also be licensed as an MTC as defined in to 935 CMR 501.002. No other adult-use license type qualifies to be a CMO. Unless otherwise specified, a CMO shall comply with the requirements of each of the adult-use and medical-use license located on the Premises of the CMO.

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 to the Seed-to-sale SOR provider, a monthly Seed-to-sale licensing fee. These fees do not include the costs associated with the

500.005: continued

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 500.030 or 935 CMR 500.101(1)(b)

(b) Waiver of Fees.

1. Application fees are waived for:

a. Applicants for Microbusinesses;

b. Businesses controlled by and with majority ownership comprised of Social Equity Program Participants and/or Economic Empowerment Priority Applicants; and

c. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), or Veteran Business Enterprises (VBE) with valid certification from the SDO and which are also considered to be Small Businesses as defined by the Commission.

This does not include the costs associated with background checks.

2. For Annual License Fees, a 50% reduction in the fee associated with an application for:

a. Businesses controlled by and with majority ownership comprised of Social Equity Program Participants and/or Economic Empowerment Priority Applicants; and

b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO and which are also considered to be Small Businesses as defined by the Commission.

3. For Annual Delivery Licensee Fees, a 100% reduction for businesses controlled by and with majority ownership comprised of Social Equity Program Participants and/or Economic Empowerment Priority Applicants for the initial license fee payment. Upon renewal, and each year thereafter, there shall be a 50% reduction in the annual license fee for Delivery Licensees pursuant to 935 CMR 500.005(1)(b)2.

4. A Marijuana Microbusiness shall be responsible for the following annual license fees:

a. A Marijuana Microbusiness engaged in cultivation activities shall pay an annual license fee equal to 50% of the annual license fee for a Tier 1 Marijuana Cultivator;

b. A Marijuana Microbusiness engaged in product manufacturing activities shall pay an annual license fee equal to 50% of the annual license fee for a Marijuana Product Manufacturer; or

c. A Marijuana Microbusiness engaged in cultivation and product manufacturing activities shall pay an annual license fee equal to 50% of the annual license fee for a Tier 1 Marijuana Cultivator and Marijuana Product Manufacturer.

5. Seed-to-sale SOR monthly program fees are waived for:

a. Craft Marijuana Cooperatives;

b. Microbusiness Licenses;

c. Businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants and/or Social Equity Program Participants; and

d. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO and which are also considered to be Small Businesses as defined by the Commission.

This waiver does not include other costs associated with the Seed-to-sale licensing system, specifically the fees for plant and package tags.

6. All other applicants are responsible for the payment of fees in accordance with 935 CMR 500.005(1)(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.

500.005: continued

(d) Application and Annual License Fee Schedule.

License Types	Application Fees (Indoor/Outdoor)	Annual License Fee (Indoor/Outdoor)
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.	$2,000 (I)/$1,500 (O)	$20,000 (I)/$10,000 (O)
Tier 5: 30,001 to 40,000 sq. ft.	$2,000 (I)/$1,500 (O)	$22,500 (I)/$11,250 (O)
Tier 6: 40,001 to 50,000 sq. ft.	$2,000 (I)/$1,500 (O)	$25,000 (I)/$12,500 (O)
Tier 7: 50,001 to 60,000 sq. ft.	$2,000 (I)/$1,500 (O)	$30,000 (I)/$15,000 (O)
Tier 8: 60,001 to 70,000 sq. ft.	$2,000 (I)/$1,500 (O)	$35,000 (I)/$17,500 (O)
Tier 9: 70,001 to 80,000 sq. ft.	$2,000 (I)/$1,500 (O)	$40,000 (I)/$20,000 (O)
Tier 10: 80,001 to 90,000 sq. ft.	$2,000 (I)/$1,500 (O)	$45,000 (I)/$22,500 (O)
Tier 11: 90,0001 to 100,000 sq. ft.	$2,000 (I)/$1,500 (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	$1,500	$10,000
Marijuana Microbusiness	$0	50% of all applicable license fees
Independent Testing Laboratory	$1,500	$10,000
Marijuana Retailer (brick-and-mortar)	$1,500	$10,000
Social Consumption Establishment: Supplemental On-site Consumption	$1,500	$5,000
Social Consumption Establishment: Hospitality On-site Consumption	$1,500	$5,000
Social Consumption Establishment: Marijuana Event Organizer	$1,000	$5,000
Marijuana Transporter: Third-party Transporter	$1,500	$5,000
Marijuana Transporter: Existing Licensee Transporter	$1,000	$5,000
Marijuana Courier	$1,500	$5,000
Marijuana Delivery Operator	$1,500	$10,000
Marijuana Establishment with a Delivery Endorsement	$500	$5,000
Marijuana Research Facility	$300	$1,000
Marijuana Research Permit	$1,000	$1,000

500.005: continued

(e) Other Fees (cost per License).

Change in Name Fee	$1,000
Change in Location Fee	50% of applicable License Fee
Change in Building Structure Fee	$1,000
Change in Ownership or Control Fee (involving at least one entity gaining ownership/control)	$5,000 per entity, per License
Change in Ownership or Control Fee (involving individuals, *e.g.*, change of Board Member)	$500 per person
Architectural Review Request Fee	$1,500
Packaging and Labeling Preapproval Application Fee	$50 per product

(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 $115 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 $115.

(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 shall be deposited into the Fingerprint-based Background Check Trust Fund, established in M.G.L. c. 29, § 2HHHH.

(4) For CMOs, an applicant or Licensee shall pay the applicable fees for each Marijuana Establishment set forth in 935 CMR 500.005 and MTC set forth in 935 CMR 501.005: *Fees*.

(5) Preapproved Court Appointees.
(a) Each applicant seeking to be Preapproved Court Appointee shall pay a nonrefundable application fee of $500 for any such application.
(b) A Preapproved Court Appointee seeking to renew its designation shall pay a renewal fee of at least $400.

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 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 with the provisions of 935 CMR 500.800, 500.801 or 500.803.

(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;

500.029: continued

(c) Written acknowledgment signed by the applicant of the limitations on his or her authorization to possess, test, Transfer, or Process Marijuana or Marijuana Products in the Commonwealth;
(d) 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;
(e) An attestation signed by the applicant that the applicant will not engage in the Diversion or Inversion of Marijuana and Marijuana Products;
(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
(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;
(h) A nonrefundable application fee paid by the Independent Testing Laboratory with which the Independent Testing Laboratory Agent will be associated; and
(i) 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 calendar days prior to submission; provided however, that a CORI shall not be required when one was already completed within the previous calendar year for a Laboratory Agent working within and between Licensees who share the same Persons or Entities Having Direct and Indirect Control in accordance with 803 CMR 2.11(7).

(4) The Commission shall conduct fingerprint-based checks of state and national criminal history databases, as authorized by M.G.L. c. 94G, §§ 15 and 21, and Public Law 92-544, to determine the suitability of Laboratory Agents. As part of these checks, fingerprints are used to check the national criminal history records of the Federal Bureau of Investigation (FBI). The Independent Testing Laboratory shall pay a nonrefundable fee in a form and manner determined by 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 thereafter on a triennial basis on a determination by the Commission that the applicant for renewal continues to be suitable for registration.

(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.

500.029: continued

(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 or 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 may 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 employees, Owners, Executives 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 and 935 CMR 500.801 or 935 CMR 500.802.

(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 or Inversion of Marijuana or 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;

(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.

500.030: continued

(3) A Marijuana Establishment Executive registered with 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 calendar days prior to submission; provided however, that a CORI shall not be required when one was already completed within the previous calendar year for an employee transferring to, or working within and between Licensees who share the same Persons or Entities having Direct and Indirect Control in accordance with 803 CMR 2.11(7).

(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)(b)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: *Criminal Offender Record Information (CORI)* 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 thereafter on a triennial basis on a determination by the Commission that the applicant for renewal continues to be suitable for registration.

(6) After obtaining a 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 a Registration Card associated with the appropriate Marijuana Establishment while in possession of Marijuana or Marijuana Products, including at all times while at the establishment or while transporting Marijuana or Marijuana Products.

(8) A Marijuana Establishment Agent may be issued a single Agent Registration card covering all licenses held by the same Persons or Entities Having Direct or Indirect Control.

(9) An Agent working in a CMO may only perform tasks and duties permitted by the license under which they are registered and may only perform both medical- and adult-use tasks and duties if registered under both 935 CMR 500.000 and 501.000: *Medical Use of Marijuana*.

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 a Marijuana Establishment Agent, including Laboratory Agents:

(1) Failure to provide the information required in 935 CMR 500.029 or 500.030.

(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, including lack of disclosure or insufficient disclosure;

(3) Failure to meet the requirements set forth in 935 CMR 500.029 or 500.030;

(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

500.031: continued

(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. 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.

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 of 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, including lack of disclosure or insufficient disclosure;

(b) Violation of the requirements of the state Marijuana laws, including 935 CMR 500.000.

(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 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 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 500.801: *Table A: Marijuana Establishment Licensees* or 935 CMR 500.803: *Table E: Registration as a Laboratory Agent*, as applicable, that may otherwise affect the status of the suitability for registration of the Marijuana Establishment Agent.

(2) In addition to the grounds in 935 CMR 501.032(1), a conviction of a felony drug offense in the Commonwealth, or a like violation of the laws of an Other Jurisdiction shall be adequate grounds for the revocation of a Marijuana Establishment Agent Registration Card for individuals or entities subject to 935 CMR 500.801: *Table A*: *Marijuana Establishment Licensees* or 935 CMR 500.803: *Table E: Registration as a Laboratory Agent*.

(3) 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. Suitability determinations shall be based on credible and reliable information.

500.032: continued

(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.

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; and
(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, a Licensee satisfies at least two of the following:
1. Upon the Legislature's establishment of a dedicated Social Equity or Technical Assistance Fund (Fund) or a similar fund, one percent of the Marijuana Establishment's gross revenue is donated to the Fund;
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.
3. The Licensee can demonstrate that a majority of employees have a conviction or continuance without a finding for an offense under M.G.L. c. 94C or an equivalent conviction in Other Jurisdictions;
4. 66% or more of the Licensees employees are people of color, women, Veterans, persons with disabilities, and LGBTQ+ people;
5. The Licensee has developed, and can demonstrate execution of, a Diversity Plan or Positive Impact Plan recognized as exemplary by the Commission in its discretion; or
6. The Licensee can demonstrate that in a year, at least one percent of its gross revenue or a minimum of 20 hours of each staff member's paid time is contributed to supporting persons from communities disproportionately harmed by marijuana prohibition or an Area of Disproportionate Impact as determined by the Commission.

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

500.040: continued

(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;
2. 51% or more of the Licensee's Executives have been a Massachusetts Resident for 12 months or more, as determined by the Commission; and
3. 51% or more of ancillary business service expenditures purchased by the Licensee have been from businesses with its primary place of businesses within Massachusetts.

(c) Energy and Environmental Leader. In the year preceding the date of application for a leadership rating, the Licensee has met the energy and environmental goals in one or more subcategories in compliance with criteria published as Appendix B in the *Energy & Environment Compiled Guidance:*

1. Energy;
2. Recycling and Waste Disposal;
3. Transportation;
4. Delivery;
5. Water Usage; or
6. Soil Sampling.

(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 no unresolved written deficiency statements;
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.

(e) Leadership ratings will be taken into consideration by the Commission in assessing fines pursuant to 935 CMR 500.360 and disciplinary action pursuant to 935 CMR 500.450.

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 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 hold, more than three licenses in a particular class, except as otherwise specified in 935 CMR 500.000.
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.
3. 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 applies.
4. The Commission shall receive notice of any such interests as part of the application pursuant to 935 CMR 500.101.
5. Licensees and Persons or Entities Having Direct or Indirect Control holding Licenses that allow them to cultivate Marijuana are limited to a maximum Canopy of 100,000 square feet distributed across all applicable Licenses, inclusive of MTC Licenses.
6. Limitations on the Number and Control of Delivery Licenses.
   a. No Third-party Technology Platform Provider shall be a Licensee, or a Person or Entity with Direct or Indirect Control of a Delivery Licensee.
   b. A contract between a Delivery Licensee and a Third-party Technology Platform Provider shall be negotiated and entered into on an arm's length basis. A Delivery Licensee may not accept any investment in the Delivery Licensee by a Third-party Technology Platform Provider with which they have a contract.

500.050: continued

c. No Person or Entity Having Direct or Indirect Control shall be granted or hold more than a total of three Delivery Operator and three Marijuana Courier Licenses at any time.

d. No Delivery Licensee may share its profits of the sale of Marijuana or Marijuana Products with a Third-party Technology Platform Provider, or otherwise provide a percentage or portion of the sale of Marijuana or Marijuana Products to the Third-party Technology Platform Provider.

7. Limitations on the Number and Control of Microbusiness Licenses.

a. Cultivating Microbusiness Licensees shall have the Microbusiness license count towards the total limit on Marijuana Cultivation licenses granted or held for any Person or Entity Having Direct or Indirect Control.

b. Manufacturing Microbusiness Licensees shall have the Microbusiness license count towards the total limit on Marijuana Product Manufacturing licenses granted or held for any Person or Entity Having Direct or Indirect Control.

8. Limitations on the Number and Control of Craft Marijuana Cooperatives. A Craft Marijuana Cooperative Licensee shall be limited to one license and a total of 100,000 square feet of Canopy; provided, however, that a Craft Marijuana Cooperative Licensee may apply for additional Licenses in accordance with 935 CMR 500.050(3)(i).

9. Limitations on the Number and Control of Social Consumption Establishments.

a. No Person or Entity Having Direct or Indirect Control shall be granted or hold more than three Supplemental On-site Consumption licenses, three Hospitality On-site Consumption licenses, and three Marijuana Event Organizer licenses.

b. A Hospitality On-site Consumption Licensee and a Marijuana Event Organizer Licensee shall not:

i. Convey an ownership or control interest in the license as a condition of being housed or hosted by a Non-Cannabis Entity; provided however, this provision shall not apply where the Non-Cannabis Entity and a Hospitality On-site Consumption Licensee or Marijuana Event Organizer Licensee share the same Persons or Entities with Direct and Indirect Control.

ii. Provide a set percentage or a set portion of sales to the Non-Cannabis Entity. A Hospitality On-site Consumption Licensee and a Marijuana Event Organizer Licensee may pay a fee or rent to the Non-Cannabis Entity for housing or hosting the Social Consumption Establishment; provided however, this provision shall not apply where the Non-Cannabis Entity and a Hospitality On-site Consumption Licensee or Marijuana Event Organizer Licensee share the same Persons or Entities with Direct and Indirect Control.

(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. Social Consumption Establishment:
   a. Supplemental On-site Consumption;
   b. Hospitality On-site Consumption; and
   c. Marijuana Event Organizer;

500.050: continued

8. Marijuana Transporter:
   a. Existing Licensee Transporter;
   b. Third-party Transporter;
9. Delivery Licensee;
   a. Marijuana Courier;
   b. Marijuana Delivery Operator; and
10. Marijuana Research Facility Licensee.
   a. A Marijuana Establishment shall operate all activities authorized by the License only at the address(es) reported to the Commission for that license.
   b. All Marijuana Establishment Agents of the Marijuana Establishment shall be registered with the Commission pursuant to 935 CMR 500.030.

(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 shall 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.

(f) An eligible Marijuana Cultivator may operate a Supplemental On-site Consumption license within its existing Marijuana Establishment Premises.

(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.

500.050: continued

(b) The Members or shareholders of the cooperative shall be residents of the Commonwealth for the 12 months immediately preceding the filing of an application for a license.

(c) The Craft Marijuana Cooperative shall have:

1. One Member that has filed a Schedule F (Form 1040), Profit or Loss from Farming, within the five years prior to application for licensure; or

2. An agreement to lease land wholly owned by a person or entity that has filed a Schedule F (Form 1040), Profit or Loss from Farming, within the five years prior to application for licensure.

(d) Where the agreement to lease land in 935 CMR 500.050(3)(c)2. renders the individual or entity filing a Schedule F (Form 1040) a Person or Entity Having Direct or Indirect Control, the Craft Marijuana Cooperative shall report the individual or entity and submit the agreement, as required by 935 CMR 500.101(1)(a)1.

(e) The Craft Marijuana Cooperative shall operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995.

(f) The cooperative license authorizes it to cultivate, obtain, Manufacture, Process, package, brand and Transfer Marijuana Products and to deliver Marijuana to Marijuana Establishments, but not to Consumers.

(g) The Craft Marijuana Cooperative is limited to one license, under which it may cultivate Marijuana, subject to the limitations of 935 CMR 500.050. 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 500.005(1)(d). The cooperative may also conduct activities authorized for Marijuana Product Manufacturers at up to three locations.

(h) 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.

(i) Members of a cooperative may not be a Person or Entity Having Direct or Indirect Control in any other Marijuana Establishment. Such restriction may not be construed to prohibit a Craft Marijuana Cooperative for applying for a Marijuana Retailer, Marijuana Existing Licensee Transporter, Marijuana Research or Social Consumption Establishment License.

(j) 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 shall 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.

(k) 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.

(l) 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.

(m) An eligible Craft Marijuana Cooperative may operate a Supplemental On-site Consumption license within its existing Marijuana Establishment Premises.

500.050: continued

(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. An eligible Marijuana Product Manufacturer may operate a Supplemental On-site Consumption license within its existing Marijuana Establishment Premises.

(5) Marijuana Microbusiness.

(a) A Microbusiness is an entity that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both and, if in receipt of a Delivery Endorsement issued by the Commission, may deliver Marijuana or Marijuana Products produced at the licensed location directly to Consumers in compliance with established regulatory requirements for retail sale as it relates to delivery.

(b) A Microbusiness engaged in product manufacturing operations may purchase a maximum of 2,000 pounds of Marijuana or its dry-weight equivalent in raw concentrate per year from other Marijuana Establishments or MTCs.

(c) A Microbusiness shall comply with all operational requirements imposed by 935 CMR 500.105 through 500.140 on Marijuana Cultivators and Marijuana Product Manufacturers, and Retailers, to the extent the Licensee engages in such activities.

(d) A Person or Entity Having Direct Control or a Person or Entity Having Indirect Control in an existing Marijuana Establishment or MTC License that is not a Social Equity Program Participant, Social Equity Business or Economic Empowerment Priority Applicant shall not be eligible to apply for a Marijuana Microbusiness license. A majority of the Microbusiness' Executives or Members shall have been residents of Massachusetts for no less than 12 months prior to application.

(e) Delivery Endorsements shall be subject to the exclusivity provisions for Delivery Licensees established in 935 CMR 500.050(10)(b).

(f) An eligible Marijuana Microbusiness may operate a Supplemental On-site Consumption license within its existing Marijuana Establishment Premises.

(6) Social Consumption Establishment.

(a) A municipality may authorize the sale and on-site consumption of Marijuana and Marijuana Products at a Social Consumption Establishment in accordance with M.G.L. c. 94G, § 3.

(b) A Social Consumption Establishment may sell Marijuana or Marijuana Products to Consumers and allow consumption of Marijuana or Marijuana Products by Consumers on a Premises approved by the Commission and in a designated Consumption Area.

(c) Social Consumption Establishments may portion servings of Marijuana and Marijuana Products to Consumers, and White Label, Repackage, Transfer, Waste, Wholesale and Warehouse Finished Marijuana or Marijuana Products acquired from a Marijuana Establishment.

(d) A Marijuana Establishment shall not allow the consumption of Marijuana or Marijuana Products on its Premises without obtaining a Social Consumption Establishment License from the Commission and approval of an Event Plan, if applicable.

(e) Social Consumption Establishments shall operate all Marijuana-related activities solely at the address identified in the license and at the address or location of the Temporary Consumption Event Premises, if applicable.

(f) Social Consumption Establishment Classes. A Social Consumption Establishment is permitted to select one of the following classes:

1. Supplemental On-site Consumption.

a. A Supplemental On-site Consumption license is not granted as of right to a Marijuana Establishment holding another license type. An eligible Marijuana Establishment must separately apply for and obtain a Supplemental On-site Consumption License in accordance with M.G.L c. 94G, § 3, and 935 CMR 500.000.

b. Eligible Marijuana Retailers, Marijuana Cultivators, Marijuana Product Manufacturers, Marijuana Delivery Operators, Microbusinesses, Craft Marijuana Cooperatives, Third-party Transporters, or Marijuana Couriers may apply for a Supplemental On-site Consumption License.

500.050: continued

c. A Supplemental On-site Consumption Licensee shall be located within an approved Marijuana Establishment's Premises that has the same Persons or Entities Having Direct or Indirect Control.

2. Hospitality On-site Consumption.

a. Eligible applicants and eligible Marijuana Establishments may apply for a Hospitality On-site Consumption License.

b. A Hospitality On-site Consumption Licensee or eligible applicant may be located within a new or existing Non-Cannabis Entity.

3. Marijuana Event Organizer.

a. Eligible applicants and eligible Marijuana Establishments may apply for a Marijuana Event Organizer License.

b. In accordance with 935 CMR 500.180, a Marijuana Event Organizer must obtain a Host Community Agreement at its Principal Place of Business.

c. A Marijuana Event Organizer shall obtain all the necessary local permitting required where the Temporary Consumption Event is proposed to be located prior to the Commission's approval of an Event Plan.

d. A Marijuana Event Organizer shall provide the Commission with all documentation and permitting that demonstrates the Licensee obtained municipal approval for the Temporary Consumption Event.

e. A Marijuana Event Organizer shall conduct a pre-event public safety briefing(s) with representatives from local law enforcement, fire services, and emergency medical services prior to any Temporary Consumption Event. The Marijuana Event Organizer shall maintain a pre-event public safety report summarizing the topics discussed, the date and time of the briefing(s), the names, titles and affiliations of all participating representatives, and any recommendations, conditions, or operational requirements issued by such representatives. The public safety briefing shall include, at a minimum, discussion of:

1. Traffic control and parking management;
2. Crowd management and ingress and egress procedures;
3. Emergency egress routes and evacuation procedures;
4. Access for emergency responders and staging areas;
5. Communication protocols between on-site security, event staff, and first responders; and
6. Procedures for managing public safety concerns, including but not limited to Consumer intoxication or medical emergencies.

f. A Marijuana Event Organizer shall conduct no more than 30 single days of permitted sales and consumption activity per municipality each calendar year.

g. A Marijuana Event Organizer shall submit a single Event Plan for a single or multi-day Temporary Consumption Event no later than 90 days prior to the first scheduled date of the Temporary Consumption Event. No Temporary Consumption Event may be held without an Event Plan approved by the Commission. The Event Plan shall include, at a minimum, the following:

1. A diagram of sufficient detail to identify the Temporary Consumption Event's location and Premises, including designated areas for sales and service areas, Consumption Areas, and waste, locked receptacle(s), and storage of Marijuana and Marijuana Products, Limited Access Areas, points of entry and egress, identification checkpoints, and the planned use of each area;
2. The address of the Premises or location of the Temporary Consumption Event;
3. A list of Marijuana Establishments, including their license numbers, participating in the Temporary Consumption Event;
4. An attestation by the Marijuana Establishment(s) participating in the Temporary Consumption Event which states that the entity shall comply with all Commission regulations, and conditions, including but not limited to the requirements set forth in 935 CMR 500.105(2)(b)8. and 935 CMR 500.141;
5. A copy of the pre-event public safety report; and
6. Any other information requested by the Commission.

500.050: continued

h. The Commission shall not approve a Licensee for participation in a Temporary Consumption Event if the proposed participant has an active Enforcement Action, Summary Suspension Order, or Limitation of Sales Order.

i. Marijuana Event Organizers are responsible for all licensed activities at a Temporary Consumption Event, including but not limited to security, age verification, waste, operation of consumption areas, and incident reporting.

j. Only Social Consumption Establishments, Marijuana Retailers, and Marijuana Delivery Operators may sell Marijuana or Marijuana Products at a Temporary Consumption Event.

k. If the list of participating Marijuana Establishments changes after the Event Plan is submitted, or after Commission approval is issued, the Marijuana Event Organizer shall provide notice to the Commission of the change, with an updated list of participating Marijuana Establishments for approval by the Commission no less than 14 days prior to the Temporary Consumption Event. Failure to provide timely notice as required shall result in the newly added Marijuana Establishment not participating in the Temporary Consumption Event and other potential enforcement actions.

l. A Marijuana Event Organizer shall inform the Commission within 24 hours if the Marijuana Event Organizer or a Marijuana Establishment should fail to appear at a Temporary Consumption Event as anticipated in the Event Plan for any reason.

m. Within seven days prior to the commencement of a Temporary Consumption Event, the Marijuana Event Organizer shall confirm with the representatives from local law enforcement, fire services, and emergency medical services identified in 935 CMR 500.050(6)(f)3.e., that all safety measures, operational plans, and event logistics remain accurate and effective. If any material changes occur to the Temporary Consumption Event, including but not limited to the layout, schedule, staffing, capacity, security plan, or emergency response procedures, after such confirmation, the Marijuana Event Organizer shall promptly notify the same representatives and the Commission, and provide updated information reflecting such changes.

n. An Event Plan shall not be approved by the Commission where there is the planned sale or consumption of alcohol or Tobacco during the same time, and within the same Premises.

o. A Marijuana Event Organizer Licensee shall maintain a clearly legible sign not less than 11 inches by 17 inches in size, reading "No Persons Under 21 Allowed" at or near each public entrance to any space or Consumption Area where the sale or consumption of Marijuana or Marijuana Products will occur.

p. A Marijuana Event Organizer Licensee shall ensure that the sale and storage of Marijuana or Marijuana Products is not visible from any public place or non-age-restricted area.

q. The Commission may require a Marijuana Event Organizer and participating Marijuana Establishments to cease operations and sales without delay if the Commission or other governmental authorities determine it is necessary to protect the public health and safety of Consumers or others.

r. Upon notification from the Commission or discovery by the Marijuana Event Organizer, the Marijuana Event Organizer shall immediately expel any person selling Marijuana or Marijuana Products without a license at the Temporary Consumption Event. The Marijuana Event Organizer shall ensure that security is adequate to escort the individual(s) off the Premises.

s. A Marijuana Event Organizer shall inform the Commission as soon as possible, but no later than 24 hours if law enforcement or the municipality orders the Temporary Consumption Event to alter operations before the planned closing of the event.

t. A Marijuana Event Organizer shall designate a Limited Access Area(s) that can only be accessed by the Licensee, the Licensee's Agents, participating Marijuana Establishments and its Agents, or the Commission.

500.050: continued

u. A Marijuana Event Organizer or participating Marijuana Establishment may temporarily store Marijuana and Marijuana Products at a Temporary Consumption Event for the purposes of sale to Consumers. A Marijuana Event Organizer or participating Marijuana Establishment temporarily storing product at the Temporary Consumption Event shall keep the Marijuana and Marijuana Products in a locked storage compartment or container approved by the Commission. All remaining unsold Marijuana or Marijuana Products shall be returned to its Marijuana Establishment of origin at the end of each day of the Temporary Consumption Event.
v. Notwithstanding 935 CMR 500.110(5) and 935 CMR 500.110(6), a Marijuana Event Organizer shall not be required to install a security alarm for a Temporary Consumption Event. Nothing in this subsection shall be construed to otherwise exempt a Marijuana Event Organizer from compliance with security requirements set forth in 935 CMR 500.110 and 935 CMR 500.050(6)(f)3.
w. Notwithstanding 935 CMR 500.110(2)(b) and 935 CMR 500.110(2)(c), if a Marijuana Event Organizer submits an Alternative Security Provision for an Event Plan, the Commission shall request that the chief municipal law enforcement officer review the request and alternative security provision requested within ten days and if no response is received from the chief law enforcement officer or a delegee within 10 days, the Commission shall proceed with a determination.
x. Violations of the requirements applicable to Temporary Consumption Events may result in disciplinary action against the Marijuana Event Organizer and any other Marijuana Establishment participating in the Temporary Consumption Event.
y. For sales conducted at a Temporary Consumption Event, Community Impact Fees authorized pursuant to M.G.L. c. 94G, § 3(d) and any applicable marijuana local tax option amount due on Marijuana or Marijuana Products pursuant to M.G.L. c. 64N, shall be allocated to the Host Community of the Marijuana Establishment that conducts the sale. Community Impact Fees shall be remitted consistent with the terms of that Host Community Agreement of the Marijuana Establishment that conducts the sale. The Massachusetts sales tax and marijuana excise tax shall remain payable to the Commonwealth in accordance with M.G.L. c. 64H and M.G.L. c. 64N, respectively.
(g) 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; or Microbusinesses and Craft Marijuana Cooperatives, for a period of 36 months beginning on the date on which at least one licensee in each Social Consumption Establishment license class, Supplemental On-site Consumption, Hospitality On-site Consumption, and Marijuana Event Organizer, has received a notice to commence operations, provided, however, that the Commission may, by vote, 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;

500.050: continued

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 contemporaneously collect and publicly report on data measuring the criteria throughout the exclusivity period every six months. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least 12 months before the end of the 36-month period to provide adequate time to consider whether an extension of the 36-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 36-month period, unless the Commission affirmatively votes to extend the period of exclusivity by a period of 24 months after the first 36-month period. Any subsequent extension of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(6)(g)1., have not been met.

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

(i) A Social Consumption Establishment is not considered to be a Marijuana Retailer as defined under 935 CMR 500.002, but is authorized to sell Finished Marijuana Products directly to Consumers.

(j) A Social Consumption Establishment shall register as a vendor with the Department of Revenue and collect and remit marijuana retail taxes in accordance with 830 CMR 64N.1.1: *Marijuana Retail Taxes*.

(7) Independent Testing Laboratory.

(a) Prior to final licensure 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.

(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.

(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, transport, sell, Repackage, or otherwise Transfer Marijuana or Marijuana Products to Marijuana Establishments and sell to Consumers.

500.050: continued

Marijuana Retailers may sell Marijuana Accessories and Branded Goods. A Marijuana Retailer can deliver Marijuana or Marijuana Products to Consumers in accordance with 935 CMR 500.000. A Marijuana Retailer may not allow consumption by Consumers on the Premises of the Marijuana Establishment unless the Marijuana Retailer obtained a Supplemental On-site Consumption License, and the Consumption Area is approved by the Commission.

2. A retailer shall operate all Marijuana-related activities solely at the address identified in the license.

3. No Person or Entity Having Direct or Indirect Control in a Marijuana Retailer license shall be granted or hold more than a combined total of three Marijuana Retailer Licenses and shall be subject to the limitations in 935 CMR 500.050(1)(b)6.

(b) A Marijuana Retailer shall provide a retail location accessible to Consumers 21 years of age or older, or, if colocated with an MTC, Registered Qualifying Patients with the Medical Use of Marijuana Program in possession of a Medical Registration Card.

(c) An eligible Marijuana Retailer may operate a Supplemental On-site Consumption license within its existing Marijuana Establishment Premises.

(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. A Third-party Transporter is permitted to transport Marijuana and Marijuana Products between Marijuana Establishments and between MTCs. An eligible Third-party Transporter may operate a Supplemental On-site Consumption license within its existing Marijuana Establishment Premises.

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 shall comply with M.G.L. c. 94G, and 935 CMR 500.000.

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

(10) Marijuana Courier.

(a) A Marijuana Courier may deliver Marijuana or Marijuana Products directly to Consumers from a Marijuana Retailer or to Patients or Caregivers from an MTC with which the Marijuana Courier has a Delivery Agreement. A Marijuana Courier may be an Owner of or have a controlling interest in a Cultivation, Product Manufacturing, Social Consumption Establishment, Research, Retail or Transportation license. An eligible Marijuana Courier may operate a Supplemental On-site Consumption license within its existing Marijuana Establishment Premises.

(b) A Marijuana Courier 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 until April 1, 2029, notwithstanding the date on which the first Delivery Operator Licensee received a notice to commence operations; provided, however, that the Commission may vote 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; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(10)(b)4.

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;

500.050: continued

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 Licensees 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 contemporaneously collect and publicly report on data measuring the criteria throughout the exclusivity period every six months. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least 12 months before April 1, 2029 to provide adequate time to consider whether an extension of the exclusivity period is necessary prior to the conclusion of that time period.

3. The licenses shall generally be available to applicants after April 1, 2029 unless the Commissioners affirmatively vote to extend the period of exclusivity by an additional period, as determined by the Commission in its discretion. Any subsequent extension of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. have not been met.

4. If data collected by the Commission demonstrates progress toward the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. and that demand for Consumer delivery is likely to exceed the supply that could be provided by businesses that meet the exclusivity requirements during the exclusivity period, the Commission may vote during the exclusivity period to allow the following additional businesses to own Delivery Licenses:

a. Worker-owned cooperatives organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995; or
b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO.
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 License.
d. No Person or Entity with Direct or Indirect Control shall possess, or be granted, more than three Marijuana Courier Licenses.
e. After January 8, 2021, any application or license classified as a Delivery-only license pursuant to previously adopted regulations shall be converted to a Delivery Courier application or license governed by 935 CMR 500.050(10).

5. The Commission reserves the authority to review and, where appropriate, amend the exclusivity period set forth in 935 CMR 500.050(10)(b) in the event of a change in federal law governing Marijuana, including but not limited to rescheduling under the federal Controlled Substances Act, following Commission vote and any required rulemaking.

(11) Marijuana Delivery Operator.

(a) A Delivery Operator may Wholesale and Warehouse Finished Marijuana and Finished Marijuana Products acquired from a Marijuana Establishment, except an Independent Testing Laboratory, and deliver, sell, White Label, Repackage, or otherwise Transfer Marijuana or Marijuana Products to Consumers. A Delivery Operator may be an Owner of or have a controlling interest in a Cultivation, Product Manufacturing, Social Consumption Establishment, Research, Transportation or Retail license, subject to the limitations stated in 935 CMR 500.050(11)(e).

(b) A Delivery Operator Licensee shall operate a Warehouse for the purpose of storing Finished Marijuana Products.

(c) A Delivery Operator License does not authorize the Licensee to operate a retail storefront.

500.050: continued

(d) Notwithstanding that a Delivery Operator is not considered to be a Marijuana Retailer as defined under 935 CMR 500.002 or authorized to engage in permitted activities under 935 CMR 500.050(8), but is authorized to sell Finished Marijuana Products directly to consumers, a Delivery Operator shall register as a vendor with the Department of Revenue and collect and remit marijuana retail taxes in accordance with 830 CMR 64N.1.1: *Marijuana Retail Taxes*.

(e) A Delivery Operator shall comply with the labeling and packaging requirements contained in 935 CMR 500.105(5) and 935 CMR 500.105(6) and Requirements for Handling of Marijuana pursuant to 935 CMR 500.105(3)(a) and (b).

(f) Delivery Operator 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 until April 1, 2029, notwithstanding the date on which the first Delivery Operator Licensee received a notice to commence operations; provided, however, that the Commission may vote 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; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(11)(f)4.

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 Licensees 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 contemporaneously collect and publicly report on data measuring the criteria throughout the exclusivity period every six months. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least 12 months before April 1, 2029 to provide adequate time to consider whether an extension of the exclusivity period is necessary prior to the conclusion of that time period.

3. The licenses shall generally be available to applicants after April 1, 2029 unless the Commissioners affirmatively vote to extend the period of exclusivity by an additional period, as determined by the Commission in its discretion. Any subsequent extension of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(11)(f)1. have not been met.

4. If data collected by the Commission demonstrates progress toward the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(11)(f)1. and that demand for Consumer delivery is likely to exceed the supply that could be provided by businesses that meet the exclusivity requirements during the exclusivity period, the Commission may vote during the exclusivity period to allow the following additional businesses to own Delivery Licenses:

a. Worker-owned cooperatives organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995; or

500.050: continued

b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO.

5. The Commission reserves the authority to review and, where appropriate, amend the exclusivity period set forth in 935 CMR 500.050(11)(f) in the event of a change in federal law governing Marijuana, including but not limited to rescheduling under the federal Controlled Substances Act, following Commission vote and any required rulemaking.

(g) 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 Operator License.

(h) No Person or Entity Having Direct or Indirect Control in a Delivery Operator License shall obtain, or be granted, more than a total of three Delivery Operator Licenses.

(i) Two years from the date the first Delivery Operator Licensee receives a notice to commence operations, the Commission or its designee shall commence an evaluation of the development of the Cannabis delivery market in the Commonwealth of Massachusetts, which may include assessing the competitiveness and concentration of the market, the repackaging and white labeling requirements, and any other matter as determined by the Commission. The Commission shall complete its evaluation within four months, unless the Commission determines that there is a reasonable basis for an extension. The Commission may take any action including, but not limited to, issuing regulations or guidance, it deems necessary to address issues with market development.

(j) An eligible Delivery Operator may operate a Supplemental On-site Consumption License within its existing Marijuana Establishment Premises.

(12) Marijuana Research Facility Licensee.

(a) A Marijuana Research Facility Licensee may conduct research after receiving approval from the Commission. A license to operate a Marijuana Research Facility shall be separate from receipt of a Research Permit to conduct a specific research project at the Marijuana Research Facility.

(b) A Marijuana Research Facility Licensee may be an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth, including a licensed Marijuana Establishment or MTC.

(c) Unless otherwise authorized by law, any Marijuana Research Facility Licensee that is not licensed pursuant to 935 CMR 500.050 or 935 CMR 501.050: *Medical Marijuana Treatment Centers (MTCs)* to engage in the cultivation, production or retail sale of Marijuana or Marijuana Products shall acquire all Marijuana or Marijuana Products used in research from a Marijuana Establishment or MTC licensed to engage in such activity except:

1. A Marijuana Research Facility Licensee may engage in cultivation or product manufacturing of Marijuana or Marijuana Products if the cultivation or product manufacturing process is the subject of its research; or
2. As otherwise determined by the Commission.

(d) A Marijuana Research Facility may be colocated with another Marijuana Establishment or MTC license provided that the Marijuana Research Facility and the colocated licensed Marijuana Establishment or MTC are:

1. Commonly owned; and
2. Clearly physically separated.

(e) A Marijuana Research Facility Licensee may not Transfer Marijuana or Marijuana Products to another Marijuana Establishment, other than for testing, or sell to a Consumer, Registered Qualifying Patient or Caregiver Marijuana or Marijuana Products that has been acquired for a research project under its Marijuana Research Facility License.

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 shall 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 may 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 shall 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 the most current, executed HCA or HCA Waiver entered into between a License Applicant and a Host Community that complies with 935 CMR 500.180;

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 shall include:

500.101: continued

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, the planning board, the contracting authority for the municipality and local cannabis licensing authority, if applicable;

c. Attestation that at least one meeting was held within the municipality where the establishment is proposed to be located;

d. Attestation that at least one meeting was held after normal business hours;

e. 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;

f. 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(a½)(iv). The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed. A Licensee may satisfy their positive impact plan requirement, in part, by donating to the Cannabis Social Equity Trust Fund at any time once licensed.

12. In addition to donating to the Cannabis Social Equity Trust Fund, a Licensee may satisfy the remainder of their positive impact plan by complying with one or more of the following:

a. 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;

b. The Licensee can demonstrate that a majority of employees have a conviction or continuance without a finding for an offense under M.G.L. c. 94C or an equivalent conviction in Other Jurisdictions; or

c. The Licensee can demonstrate that in a year, at least one percent of its gross revenue or a minimum of 20 hours of each staff member's paid time is contributed to supporting persons from communities disproportionately harmed by Marijuana prohibition or an Area of Disproportionate Impact as determined by the Commission.

13. The requisite nonrefundable application fee pursuant to 935 CMR 500.005; and

14. Any other information required by the Commission.

(b) Background Check. Prior to an application being considered complete, each applicant for licensure shall 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:

500.101: continued

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, and Public Law 92-544, submitted in a form and manner as determined by the Commission; and
g. Any other authorization or disclosure deemed necessary by the Commission, for the purposes of conducting a background check.

3. Relevant Background Check Information. All Persons and Entities Having Direct or Indirect Control, and those individuals and entities contributing 10% or more in the form of a loan, 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 an Other Jurisdiction, 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 an Other Jurisdiction 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 disciplinary actions in the Commonwealth or any other state 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;
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 an Other Jurisdiction 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.

(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;

500.101: continued

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 and Inversion;
   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. Recordkeeping procedures;
   j. Maintenance of financial records; and
   k. Diversity plans to promote equity among people of color, particularly Black, African American, Hispanic, Latinx, and Indigenous people, women, Veterans, persons with disabilities, and LGBTQ+ people, 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 through 500.145 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) License Pre-certification Application Process for Economic Empowerment Priority Applicants and Social Equity Program Participants.

(a) License Applicants controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants may file a Pre-certification Application. The Pre-certification Application for licensure shall be in a form and manner specified by the Commission. After receiving pre-certification by the Commission pursuant to 935 CMR 500.101(2), an applicant may submit a Provisional License Application. After a License Applicant receives a Provisional License, the License Applicant shall comply with the requirements of 935 CMR 500.103.

(b) Pre-certification Application. The Pre-certification Application shall consist of three sections: Application of Intent; Background Check; and Management and Operations Profile.

1. A License 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.
2. The Commission may determine a License Applicant to be pre-certified upon finding a License Applicant has submitted responsive documentation demonstrating a propensity to successfully operate under a Marijuana Establishment License.
3. Once deemed complete, the Commission reserves the right to approve or deny the Pre-certification Application.
4. On approval of the Pre-certification Application, a License 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 c. 4, § 7, cl. 26.

(c) Application of Intent. An applicant for pre-certification under 935 CMR 500.101(2)(c) shall submit the following as part of the Application of Intent:

500.101: continued

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 nonrefundable application fee pursuant to 935 CMR 500.005; and
5. Any other information required by the Commission.

(d) Background Check. Each License Applicant for pre-certification shall 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 disciplinary 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 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:
      i. The denial, suspension, or revocation, or other action with regard to of a professional or occupational license, registration, or certification or the surrender of a license;
      ii. Administrative actions with regard to unfair labor practices, employment discrimination, or other prohibited labor practices; and
      iii. Administrative actions with regard to financial fraud, securities regulation, or consumer protection.
   e. 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
   f. Any other information required by the Commission.
3. Individuals and entities seeking pre-certification may submit to a Commission initiated background check upon request in a form and manner determined by the Commission.

(e) Management and Operations Profile. Each applicant for pre-certification 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 Finished Marijuana and Finished Marijuana Products are kept out of plain sight and not visible from a public place;
   b. Prevention of Diversion and Inversion;

500.101: continued

c. Where applicable to Delivery Licensees, procedures to ensure the safe delivery of Finished Marijuana Products to Consumers and as permitted, to Patients and Caregivers;
d. Storage of Marijuana including, but not limited to, disposal procedures for unsold and unconsumed Marijuana Products;
e. Transportation of Marijuana;
f. Inventory procedures, including procedures for reconciling undelivered Individual Orders at the close of the business day;
g. Procedures for quality control and testing of product for potential contaminants;
h. Personnel policies;
i. Dispensing procedures, including the process for how Individual Orders will be filled;
j. Procedures to ensure that Consumers are not overserved or that individual order delivery limits are adhered to;
k. procedures to educate Consumers about risk of impairment and penalties for operating under the influence;
l. Recordkeeping procedures;
m. Maintenance of financial records;
n. Sanitary practices in compliance with 105 CMR 590.000: *State Sanitary Code Chapter X - 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;

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 500.105 through 500.145 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; and
6. Any other information required by the Commission.

(f) 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 24 months of the date of the applicant's pre-certification approval pursuant to 935 CMR 500.101(2)(b)3.
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. Once all information has been entered into each section of the application, the application may be submitted. Following Commission review, the License Applicant will be notified if the application has been deemed complete or if additional information may be necessary.
4. 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).
5. The Pre-certification and Provisional License application combined will be reviewed in accordance with 935 CMR 500.102(1) and 935 CMR 500.102(2).
6. Application materials, including attachments, may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and c. 4, § 7, cl. 26.

(g) Application of Intent. An applicant for licensure under 935 CMR 500.101(2)(g) 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 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);

500.101: continued

5. Identification of the proposed address for the license;
6. Documentation of a property interest in the proposed address. The proposed Marijuana Establishment shall 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 shall 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 may 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 shall 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;
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 the most current, executed HCA or HCA Waiver entered into between a License Applicant and a Host Community that complies with 935 CMR 500.180. In addition to this requirement, the Host Community shall state that they have accepted the Social Consumption Establishment applicant's plans to:

500.101: continued

i. Mitigate noise;
ii. Mitigate odor; and
iii. Comply with applicable 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 Licensee may satisfy their positive impact plan requirement, in part, by donating to the Cannabis Social Equity Trust Fund at any time once licensed.

e. In addition to donating to the Cannabis Social Equity Trust Fund, a Licensee may satisfy the remainder of their positive impact plan by complying with one or more of the following:

i. 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;

ii. The Licensee can demonstrate that a majority of employees have a conviction or continuance without a finding for an offense under M.G.L. c. 94C or an equivalent conviction in Other Jurisdictions; or

iii. The Licensee can demonstrate that in a year, at least one percent of its gross revenue or a minimum of 20 hours of each staff member's paid time is contributed to supporting persons from communities disproportionately harmed by Marijuana prohibition or an Area of Disproportionate Impact as determined by the Commission.

f. Any other information required by the Commission.

(h) Background Check. Each applicant for licensure shall submit complete background check application information in compliance with the provisions of 935 CMR 500.101(2)(d);

1. Each applicant for licensure shall submit the list of individuals and entities in 935 CMR 500.101(1)(b)2. and 500.101(2)(d)1.

2. The applicant shall resubmit the information required under 935 CMR 500.101(1)(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.

(i) Management and Operations Profile. Each applicant for licensure 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 diversity plan to promote equity among people of color, particularly Black, African American, Hispanic, Latinx, and Indigenous people, women, Veterans, persons with disabilities, and LGBTQ+ people, in the operation of the Marijuana Establishment. The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed.

(j) The Executive Director of the Commission may approve, provided the Executive Director gives the Commission timely notice of his decision:

1. Applications for Delivery Pre-Certification;

500.101: continued

2. Applications and authorization to commence operations for Delivery Endorsements pursuant to 935 CMR 500.050(5) for licensed Marijuana Microbusinesses that have complied with Commission requirements pertaining to delivery operations.

(3) Additional Specific Requirements.

(a) Additional Requirements for Cultivators. In addition to the requirements for the Management and Operations Profile 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.

(b) Additional Requirements for Craft Marijuana Cooperatives. In addition to the requirements for the Application of Intent and the Management and Operations Profile set forth in 935 CMR 500.101(1)(a) and (c), applicants for a license to operate a Marijuana Establishment as a Craft Marijuana Cooperative shall provide:

1. As part of the Application of Intent:
   a. Evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application;
   b. 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;
   c. Evidence that one Member has filed a Schedule F (Form 1040), Profit or Loss from Farming, within the past five years; and
   d. Evidence that the cooperative is organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995.
2. As part of the Management and Operations Profile:
   a. The plan required of Cultivators pursuant to 935 CMR 500.101(3)(a); and
   b. The plan(s) and documentation required of Marijuana Product Manufacturers pursuant to 935 CMR 500.101(3)(c), as applicable.

(c) Additional Requirements for Marijuana Product Manufacturers. In addition to the requirements for the Management and Operations Profile 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:

1. A description of the types, forms and shapes, colors, and flavors of Marijuana Products that the Marijuana Establishment intends to produce;
2. The methods of production;
3. 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: *State Sanitary Code Chapter X - Minimum Sanitation Standards for Food Establishments*.
4. A sample of any unique identifying mark that will appear on any product produced by the applicant as a branding device; and
5. A detailed description of the Marijuana Establishment's proposed plan for obtaining Marijuana from a licensed Marijuana Establishment(s).

(d) Additional Requirements for Microbusinesses. In addition to the requirements for the Application of Intent and the Management and Operations Profile set forth in 935 CMR 500.101(1)(a) and (c), applicants for a license to operate a Marijuana Establishment as a Microbusiness shall also provide:

1. 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;
2. As part of the Management and Operations Profile, the same plans required of Marijuana Cultivators pursuant to 935 CMR 500.101(3)(a), Marijuana Product Manufacturers pursuant to 935 CMR 500.101(3)(c), and in the case of a Delivery Endorsement, Retailers pursuant to 935 CMR 500.101(3)(e) to the extent that these requirements implicate retail sales involving delivery.

500.101: continued

(e) Additional Requirements for Retailers. In addition to the requirements for the Management and Operations Profile 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).

(f) Additional Requirements for Independent Testing Laboratories. In addition to the requirements for the Management and Operations Profile set forth in 935 CMR 500.101(1)(c), applicants for a license to operate an Independent Testing Laboratory may provide, as part of the Management and Operations Profile packet, documentation demonstrating accreditation that complies with 935 CMR 500.050(7)(a). If unable to demonstrate accreditation prior to provisional licensure, the applicant shall demonstrate accreditation prior to final licensure.

(g) Additional Requirements for Marijuana Courier Applicants. In addition to the requirements set forth in 935 CMR 500.101(2) applicants to operate under a Marijuana Courier license shall also provide the following:

1. As part of the Pre-certification application, a delivery plan that demonstrates compliance with 935 CMR 500.145.

2. As part of the Provisional License application, information and documentation regarding any agreement, and the agreement if applicable, with a Marijuana Retailer or MTC and/or Third-party Technology Platform pursuant to 935 CMR 500.145(1)(g).

(h) Additional Requirements for Delivery Operator Applicants. In addition to the requirements set forth in 935 CMR 500.101(2), applicants to operate under a Delivery Operator License shall also provide the following:

1. As part of the Pre-certification application, a delivery plan that demonstrates compliance with 935 CMR 500.145 and 500.146.

2. As part of the Pre-certification application, a plan to obtain Marijuana and Marijuana Products.

3. As part of the Provisional License application, information and documentation regarding any agreements with Third-party Technology Platforms pursuant to 935 CMR 500.145(1)(g).

4. As part of the Provisional License application, a detailed plan for White Labeling, if applicable, which shall include:

a. An image of the logo and name to be used as part of the label;

b. An indication of whether the applicant intends the label to be Affixed by the Applicant or by Marijuana Establishments with which the Applicant intends to enter into Wholesale Agreements; and

c. Identification of the Marijuana Establishments from which the Applicant anticipates entering into Wholesale Agreements, if known. If unknown at the time of Provisional License application, the Applicant shall be required to identify the Marijuana Establishments prior to Final Licensure.

5. Applicants for Delivery Operator Licenses shall comply with the requirements of 935 CMR 500.103(1)(h).

(i) Additional Requirements for Social Consumption Establishment Applicants.

1. Applicants for a Social Consumption Establishment License shall indicate in the Management and Operations Profile which Social Consumption Establishment License class it has selected. The applicant for a Social Consumption Establishment License may select either a Supplemental On-site Consumption License, a Hospitality On-site Consumption License, or a Marijuana Event Organizer License.

2. Applicants for a Social Consumption Establishment License, except for Marijuana Event Organizers, shall indicate in the Management and Operations Profile whether the Social Consumption Establishment will allow Indoor Non-Smoking Consumption Areas, Indoor Smoking Consumption Areas, Outdoor Non-Smoking Consumption Areas or Outdoor Smoking Consumption Areas. Applicants for a Marijuana Event Organizer License shall submit this information in an Event Plan no later than 90 days before the proposed Temporary Consumption Event. Marijuana Event Organizers shall select in the Management and Operations Profile whether it will Warehouse Marijuana and Marijuana Products or will partner with other Marijuana Establishments to conduct sales for the Marijuana Event Organizer at a Temporary Consumption Event.

500.101: continued

3. Applicants for a Social Consumption Establishment License shall submit an attestation to the Commission that it is in compliance with all local laws.

4. Applicants for a Marijuana Event Organizer License shall create procedures for managing the sale of Marijuana and Marijuana Products and the storage of cash at a Temporary Consumption Event. These procedures shall include the use of locked compartments to secure cash and Marijuana and Marijuana Products during the Temporary Consumption Event and plans to transport Marijuana and Marijuana Products to the Temporary Consumption Event and return unsold Marijuana and Marijuana Products to its point of origin.

5. Marijuana Establishments applying for a Supplemental On-site Consumption License with the same Persons or Entities with Direct or Indirect Control shall not be required to submit financial information and background documentation of owners in its application.

6. Notwithstanding 935 CMR 500.005(1)(e); 935 CMR 500.103(1); 935 CMR 500.103(4)(d); and 935 CMR 500.120(11)(f), Marijuana Establishments applying for Supplemental On-site Consumption who are not altering any structural element of the Marijuana Establishment and do not allow Indoor Smoking Consumption Areas or Outdoor Smoking Consumption Areas shall not require an architectural review or structural change.

7. In addition to the requirements set forth in 935 CMR 500.101(1) and 935 CMR 500.101(2), applicants for a license to operate a Social Consumption Establishment shall also provide plans of all policies and procedures set forth in 935 CMR 500.141(2) as a part of their Pre-certification application.

8. Applicants for a Social Consumption Establishment license shall submit a copy of the express written permission of the Host Community or municipality for the sale of other items as authorized in 935 CMR 500.141(3)(d)6., if applicable.

(4) MTC Priority Applicants. An MTC Priority Applicant shall be granted priority review of its application for a Marijuana Establishment license that is colocated with and for the same type of licensed activity (Marijuana Cultivator, Product Manufacturer or Retailer) as the MTC (formerly, RMD) license which was the basis for its priority review status certified by the Commission.

(a) The MTC license, for which priority review status was certified by the Commission, shall be active at the time the Marijuana Establishment application is submitted in order to receive priority review for that application.

(b) An MTC Priority Applicant shall be eligible for priority review of only its application for a Marijuana Establishment license that is:

1. Colocated with the MTC whose Certificate of Registration was the basis for its priority review status previously certified by the Commission in 2018; and

2. For the same type of licensed activity (Marijuana Cultivator, Product Manufacturer or Retailer) for which the MTC received a provisional Certificate of Registration or final Certificate of Registration that formed the basis of its priority review status certified by the Commission in 2018.

(5) Expedited Applicants. Following the review of applications submitted by priority applicants, applications submitted by Expedited Applicants shall be reviewed.

(a) The following applicants are eligible to be considered Expedited Applicants:

1. Social Equity Participants;
2. Marijuana Microbusiness applicants;
3. Marijuana Craft Marijuana Cooperative applicants;
4. Independent Testing Laboratory applicants;
5. Outdoor Marijuana Cultivator applicants; or
6. Minority, women, and veteran-owned businesses.

(b) Eligibility Criteria

1. Applicants for Marijuana Microbusinesses, Craft Marijuana Cooperatives, Independent Testing Laboratories, and Outdoor Marijuana Cultivators are only eligible for expedited review for those specific applications only and no other type of license application.

2. A Social Equity Participant shall possess 10% or more of equity in a proposed ME for the application to receive expedited review.

500.101: continued

3. A minority, woman, and/or veteran-owned business shall:
a. Disclose this designation in their license application and either be certified as that specific type of business with the SDO or submit documentation in a time and manner determined by the Commission to demonstrate that they have signed up for the SDO's required business class.
b. Receive certification as minority, women, and/or veteran-owned business by the SDO prior to obtaining a final license.

(6) CMO License Requirements. Marijuana Establishment applicants seeking to operate as an MTC shall also comply with the application requirements in 935 CMR 501.000: *Medical Use of Marijuana*.

(7) Pre-verification and Verification of Social Equity Businesses.
(a) Pre-verification of Eligibility as a Social Equity Business is applicable to individuals and entities who, as a business entity, have not been licensed as a Marijuana Establishment.
1. An individual or entity may file, in a form and manner specified by the Commission, an application for Pre-verification of Eligibility as a Social Equity Business. Once the Commission has confirmed that the application is complete, Commission staff will review the application to determine whether the individual or entity is eligible as a Social Equity Business. After making this determination, the Commission will notify the individual or entity whether it has been determined to be a pre-verified Social Equity Business.
2. The Commission shall act on an application for Pre-verification of Eligibility as a Social Equity Business within 30 days of receipt.
3. Pre-verified Social Equity Businesses certified by the Commission may request that the Commission provide confirmation of pre-verified status to a Host Community.
(b) Verification of Eligibility as a Social Equity Business is applicable to individuals and entities who, as a business entity, are licensed as a Marijuana Establishment.
1. A Marijuana Establishment may file, in a form and manner specified by the Commission, an application for Verification of Eligibility as a Social Equity Business. Once the Commission has confirmed that the application is complete, Commission staff will review the application to determine whether the Marijuana Establishment is a Social Equity Business or is eligible as a Social Equity Business. After making this determination, the Commission will notify the Marijuana Establishment whether it has been determined to be a verified Social Equity Business.
2. The Commission shall act on an application for Verification of Eligibility as a Social Equity Business within 30 days of receipt.
(c) If there has been a change in qualifying criteria after the submission of an application, or after receiving pre-verification, the individual or entity pre-verified or verified as a Social Equity Business shall revise this information and attest to the change in a form and manner determined by the Commission. The individual or entity shall also notify the Host Community of a change in qualifying criteria to its application or its pre-verified status as a Social Equity Business, as applicable.
(d) List to be provided to the Department of Revenue. The Commission shall provide the Department of Revenue with a list of Social Equity Businesses 30 days within pre-verification or Verification of Eligibility as a Social Equity Business by the Commission.

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), 500.800 and 500.801; 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.

500.102: continued

(b) The Commission shall notify each applicant in writing that:

1. The application has been deemed complete. Once deemed complete, the Commission reserves the right to approve or deny the license application;

2. The application has been deemed incomplete, and include the grounds for which it has been deemed incomplete; or

3. 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 will result in evaluation of the application as submitted. Nothing in 935 CMR 500.101 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.

1. For all License Applicants not subject to 935 CMR 500.102(1)(d)2., the Commission shall request that the municipality respond within 60 days of the date of the correspondence that the applicant's proposed Marijuana Establishment complies with municipal bylaws or ordinances.

2. On determination that the application submitted by a Social Equity Business or a business controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants is complete, a copy of the completed application, to the extent permitted by law, will be forwarded to the Host Community. The Host Community shall respond within 30 days of the date of the correspondence that the applicant's proposed Marijuana Establishment complies or does not comply with municipal bylaws or ordinances. If a Host Community does not respond to the Commission's correspondence within 30 days, the Commission will consider the requirement to be satisfied without any further action by the Host Community or applicant.

(e) The applicant shall keep current all information required by 935 CMR 500.000, 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. If an application is initially deemed complete, and later deemed incomplete, a notice will be provided to the applicant. An incomplete application must be fully evaluated pursuant to 935 CMR 500.102(1)(a) prior to being deemed complete again and submitted to the Commission pursuant to M.G.L. c. 94G, § 5(a).

(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 may 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 shall 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, 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.

(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 and will require Commission approval.

(f) To the extent updates are required to the information provided for initial licensure, the Marijuana Cultivator shall 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).

(g) Prior to the issuance of a final license, an Independent Testing Laboratory shall demonstrate compliance with 935 CMR 500.050(7)(a) and provide to the Commission documentation relating to its accreditation.

(h) To the extent that an Applicant for a Delivery Operator License decides, following the submission of the Application for Provisional Licensure, but prior to receiving Final Licensure, that the Applicant will engage in White Labeling, the Applicant shall submit the information required by 935 CMR 500.101(3)(h)4. to the Commission. The Executive Director shall determine whether the submission satisfies the requirements of 935 CMR 500.101(3)(h)4.

(i) To demonstrate compliance with 935 CMR 500.141(10), a Social Consumption Establishment applicant that intends to include an Indoor Smoking Consumption Area shall also submit a ventilation and filtration compliance letter, bearing the stamp and signature of a Massachusetts Licensed Mechanical Engineer in accordance with M.G.L. c. 112, § 81M, together with supporting documentation, including but not limited to plans, computations, and specifications demonstrating system design and performance.

500.103: continued

(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 that is not available at the time of submission shall 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 at the address(es) identified on the final license issued by the Commission.

(g) Unless authorized by the Commission, a Marijuana Establishment may not sell any service or good other than Marijuana and Marijuana Products, including MIPs and Marijuana Seeds, Branded Goods, and Marijuana Accessories; provided however, that a Social Consumption Establishment may sell other items in accordance with 935 CMR 500.141(3)(d)6.

(3) The Marijuana Establishment shall be operational within the time indicated in 935 CMR 500.101(1)(c)5. 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.

(a) No later than 90 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 935 CMR 500.100(1)(c)8.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 shall 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 shall 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 Establishments shall update as needed, and ensure the accuracy of, all information that it submitted on its initial application for a license.

(g) The Marijuana Establishment shall comply with the requirements of 935 CMR 500.104(1) in accordance with that section separately from the renewal application.

500.103: continued

(h) 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 500.101(1)(c)8.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.

(i) All Economic Empowerment Priority Applicants shall submit, as part of its renewal application, an attestation in a form and manner determined by the Commission, executed by the individuals who, through ownership, qualify an applicant or licensee as an Economic Empowerment Priority Applicant certifying that:

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 500.101(1)(c)8.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.

(j) CMO Marijuana Retailers shall submit the following information pertaining to patient supply of Marijuana:

1. The licensee's policy and the procedures (*e.g.*, data points, formulas) relied on to determine what constitutes a sufficient quantity and variety of Marijuana Products consistent with 935 CMR 500.140(15); and
2. The licensee's policy and procedures for determining what qualifies as a reasonable substitution for a medical Marijuana Product under 935 CMR 500.140(15) and its policy for communicating reliance on the substitution to patients.

(k) To the extent updates are required to the information provided for initial licensure, a Social Consumption Establishment with an Indoor Smoking Consumption Area shall submit an updated ventilation and filtration compliance letter, bearing the stamp and signature of a Massachusetts Licensed Mechanical Engineer in accordance with M.G.L. c. 112, § 81M, together with supporting documentation, including but not limited to plans, computations, and specifications, and a renewal application submitted under 935 CMR 500.103(4).

(5) The Commission shall maintain a publicly available and searchable source of information about all operating licensees, including Delivery Licensees, on its website.

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 or in certain cases, the Commission has delegated authority to approve changes to the Executive Director. 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.

500.104: continued

3. Priority Applicants Change in Ownership or Control.
a. Economic Empowerment Priority Applicants shall notify the Commission of any change in ownership or control, regardless of whether such change would require the applicant to seek approval pursuant to 935 CMR 500.104(1)(b)1. and 2.
b. When an Economic Empowerment Priority Applicant notifies the Commission of any change in ownership or control, the Commission shall review anew the applicant's eligibility for economic empowerment certification status.
c. When an Economic Empowerment Priority Applicant implicates the approval process established in 935 CMR 500.104(1)(b)1.and 2., the applicant shall seek approval by the Commission of a change in ownership or control, and shall undergo the approval process provided therein prior to making a change in ownership or control.
i. In order to maintain its status as an Economic Empowerment Priority Applicant, the Economic Empowerment Priority Applicant in its submission shall demonstrate that it continues to qualify as an Economic Empowerment Priority Applicant, as defined in 935 CMR 500.002.
ii. If the qualifications are no longer 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.
iii. 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.

(e) Court Supervised Proceedings. Notification and approval requirements with respect to Court Appointees and Court Supervised Proceedings are detailed in 935 CMR 500.104(3).

(2) The Executive Director of the Commission may approve, provided the Executive Director gives the Commission timely notice of his decision:
(a) A Location Change;
(b) A Name Change;
(c) Any new equity owner, provided that the equity acquired is below 10%;
(d) Any new Executive or Director, provided that the equity acquired is below 10%;
(e) A reorganization, provided that the ownership and their equity does not change; or
(f) Court Appointees, as detailed in 935 CMR 500.104(3).

(3) Court Supervised Proceedings.
(a) Commission Petition.
1. The Commission or its delegee may seek to file a petition where there is an imminent threat or danger to the public health, safety or welfare, which may include one or more of the following:
a. Notice of violations of state or federal criminal statutes including, but not limited to, M.G.L. c. 94C, §§ 32 and 34;
b. Noncompliance with or violations of its statute or regulations such that the imposition of fines or other disciplinary actions would not be sufficient to protect the public;
c. Conditions that pose a substantial risk of Diversion or Inversion of Marijuana or Marijuana Products to or from the illicit market or to individuals younger than 21 years old, who do not possess a valid pediatric Patient Registration Card issued by the Commission;
d. Conditions that pose a substantial risk to Patients including, but not limited to, patient supply;
e. Violations of testing or inventory and transfer requirements such that the Commission cannot readily monitor Marijuana and Marijuana Products cultivated, manufactured, transported, delivered, transfer, or sold by a Licensee; or

500.104: continued

f. Other circumstance that the Commission or its delegee determines poses an imminent threat or danger to public health, safety, or welfare.

2. The Commission or its delegee may seek to file a petition, intervene, or otherwise participate in a Court Supervised Proceeding or any other proceeding to secure its rights under M.G.L. c. 94G, § 19.

3. Nothing in 935 CMR 500.104(3) shall limit the Commission's authority under M.G.L. c. 94G, § 4(a)(v).

(b) Delegation. In accordance with M.G.L. c. 10, § 76(j), the Commission may delegate to the Executive Director the authority to appear on its behalf in Court Supervised Proceedings or any other proceeding, and to administer and enforce its regulations relative to such proceedings or Court Appointees which includes, but it not limited to, the following:

1. To determine the form and manner of the application process for a Preapproved Court Appointee;

2. To preapprove, recommend, disqualify, or discipline Court Appointees;

3. To approve the distribution of escrow funds under 935 CMR 500.105(10) or bond funds under 935 500.105(16) including, but not limited to, to cover the cost of a Court Appointee or the operations of a Marijuana Establishment under supervision subject to the receipt of a court order prior to the expenditure of such funds;

4. To approve the use of additional funds subject to the receipt of a court order prior to the expenditure of such funds;

5. To preapprove or approve certain transactions; provided, however, any change in the ownership or control under 935 CMR 500.104(1) shall be considered by the Commission; or

6. To impose fines or other disciplinary action under 935 CMR 500.500, however, any suspension or revocation of a License under 935 CMR 500.450 shall be considered by the Commission.

(c) Notice to the Commission.

1. A Licensee or Person or Entity Having Direct or Indirect Control over a Licensee shall provide notice to the Commission of a petition or Court Supervised Proceeding or any other proceeding implicating these regulations:

a. Five business days prior to the Licensee or Person or Entity Having Direct or Indirect Control filing a petition; or

b. On receipt of notice that a petition was filed or an imminent threat of litigation was received.

2. Notice to the Commission shall include a copy of the relevant communications, petition, pleadings and supporting documents, and shall be sent electronically to Commission@CCCMass.Com and by mail to the Cannabis Control Commission at:
Cannabis Control Commission,
ATTN: General Counsel - Court Appointees
Union Station
2 Washington Square
Worcester, MA 01604

3. As soon as practicable, the Licensee or Person or Entity Having Direct or Indirect Control over a Licensee shall provide electronic and written notice to the Commission if the circumstances giving rise to the petition pose or may pose a threat to the public health, safety or welfare.

4. As soon as practicable, the Licensee or Person or Entity Having Direct or Indirect Control over a Licensee shall provide notice to the court that it is licensed by the Commission and of the regulations relative to Court Supervised Proceedings and Court Appointees including, but not limited to, the qualifications for a Court Appointee established in 935 CMR 500.104(3)(d)1.; and the list of Preapproved Court Appointees.

5. A Licensee or Person or Entity Having Direct or Indirect Control over a Licensee that fails to comply with the requirements of 935 CMR 500.104(3) may be subject to disciplinary action including, but not limited to, revocation or suspension of any license or registration under 935 CMR 500.450.

(d) Commission Qualifications for Court Appointees.

500.104: continued

1. Qualifications. The Commission deems the following qualifications essential in a Court Appointee, subject to the court's discretion. At a minimum, an individual or entity seeking to be a Preapproved Court Appointee shall demonstrate the following qualifications consistent with the regulatory requirements for licensees. An applicant may seek a waiver of these qualifications under 935 CMR 500.850. The failure to maintain these qualifications may be a basis for disqualification.

a. Suitability. An applicant must demonstrate suitability under 935 CMR 500.801 and *Table A*.

b. Ownership and Control Limits. A person or entity named as a Court Appointee shall, prior to and as a result of being a Court Appointee, be in compliance with the control limitations set forth in 935 CMR 500.050(1)(b) or any other limitations on licensure set forth in 935 CMR 500.000.

2. Application Process for Preapproved Court Appointees. The Commission or its delegee may preapprove, recommend, disqualify, or discipline Preapproved Court Appointees. A person or entity seeking to be a Preapproved Court Appointee shall pay a fee established in 935 CMR 500.005(5)(a) and submit the following information and make the necessary disclosures:

a. Qualifications. An applicant shall demonstrate the qualifications set forth in 935 CMR 500.104(3)(d)1.

b. Credentials. An applicant shall demonstrate sufficient training, knowledge and experience, to ensure a Licensee under supervision shall comply with Commissions statutory and regulatory requirements.

c. Affiliated Individuals or Entities. An applicant shall identify any person or entity that may exert control or influence over the Preapproved Court Appointee, whether or not such individuals or entities can exercise the authority of a Court Appointee.

d. Engaged Individuals or Entities. An applicant shall identify any person or entity that the applicant intends to engage in conducting the work of a Court Appointee, whether or not such individuals or entities are exercising the authority of a Court Appointee.

e. Financial Information. An applicant shall make such financial disclosures necessary to determine its ability to serve as a Court Appointee.

f. Licenses. The applicant shall submit any professional or occupational licenses and represent that these licenses are in good standing.

g. Good Standing. If the applicant is an entity, it shall submit a valid Certificate of Good Standing issued by each the Secretary of the Commonwealth and the Department of Revenue.

h. Limitations. The applicant shall identify any limitations on the ability to serve as a Court Appointee including, but not limited to, capacity, qualifications, credentials, conflicts of interest, and financial requirements.

i. An applicant shall submit any additional information the Commission or its delegee may request, in its sole discretion.

j. Suitability. An applicant shall demonstrate suitability to operate a Licensee. If the applicant is an entity, each individual exercising the authority of a Court Appointee shall demonstrate suitability as provided herein. An applicant shall demonstrate suitability by:

i. Submitting to a criminal background check in accordance with 935 CMR 500.030, 500.101, and 500.105; or

ii. If authorized by the Commission, submitting an attestation under the pains and penalties of perjury that the applicant is suitable to operate a Licensee.

3. Application requirements in this 935 CMR 500.104(3)(d)2. shall apply only to persons and entities acting as a Court Appointee.

4. Renewal. In order to remain as Preapproved Court Appointee, each Preapproved Court Appointee, on the anniversary of their preapproval, shall annually attest to the Commission under the pains and penalties of perjury that there has been no material change to the information and disclosures submitted as part of the initial application or provide updated information and disclosures with respect to those that have changed, and pay the fee identified in 935 CMR 500.005(5)(b).

500.104: continued

(e) Licensee's Obligations. A Licensee placed under the oversight or a Court Appointee shall:

1. Continue to comply with all legal and regulatory requirements applicable to a Licensee, except as otherwise determined pursuant a court order or a waiver granted pursuant to 935 CMR 500.850.
2. Provide the Commission with any documents requested by the Commission.
3. Cooperate with the Commission's efforts to intervene as an interested party in any proceeding pursuant to which a Court Appointee is sought.
4. Comply with the requirements of 935 CMR 500.104(1) upon final disposition of the License(s) subject to oversight by a Court Appointee.
5. When a Licensee files a petition, it shall propose in such petition a Court Appointee with the qualifications identified in 935 CMR 500.104(3)(d)1. or identify a Preapproved Court Appointee .

(f) Applicability of 935 CMR 104(3).

1. All Licensees and Persons or Entities having Direct or Indirect Control shall comply with the notice requirements established in 935 CMR 500.104(3)(c).
2. A Person or Entity Having Direct or Indirect Control that has its ownership or control interest placed under the oversight of a Court Appointee shall be exempt from the requirements of 935 CMR 500.104(3)(b) and (d) through (f); provided however, that upon final disposition of the interest in question, the Licensee shall comply with the requirements of 935 CMR 500.104(1), as applicable.
3. Any Economic Empowerment Priority Applicant or any other Licensee subject to regulatory benefits provided for in 935 CMR 500.005(1)(b), 500.050(6), (10), and (11), 500.101(5) that is placed under the oversight of a Court Appointee shall have such status suspended until such time as the Court Appointee's work is deemed complete pursuant to a court order, at which time, such status will go back into effect, provided the Licensee continues to satisfy all requisite criteria.

(4) Assignment for the Benefit of Creditors. A Licensee must seek Commission approval, in a form or manner determined by the Commission, prior to effectuating an Assignment for the benefit of Creditors. The Commission may delegate authority to approve such agreements to the Executive Director; provided however, that any transfer of a License shall be subject to Commission Approval.

(5) The Marijuana Establishment shall keep current all information required by 935 CMR 500.000 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 an additional location, it shall develop and follow a set of such operating procedures for that facility. A CMO shall have written operating procedures that comply with both 935 CMR 500.105(1) and 501.105(1): *Written Operating Procedures,* and may do so by having two sets of written operating procedures applicable to each medical-use and adult-use operations or having one set of written operating procedures, provided it complies with both medical-use and adult-use requirements. Operating procedures shall include, but need not be limited to, the following:

(a) Security measures in compliance with 935 CMR 500.110;
(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;
(d) Storage and waste disposal of Marijuana in compliance with 935 CMR 500.105(11) and (12);
(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;

500.105: continued

(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 defined in 935 CMR 501.002: *Verified Financial Hardship*, as required by 935 CMR 501.105(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;
(i) A staffing plan and staffing records in compliance with 935 CMR 500.105(9)(d);
(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 and other records required to be maintained confidentially 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 drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of any Other Jurisdiction.

(n) A list of all board of directors, members and Executives of a Marijuana Establishment, and Members, if any, of the Licensee shall 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 Marijuana Establishment 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 the standards set forth under the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651, *et seq.*, including the general duty clause under 29 U.S.C. § 654, whereby each employer:

1. shall furnish to each of its employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to its employees;
2. shall comply with occupational safety and health standards promulgated under this act. Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to 29 U.S.C. § 651, *et seq.*, which are applicable to the employee's own actions and conduct. All current and updated regulations and references at 29 CFR Parts 1903, 1904, 1910, 1915, 1917, 1918, 1926, 1928 and 1977 are incorporated by reference, and applicable to all places of employment covered by 935 CMR 500.000.

All current and updated regulations and references at 29 CFR Parts 1903, 1904, 1910, 1915, 1917, 1918, 1926, 1928, and 1977 are incorporated by reference, and applicable to all places of employment covered by 935 CMR 500.000.

500.105: continued

(2) Marijuana Establishment Agent Training.

(a) Marijuana Establishments, including Independent Testing Laboratories, shall ensure that all Marijuana Establishment Agents complete minimum training requirements prior to performing job functions.

1. At a minimum, Marijuana Establishment Agents shall receive a total of eight hours of training annually. The eight-hour total training requirement shall be tailored to the roles and responsibilities of the job function of each Marijuana Establishment Agent.

2. A minimum of four hours of training shall be from Responsible Vendor Training Program courses established under 935 CMR 500.105(2)(b). Any additional RVT hours over the four-hour RVT requirement may count toward the eight-hour total training requirement.

3. Non-RVT training may be conducted in-house by the Marijuana Establishment or by a third-party vendor engaged by the Marijuana Establishment. Basic on-the-job training Marijuana Establishments provide in the ordinary course of business may be counted toward the eight-hour total training requirement.

4. Agents responsible for tracking and entering product into the Seed-to-sale SOR shall receive training in a form and manner determined by the Commission. At a minimum, staff shall receive eight hours of on-going training annually.

5. Marijuana Establishments shall maintain records of compliance with all training requirements noted above. Such records shall be maintained for four years and Marijuana Establishments shall make such records available for inspection on request.

6. An individual who is both a Marijuana Establishment Agent and MTC Agent at a CMO location shall receive the training required for each license under which the agent is registered including, without limitation, with respect to patient privacy and confidentiality requirements, which may result in instances that would require such an agent to participate in more than eight hours of training.

(b) Responsible Vendor Training.

1. All current Marijuana Establishment Agents, including Laboratory Agents, involved in the handling or 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".

a. Marijuana Establishment Agents shall first take the Basic Core Curriculum.

b. On completing the Basic Core Curriculum, a Marijuana Establishment Agent is eligible to take the Advanced Core Curriculum.

c. Exception for Administrative Employees. Marijuana Establishment Agents who serve as administrative employees and do not handle or sell Marijuana are exempt from the four-hour RVT requirement, but may take a Responsible Vendor Training Program course on a voluntary basis as part of fulfilling the eight-hour total training requirement.

2. Once a Marijuana Establishment is designated a Responsible Vendor, all Marijuana Establishment Agents employed by the Marijuana Establishment that are involved in the handling or sale of Marijuana for adult use shall successfully complete the Basic Core Curriculum within 90 days of hire.

3. After successful completion of the Basic Core Curriculum, each Marijuana Establishment Agent involved in the handling or sale of Marijuana for adult use shall fulfill the four-hour RVT requirement every year thereafter for the Marijuana Establishment to maintain designation as a Responsible Vendor. Failure to maintain Responsible Vendor status is grounds for action by the Commission.

4. Responsible Vendor Trainer Certification.

a. No owner, manager or employee of a Responsible Vendor Trainer may be a Person Or Entity Having Direct Or Indirect Ownership or Control of a Marijuana Establishment.

b. Responsible Vendor Trainers shall submit their program materials to the Commission prior to offering courses, every two years following for Commission certification of the Responsible Vendor Trainer and Responsible Vendor Training Program curriculum, and on request. The process for certification will be in a form and manner determined by the Commission.

500.105: continued

c. Responsible Vendor Training Program courses shall consist of at least two hours of instruction time.

d. Except as provided in 935 CMR 500.105(2)(b)4.e., Responsible Vendor Training Program courses shall be taught in a real-time, interactive, virtual or in-person classroom setting in which the instructor is able to verify the identification of each individual attending the program and certify completion of the program by the individual.

e. Responsible Vendor Training Program courses may be presented in a virtual format that is not taught in a real-time, provided that the Responsible Vendor Trainer, as part of its application for certification, can demonstrate means:

i. To verify the identification of each trainee participating in the program course and certify completion by the individual;

ii. To track trainees' time needed to complete the course training;

iii. To allow for the trainees to ask questions of the Responsible Vendor Trainer, for example, by email, virtual discussion board, or group/class discussion; and

iv. To evaluate each trainee's proficiency with course material.

f. Responsible Vendor Trainers shall seek certification for each Basic Core Curriculum and Advanced Core Curriculum. Applications for Advanced Core Curriculum certification will be open on or before July 1, 2022.

g. Responsible Vendor Trainers shall maintain its training records at its Principal Place of Business for four years.

h. Responsible Vendor Trainers shall make the records available for inspection by the Commission and any other applicable licensing authority on request during normal business hours.

i. Responsible Vendor Trainers shall provide to the appropriate Marijuana Establishment and Marijuana Establishment Agent written documentation of attendance and successful evaluation of proficiency, such as passage of a test on the knowledge of the required curriculum for each attendee.

j. Trainees who can speak and write English fluently shall successfully demonstrate proficiency, such as passing a written test with a score of 70% or better.

k. Marijuana Establishment Agents who cannot speak or write English may be offered a verbal evaluation or 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.

l. Responsible Vendor Trainers shall solicit effectiveness evaluations from Marijuana Establishment Agents who have completed their program(s).

5. Basic Core Curriculum. The Basic Core Curriculum shall cover the following subject matter:

a. Marijuana's effect on the human body, including:

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 and Inversion 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 and confiscating fraudulent identification;

iii. Patient registration cards currently and validly issued by the Commission;

iv. Common mistakes made in identification verification.

v. Prohibited purchases and practices, including purchases by persons younger than 21 years old in violation of M.G.L. c. 94G, § 13.

e. Other key state laws and rules affecting Marijuana Establishment Agents, which shall include:

i. Conduct of Marijuana Establishment Agents;

500.105: continued

ii. Permitting inspections by state and local licensing and enforcement authorities;
iii. Local and state licensing and enforcement, including registration and license sanctions;
iv. Incident and notification requirements;
v. Administrative, civil, and criminal liability;
vi. Health and safety standards, including waste disposal;
vii. Patrons prohibited from bringing Marijuana and Marijuana Products onto licensed premises;
viii. Permitted hours of sale;
ix. Licensee responsibilities for activities occurring within licensed premises;
x. Maintenance of records, including confidentiality and privacy; and

f. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.

6. Advanced Core Curriculum.

a. Each Advanced Core Curriculum class shall be approved by the Commission prior to being offered. The curriculum shall build on the knowledge, skills, and practices covered in the Basic Core Curriculum.

b. An Advanced Core Curriculum class shall include standard and best practices in one or more of the following areas

i. Cultivation;
ii. Product Manufacturing;
iii. Retail;
iv. Transportation;
v. Laboratory Science;
vi. Energy and Environmental Best Practices;
vii. Social Justice and Economically Reparative Practices;
viii. Implicit Bias and Diversity Training;
ix. Worker Safety;
x. Food Safety and Sanitation;
xi. Confidentiality and Privacy;
xii. In depth coverage of any topic(s) taught in the Basic Core Curriculum; or
xiii. Such other topic as the Commission may approve in its sole discretion.

7. Delivery Core Curriculum. In addition to the Basic Core Curriculum, all Marijuana Establishment Agents acting as delivery employees of a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall have attended and successfully completed Delivery Core Curriculum prior to making a delivery, which shall, to the extent not covered in Basic Core Training include, without limitation, training on:

a. Safely conducting deliveries;
b. Safe cash handling practices;
c. Strategies for de-escalating potentially dangerous situations;
d. Securing product following any instance of Diversion or Inversion, theft or loss of Finished Marijuana Products pursuant to 935 CMR 500.110(1)(m);
e. Collecting and communicating information to assist in investigations;
f. Procedures for checking identification;
g. Indications of impairment;
h. Notification to Consumers of use of mandatory recording devices; and
i. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.

8. Social Consumption Core Curriculum. In addition to the Basic Core Curriculum, all Marijuana Establishment Agents acting as employees of a Social Consumption Establishment Licensee shall attend and successfully complete Social Consumption Core Curriculum prior to performing job functions in a Social Consumption Establishment, which shall, to the extent not covered in Basic Core Curriculum include, without limitation, training on:

500.105: continued

a. Strategies for de-escalating potentially dangerous situations;
b. Procedures for addressing medical or public safety emergencies;
c. Collecting and communicating information to assist in investigations;
d. Procedures for checking identification;
e. Recognizing signs of impairment from alcohol or cannabis use;
f. Regulation requirements for licensed Social Consumption Establishment licensees; and
g. 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 free of seeds and stems;
2. Free of dirt, sand, debris, and other foreign matter;
3. Free of contamination by mold, rot, other fungus, pests and bacterial diseases and satisfying the sanitation requirements in 105 CMR 500.000, and if applicable, 105 CMR 590.000: *State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments*;
4. Prepared and handled on food-grade stainless steel tables with no contact with Licensees' or Marijuana Establishment Agents' bare hands; and
5. Packaged in a secure area.

(b) All Marijuana Establishments, including those that develop, Repackage, 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 non-Edible 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 non-Edible 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 U.S. 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;

500.105: continued

10. All toxic items shall be identified, held, and stored in a manner that protects against contamination of Marijuana Products. Toxic items may 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 shall 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 Edibles, shall comply with sanitary requirements. All Edibles shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: *State Sanitary Code Chapter X: Minimum Sanitation Standards for Food Establishments*.

(d) Unless otherwise authorized by the Commission, a CMO shall comply with 935 CMR 500.105(3) and 501.105(3): *Handling of Marijuana*.

(e) Marijuana Establishments shall report any occurrence or suspected occurrence of illness believed to have been due to the consumption of Marijuana, Marijuana Products, or non-infused food or drink to the Commission as required by 935 CMR 500.110(9)(a)10., and to the Department of Public Health as required by 105 CMR 300.131*: Illnesses Believed to Be Due to Food Consumption.* Marijuana Establishment Agents shall cooperate with any disease investigation activities being performed by the Department of Public Health, and the applicable Board of Health or Local Board of Health as defined by 105 CMR 300.020.

(4) Advertising Requirements.

(a) Permitted Practices. The following Advertising activities are permitted:

1. A Marijuana Establishment may develop a Brand Name to be used in labeling, signage, and other materials; provided however, that use of medical symbols, images of Marijuana or Marijuana Products or related Paraphernalia images that are appealing to persons younger than 21 years old, and colloquial references to Marijuana and Cannabis are prohibited from use in the Brand Name

2. Brand Name Sponsorship of a charitable, sporting or similar event, so long as the following conditions are met.

a. Sponsorship of the event is limited to the Brand Name.

b. Any Advertising at or in connection with such an event is prohibited, unless such Advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit Advertising from targeting or otherwise reaching entrants or participants reasonably expected to be younger than 21 years old, as determined by reliable, current audience composition data;

3. Brand Name Sponsorship of a charitable, cultural or similar event both held and organized by the city or town in which the sponsoring Marijuana Establishment or CMO is licensed to conduct business, so long as the following conditions are met:

500.105: continued

a. Sponsorship of said event shall be included in its Positive Impact Plan submitted in accordance with 935 CMR 500.101(1)(a)11;

b. Sponsorship of the event is limited to the Brand Name;

c. Any Advertising at or in connection with such an event is prohibited, unless such Advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit Advertising from targeting or otherwise reaching entrants or participants reasonably expected to be younger than 21 years old, as determined by reliable, current audience composition data;

4. A Marijuana Establishment engaging in Brand Name Sponsorship under 935 CMR 500.105(4)(a)2. and 3. shall retain documentation of reliable, reasonable audience composition data that is the basis for allowing any such Advertising or branding for a period of one year, or longer if otherwise required by the Commission, or a court or agency with jurisdiction.

5. 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. 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;

6. The Marijuana 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;

7. A Marijuana Establishment may engage in reasonable Advertising 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 or Inversion of Marijuana or Marijuana use in individuals younger than 21 years old or otherwise promote practices inconsistent with the purposes of M.G.L. c. 94G or 94I. Any such Advertising 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."

8. All Advertising produced by or on behalf of a Marijuana Establishment for Marijuana or Marijuana Products shall include the following warning, including capitalization, in accordance with M.G.L. c. 94G, § 4(a½)(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 Edibles 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."

9. A Licensee may utilize employee discounts as part of the Marijuana Establishment's operating policy and procedure for prevention of Diversion or Inversion pursuant to 935 CMR 500.101(1)(c)8.b. Institution of an employee discount program under 500.101(1)(c)8.b. shall not be considered a prohibited practice under 935 CMR 500.105(4)(b).

500.105: continued

(b) Prohibited Practices. The following Advertising activities are prohibited:

1. Advertising 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 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 that utilizes statements, designs, representations, pictures or illustrations that portray anyone younger than 21 years old;

4. Advertising including, but not limited to, mascots, cartoons, and celebrity endorsements, that is deemed to appeal to a person younger than 21 years old;

5. Brand sponsorship including, but not limited to, mascots, cartoons, and celebrity endorsements, that is deemed to appeal to a person younger than 21 years old;

6. Advertising, 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;

7. Advertising 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. Use of any illuminated 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 or Marijuana Products;

11. The use of radio or loudspeaker equipment in any Marijuana Establishment for the purpose of Advertising the sale of Marijuana or Marijuana Products;

12. Brand Name Sponsorship of a charitable, sporting or similar event, unless such Advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit Advertising from targeting or otherwise reaching entrants or participants reasonably expected to be under 21 years old, 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. Any Advertising, including the use of Brand Names, of an improper or objectionable nature including, but not limited to, the use of language or images offensive or disparaging to certain groups;

15. Any Advertising, solely for the promotion of Marijuana or Marijuana Products on Marijuana Establishment Branded Goods including, but not limited to, clothing, cups, drink holders, apparel accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items;

16. Advertising 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 not owned by the Marijuana Establishment;

17. The display of signs or other printed material Advertising any brand or any kind of Marijuana or Marijuana Products that are displayed on the exterior of any licensed Premises;

18. Advertising of the price of Marijuana or Marijuana Products, except as permitted above pursuant to 935 CMR 500.105(4)(a)6.;

19. Display of Marijuana or Marijuana Products so as to be clearly visible to a person from the exterior of a Marijuana Establishment; and

500.105: continued

20. Advertising through the marketing of free promotional items including, but not limited to, gifts, giveaways, discounts, points-based reward systems, customer loyalty programs, coupons, and "free" or "donated" Marijuana, except as otherwise permitted by 935 CMR 500.105(4)(a)9. and except for the provision of Brand Name take-away bags by a Marijuana Establishment for the benefit of customers after a retail purchase is completed.

(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 or Marijuana Products. CMOs shall comply with the requirements of each 935 CMR 500.105(4) and 501.105(4) with respect to the applicable license. A CMO may develop a single marketing campaign; provided, however, it shall apply the most restrictive requirements applicable under either license.

(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 Establishment 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, telephone number and email address of the Licensee that produced the Marijuana, together with the retail Licensee's business telephone number, email address, and website information, if any;
2. The date that the Marijuana Establishment packaged the contents and a statement of which Licensee performed the packaging;
3. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
4. Net weight or volume in U.S. customary and metric units, listed in that order;
5. The full Cannabinoid Profile of the Marijuana contained within the package, including THC and other Cannabinoid levels;
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:

500.105: continued

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 apply to Marijuana packaged as a Finished Marijuana Product for purposes of Wholesale to a Delivery Operator for delivery to Consumers, provided that the Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative is responsible for compliance with 935 CMR 500.105(5) for all Marijuana intended to be wholesaled for delivery to Consumers by a Delivery Operator. White labeling of Finished Marijuana Products wholesaled from a Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative for delivery to Consumers by a Delivery Operator may be performed by either Licensee, provided that white labeling is explicitly authorized by the Commission under the specific Delivery Operator License and reflected in any Wholesale Agreement.

11. 935 CMR 500.105(5)(a) shall not apply to Marijuana packaged for transport of wholesale cultivated Marijuana in compliance with 935 CMR 500.105(8); provided however, that the Marijuana Retailer is responsible for compliance with 935 CMR 500.105(5) for all Marijuana sold or displayed to Consumers.

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

1. The name and registration number of the Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana 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. Total net weight or volume in U.S. customary and metric units, listed in that order, of the Marijuana Product;
5. The number of servings within the Marijuana Product based on the limits provided in 935 CMR 500.150(3) and the specific weight in milligrams of a serving size;
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 (Δ9-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 amount, in grams, of sodium, sugar, carbohydrates and total fat per serving;
9. The date of creation and the recommended "use by" or expiration date which may not be altered or changed;
10. A batch number, sequential serial number and bar codes when used, to identify the batch associated with manufacturing and Processing;
11. Directions for use of the Marijuana Product;
12. 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;
13. A warning if nuts or other Known Allergens are contained in the product; and
14. 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.";

500.105: continued

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

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

17. 935 CMR 500.105(5)(b) shall apply to Edibles produced by a Marijuana Product Manufacturer for transport to a Licensee in compliance with 935 CMR 500.105(8) and shall be in addition to any regulation regarding the appearance of Edibles under 935 CMR 500.150.

18. The White Labeling of Edibles to be sold and delivered by a Delivery Operator may be conducted by the licensed Microbusiness or Product Manufacturer of the Edible at the Microbusiness's or Product Manufacturer's Premises or by the Delivery Operator at the Warehouse of the Delivery Licensee, provided that White Labeling is explicitly authorized by the Commission under the specific Delivery Operator License and reflected in any Wholesale Agreement.

(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 $^{1}/_{16}$ 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 Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana 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. Total net weight or volume expressed in U.S. customary units and metric units, listed in that order, of the Marijuana Product;
5. If applicable, the number of servings in the Marijuana Product based on the limits provided in 935 CMR 500.150(4) and the specific weight in milligrams of a serving size;
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, but not limited to, the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol (Δ9-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, and the amount of specific additives infused or incorporated during the manufacturing process, whether active or inactive including, but not limited to, thickening agents, thinning agents, and specific terpenes, expressed in absolute terms and as a percentage of volume.
   a. For Marijuana Vaporizer Devices, identification of specific additives shall include, but not be limited to, any additives identified on the FDA's Inactive Ingredient Database for "Respiratory (inhalation)" or "Oral" routes of administration and based on dosage form as an aerosol product or inhalant. The FDA Inactive Ingredient Database is available at https://www.fda.gov/media/72482/download. If the FDA database or its equivalent is no longer available, licensees shall use the database identified by the Commission.

500.105: continued

b. For Marijuana Vaporizer Devices produced using only cannabis-derived terpenes, the following statement: "This product was produced using only cannabis-derived terpenes."

c. For Marijuana Vaporizer Devices produced using terpenes other than cannabis-derived terpenes, the following statement: "This product was produced using terpenes derived from sources other than cannabis."

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:

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 $^{1}/_{16}$ 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 Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana 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 (Δ9-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. Total net weight or volume as expressed in U.S. customary units and metric units, listed in that order, of the Marijuana Product;

500.105: continued

6. If applicable, the number of servings in the Marijuana Product based on the limits provided in 935 CMR 500.150(4) and the specific weight in milligrams of a serving size;
7. The date of product creation;
8. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
9. Directions for use of the Marijuana Product;
10. 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;
11. A warning if nuts or other Known Allergens are contained in the product; and
12. 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.";
13. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:

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

15. 935 CMR 500.105(5)(d) shall apply to Marijuana-infused Tinctures and topicals produced by a Marijuana Product Manufacturer for transport to a Licensee in compliance with 935 CMR 500.105(8).

(e) Labeling of Repackaged Marijuana. Prior to Repackaged Marijuana being sold, the Retailer shall place a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size on each container of Marijuana that it prepares for retail sale,

1. The Affixed label shall contain at a minimum the following information:
   a. The name and registration number of the Cultivator that produced the Marijuana;
   b. Business or trade name of licensee that packaged the product, if different from the Cultivator;
   c. Date of Harvest;
   d. Type of Marijuana or name of strain;
   e. The full Cannabinoid Profile of the Marijuana contained within the Repackaged Product, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids in the package;
   f. The net weight or volume as expressed in U.S. customary units or metric units;
   g. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
   h. 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;
   i. 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.";

500.105: continued

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

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

(f) 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 take-away bag with an insert or additional, easily readable label placed within that bag.

(g) CMOs shall comply with the labeling requirements in 935 CMR 500.105(5) for all adult-use sales and 935 CMR 501.105(5): *Labeling of Marijuana and Marijuana Products* for all medical-use sales.

(6) Packaging of Marijuana and Marijuana Products.

(a) Child-resistant Packaging. Licensees licensed subject to 935 CMR 500.050(4) shall ensure that all Marijuana Products that are provided for sale to Consumers by a Licensee shall be sold in child-resistant packaging. Licensees licensed subject to 935 CMR 500.050(2) shall ensure that all Finished Marijuana Products provided at wholesale for delivery to Consumers by a Marijuana Delivery Operator shall be sold in child-resistant packaging. To comply 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. Do not use bright colors, cartoon characters and other features designed to appeal to minors;

c. Resealable for any marijuana product intended for more than a single use or containing multiple servings; and

d. Certified by a qualified child-resistant packaging testing firm that the packaging complies with the most recent poison prevention packaging regulations of the U.S. Consumer Product Safety Commission as included at 16 CFR 1700: *Poison Prevention Packaging*.

2. That where compliance with the requirements of child-resistant packaging is deemed to be Unreasonably Impracticable, Marijuana or Marijuana Products shall be placed in an exit package that is:

a. Capable of being resealed and made child-resistant resistant again after it has been opened;

b. 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

c. Is certified by a qualified third-party child-resistant packaging testing firm that the packaging complies the most recent poison prevention packaging regulations of the U.S. Consumer Product Safety Commission as included at 16 CFR 1700: *Poison Prevention Packaging*.

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

500.105: continued

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 drinks, 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. Edibles in a solid form shall be easily and permanently scored to identify individual servings.
   b. Notwithstanding 935 CMR 500.105(6)(c)2.a., 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 can 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 packaged solely in a single serving size. Except as otherwise provided in 935 CMR 500.141(3), multiple-serving Beverages are strictly prohibited for sale to Consumers.

(d) Each single serving of an Edibles 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 (Δ9-THC) subject to the testing variance specified in 935 CMR 500.160(12).

(f) CMOs shall comply with the packaging requirements in 935 CMR 500.105(6) for adult use sales or 935 CMR 501.105(6) for medical use sales.

(7) Packaging and Labeling Preapproval. Prior to Marijuana or Marijuana Product being sold at a Marijuana Establishment, a CMO, a Licensee or License Applicant may submit an application for packaging and label approval to the Commission. An application for preapproval may be submitted at any time prior to Marijuana or Marijuana Product being sold or at any time a substantive change is made to the packaging or labeling of Marijuana or Marijuana Product. The Commission shall charge a fee for packaging and labeling preapproval pursuant to 935 CMR 500.005.

(a) Packaging and labeling preapproval review shall be limited to the physical attributes of, and statutorily required warnings on, the packaging and label including, but not limited to, legibility, but shall not include a review of specific Independent Testing Laboratory test results required pursuant to 935 CMR 500.105(5) and (6). The packaging and labeling preapproval process shall be in addition to the requirements of 935 CMR 500.105(4) through (6).

(b) In addition to an application for packaging and labeling preapproval in a form and manner determined by the Commission, an applicant for preapproval shall submit electronic files of the following to the Commission:

1. For packaging preapproval, two images of the packaging, one depicting the front of the packaging and one depicting the back of the packaging. Photographs shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

500.105: continued

2. For labeling preapproval, one image of each label requested for review. Photographs shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

(c) The Commission shall make every effort to make a preapproval determination based on information submitted. In the event that a preapproval determination is unable to be made conclusively based on submitted photographs, the Commission may request to view the packaging or label in person or through a video conference. Any such request by the Commission shall be made to the applicant electronically or in writing.

(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)(m)1. Such Transfers cannot violate provisions protecting patient supply under 935 CMR 500.140(15). An MTC shall 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) The failure to enter inventory into the Seed-to-sale SOR may result in the suspension or revocation of a Marijuana Establishment License.

(g) Any distribution and acquisition of Marijuana and Marijuana Products shall be tracked in the Seed-to-sale SOR in a form and manner determined by the Commission. Any distribution of Marijuana and Marijuana Products that is not tracked in the Seed-to-sale SOR may result in the suspension or revocation of a Marijuana Establishment License or other administrative action.

(h) 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.

(i) A CMO shall implement procedures for electronic separation of medical and adult use Marijuana, MIPs, and Marijuana Products in the Seed-to-sale SOR.

(j) A CMO shall designate whether Marijuana or MIPs, or Marijuana Products are intended for sale for adult use or medical use through the SOR. Products shall be transferred to the appropriate license within the Seed-to-sale SOR prior to sale. After the point of sale, there shall be a reconciliation of that inventory in the SOR.

(9) Recordkeeping. Records of a Marijuana Establishment shall 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, in addition to the following:

500.105: continued

(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 SOR Electronic Tracking System 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 Training Program and in-house training for Marijuana Establishment Agents required under 935 CMR 500.105(2).
3. A staffing plan that will demonstrate accessible business hours and safe cultivation conditions;
4. Personnel policies and procedures, including, at a minimum, the following:
a. Code of ethics;
b. Whistle-blower policy; and
c. A policy which notifies persons with disabilities of their rights under https://www.mass.gov/service-details/about-employment-rights or a comparable link, and includes provisions prohibiting discrimination and providing reasonable accommodations; and
5. All background check reports obtained in accordance with M.G.L c. 6 § 172, 935 CMR 500.029, 935 CMR 500.030, and 803 CMR 2.00: *Criminal Offender Record Information (CORI)*.
(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 shall 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.

500.105: continued

(c) The escrow account required pursuant to 935 CMR 500.105(10)(b) shall 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.
(e) A CMO shall maintain the insurance coverage or escrow account required under 500.105(10) or 934 CMR 501.105(10): *Liability Insurance Coverage or Maintenance of Escrow* per location.

(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 and 500.110.
(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.

(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 to prevent unauthorized access, and the potential for Diversion, theft, or loss.
(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 Permit Program*; 314 CMR 12.00: *Operation Maintenance and Pretreatment Standards for Wastewater Treatment Works* and *Indirect Dischargers*; Federal Clean Water Act, 33 U.S.C. 1251 *et seq*., National Pollutant Discharge Elimination System Permit Regulations at 40 CFR Part 122: *EPA Administered Permit Programs: The National Pollutant Discharge Elimination System*; 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, Construction, Operation, and Record Keeping Requirements*.
(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. Licensees shall recycle any material classified as recyclable in 310 CMR 16.02: *Definitions*; 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 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 complies with the requirements of 310 CMR 16.00: *Site Assignment Regulations for Solid Waste Facilities*.

500.105: continued

3. Solid waste containing Marijuana generated at a Marijuana Establishment shall be rendered 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 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) A Marijuana Establishment Agent shall witness and document how the solid waste or organic material containing Marijuana is rendered unusable 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 shall 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 name of the Marijuana Establishment Agent present during the disposal or other handling, with their signature. A Marijuana Establishment shall keep these records for at least three years. This period shall automatically be extended for the duration of any disciplinary 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 be licensed to transport its Marijuana and Marijuana Products to other licensed establishments, including MTC's, 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 SOR. 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.

a. Notwithstanding 935 CMR 500.105(13)(a)6., an Independent Testing Laboratory shall ensure that all vehicles operated by the Independent Testing Laboratory or a Marijuana Transporter used solely for transporting Marijuana or Marijuana Products for testing purposes in accordance with 935 CMR 500.160 that contain Marijuana and Marijuana Products with a total Wholesale value in excess of $5,000 in the vehicle are staffed with a minimum of two Marijuana Establishment Agents.

b. Notwithstanding 935 CMR 500.105(13)(a)6., for all vehicles transporting Marijuana or Marijuana Products solely for testing purposes in accordance with 935 CMR 500.160 that contain Marijuana and Marijuana Products with a total Wholesale value of $5,000 or less in the vehicle, an Independent Testing Laboratory or Marijuana Transporter may use one Marijuana Establishment Agent.

7. Prior to leaving a Marijuana Establishment for the purpose of transporting Marijuana Products, the originating Marijuana Establishment shall weigh or count, 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 Marijuana Establishment shall re-weigh or re-count inventory, and account for, on video, all Marijuana Products transported.

9. When videotaping the weighing, counting, inventorying and accounting of Marijuana Products before transportation or after receipt the video shall show the product being weighed or counted, the actual final weight or count, and the manifest.

500.105: continued

10. Marijuana Products shall be packaged in sealed, labeled, and tamper or child-resistant packaging prior to and during transportation.

11. In the case of an emergency stop during the transportation of Marijuana Products, a log shall be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle. Licensees shall comply with applicable requirements of 935 CMR 500.110(9).

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 Marijuana Products or Edibles requiring temperature control for safety shall 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).

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 may not significantly obscure the picture.

(b) Reporting Requirements.

1. Marijuana Establishment Agents shall document and report any unusual discrepancy in weight, count, 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, Diversion, Inversion, losses, or other reportable incidents that occur during transport, not more than 24 hours of such accidents, Diversion, Inversion, losses, or other reportable incidents.

(c) Vehicles.

1. A vehicle used for transporting Marijuana Products shall 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 may not be visible from outside the vehicle.

3. Any vehicle used to transport or deliver Marijuana or Marijuana Products shall comply with applicable Massachusetts Registry of Motor Vehicles (RMV) requirements, but may not include any additional external marking that indicate the vehicle is being used to transport or deliver Marijuana or Marijuana Products.

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 shall be transported in a secure, locked storage compartment that is a part of the vehicle transporting the Marijuana Products.

2. The storage compartment shall 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.

500.105: continued

4. If a Marijuana Establishment is transporting Marijuana Products to multiple other Marijuana 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 shall return to the originating location until the communication system or GPS system is operational.

7. The Marijuana Establishment Agent or Agents transporting Marijuana Products shall contact the originating location when leaving any scheduled location, or making any unscheduled stops.

8. The originating location shall have a Marijuana Establishment Agent assigned to monitoring the GPS unit and secure form of communication, who shall log all official communications with Marijuana Establishment Agents transporting Marijuana Products.

(f) Manifests.

1. A Marijuana Establishment shall complete a manifest prior to transporting Marijuana or Marijuana Products between Marijuana Establishments or an MTC. A Marijuana Establishment may utilize a physical or electronic manifest during the transportation of Marijuana or Marijuana Products.

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 shall, at a minimum, include:

a. The originating Marijuana Establishment name, address, and registration number;

b. The names and registration numbers of the Marijuana Establishment 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;

500.105: continued

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 inventory weight or count before departure and on receipt;

j. The date and time that the transported products were reweighed and re-inventoried;

k. The name of the Marijuana Establishment Agent at the destination Marijuana Establishment who reweighed 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.

a. If utilizing a physical copy of the manifest, the licensed Marijuana Establishment Agent must be able to access the physical copy at any time during transportation.

b. If utilizing an electronic manifest, the licensed Marijuana Establishment Agent must be able to access the electronic manifest at any time during transportation.

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 shall 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.

(i) A CMO can transport adult use and medical use Marijuana and Marijuana Products if it is appropriately licensed to do so. Where a CMO is transporting both adult use and medical use Marijuana, MIPs and Marijuana Products, the CMO shall comply with the more restrictive security provisions.

(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, and 935 CMR 500.000;

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 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 shall 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

500.105: continued

(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:

1. The destruction of Cannabis goods necessitated by a violation of M.G.L. c. 94G or 935 CMR 500.000;
2. The costs and compensation of a Court Appointee;
3. The cessation of operation of the Marijuana Establishment; or
4. Such other uses that the Commission may authorize to ensure public health, safety and welfare.

(b) All bonds required under 935 CMR 500.000 shall 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) shall be replenished within ten business days of any expenditure required under 935 CMR 500.105, unless the Marijuana Establishment has ceased operations. Documentation of the replenishment shall 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 may 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 400% 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 an 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.
4. Any individual listed as an Owner on the original certification of an Economic Empowerment Priority Applicant who satisfies one or more the following criteria:

500.105: continued

a. Lived for five of the preceding ten years in an Area of Disproportionate Impact, as determined by the Commission;
b. Experience in 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;
c. Black, African American, Hispanic or Latino descent; or
d. Other significant articulable demonstration of past experience in or business practices that promote economic empowerment in Areas of Disproportionate Impact.

5. The Commission may, in consideration of new information and data, broaden the categories of eligibility for the Social Equity Program by a vote of the Commission.

(c) The Social Equity Program is not a licensing program. Completion of the Social Equity Program will not result in, or guarantee participants' receipt of a License.

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(13) or delivered pursuant to 935 CMR 500.145 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 935 CMR 500.000 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;
(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, after receipt of a final License, 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, Inversion, 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 and Marijuana Products are kept, sold or stored out of plain sight and are not visible from a public place, outside of the Marijuana Establishment, without the use of binoculars, optical aids or aircraft;
(m) Developing emergency policies and procedures for securing all product following any instance of Diversion, Inversion, 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;

500.110: continued

(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, police and fire departments, if the plans or procedures are modified in a material way, including the addition of plans to deliver directly to Consumers in the case of a Marijuana Retailer or Marijuana Establishment with a Delivery Endorsement.

(2) Alternative Security Provisions.
(a) Notwithstanding the requirements specified in 935 CMR 500.110(1), (5) through (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.
(c) 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. A Marijuana Establishment Entrance may not be closer than 500 feet from the nearest School Entrance, unless a city or town adopts an ordinance or bylaw that reduces the distance requirement.
(a) The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the Marijuana Establishment Entrance to the geometric center of the nearest School Entrance, unless there is an Impassable Barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the Marijuana Establishment Entrance to the geometric center of the nearest School Entrance.
(b) The buffer zone distance of 500 feet may be reduced if a city or town adopts an ordinance or bylaw that reduces the distance requirement.

(4) Limited Access Areas.
(a) All Limited Access Areas shall 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, including loading areas, walls, partitions, counters, Propagation, Vegetation, Flowering, Processing, production, storage, disposal and retail sales areas.
(c) At all times following receipt of a final License, 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.

500.110: continued

(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) Following receipt of a final License, 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 shall 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.

(f) A Marijuana Establishment conducting operations under multiple license types on a single Premise may establish Limited Access Areas for each licensed activity that overlap in shared hallways and access points, provided that operations under each license type are segregated and a Marijuana Establishment Agent has access only to the areas where activities are conducted pursuant to the license under which the Marijuana Establishment Agent is registered.

(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, Warehouse, or other Enclosed Area shall have an adequate security system to prevent and detect Diversion, Inversion, 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 a Commission Delegee. If a Marijuana Establishment receives notice that the motion detection sensor is not working correctly, it shall take prompt action to make corrections and document those actions. Recordings may 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 may not significantly obscure the picture;

8. The ability to remain operational during a power outage for a minimum of four hours and, if it appears likely that the outage will last for more than four hours, the Marijuana Establishment takes sufficient steps to ensure security on the Premises in consultation with the Commission; and

500.110: continued

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 may 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 shall be available to the Commission on request. If the surveillance room is on-site of the Marijuana Establishment, it shall remain locked and may 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, Inversion, 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 may 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 may not significantly obscure the picture;
8. The ability to remain operational during a power outage; and

500.110: continued

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(6)(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 may 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 shall be available to the Commission on request. If the surveillance room is on-site of the Marijuana Establishment, it shall remain locked and may 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; and
5. A safety plan for the Manufacture and production of Marijuana Products as required pursuant to 935 CMR 500.101(3)(c)3.

(7) Cash Handling and Transportation Requirements.

(a) A Marijuana Establishment with a contract to deposit funds with a financial institution 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

500.110: continued

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 935 CMR 500.110(7) shall be treated as security planning documents, the public disclosure of which would jeopardize public safety.

(8) Security Requirements for Delivery Licensee or a Marijuana Establishment with Delivery Endorsement Operations.

(a) A Marijuana Establishment licensed as a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement 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, Inversion, 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 that is 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 Licensee or a Marijuana Establishment with a Delivery Endorsement at a fixed location during the transportation of Marijuana or Marijuana Products for the purpose of Consumer delivery with location checks occurring at least every 30 minutes. The Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement may delegate monitoring of the GPS to the Third-party Technology Platform Provider with which the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement has a contract, provided that the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be responsible for ensuring that monitoring occurs as required under 935 CMR 500.110(8).
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:

500.110: continued

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 may 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, not to exceed 30 calendar days from the previous inspection and test.

(b) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement 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. In addition to providing notice, body cameras shall be displayed conspicuously on the Marijuana Establishment Agent's person.

4. A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain video from body cameras confidentially and protected from disclosure to the full extent allowed by law. The Licensee shall implement data security, records retention, and record destruction policies for body camera video in compliance with applicable federal and state privacy laws including, but not limited to, the Driver Privacy Protection Act, 18 USC § 2721, the Massachusetts Identify Theft Act, M.G.L. c. 93H, 201 CMR 17.00: *Standards for the Protection of Personal Information of Residents of the Commonwealth,* and the Fair Information Practices Act, M.G.L. c. 66A.

5. Video of deliveries shall be retained for a minimum of 30 days, or, with notice to the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement, for the duration of an investigation by the Commission or by law enforcement, whichever is longer. To obtain video from a Licensee as part of an investigation, Commission staff shall consult with the Executive Director and to the extent possible, view the video at the place of storage.

6. A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement may not share or disclose any portion of the information or video footage collected as the result of the use of a body camera pursuant to 935 CMR 500.110(8)(b) to any third-party not explicitly authorized by 935 CMR 500.000 to have access to that video footage, subject to the exceptions in 935 CMR 500.110(8)(b)6.a. and b.

a. A Licensee or Marijuana Establishment shall make video footage available to law enforcement officers acting in his or her official capacity pursuant to a validly issued court order or search warrant demonstrating probable cause.

b. Nothing in 935 CMR 500.110(8)6. shall prohibit law enforcement from performing a constitutionally valid search or seizure including, but not limited to, circumstances that present an imminent danger to safety, and other exceptional or emergency circumstances where time or opportunity to apply for a warrant is lacking.

7. Unless retained for investigative purposes, the Licensee shall erase or otherwise destroy videos after the 30-day retention period.

(c) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement transporting Marijuana and Marijuana Products for Consumer delivery shall ensure that all vehicles used for deliveries are staffed with a minimum of one Marijuana Establishment Agent. The Agent or Agents shall remain inside the vehicle at all times that the vehicle contains Marijuana or Marijuana Products, unless completing a Consumer delivery.

(d) Marijuana Establishment Agent or Agents shall take all necessary steps to secure the vehicle at all times when Marijuana or Marijuana Products are in the vehicle.

(e) All Marijuana Establishment Agents acting as delivery employees of a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement must have attended and successfully completed Responsible Vendor Training Basic Core Curriculum and Delivery Core Curriculum courses in accordance with 935 CMR 500.105(2)(b) prior to making a delivery.

(f) A Marijuana Establishment 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.

500.110: continued

(g) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall report to the Commission and local law enforcement any vehicle accidents, Diversion, Inversion, losses, or other reportable incidents that occur during transport immediately and, under no circumstances, more than 24 hours of becoming aware of any accidents, Diversion, Inversion, losses, or other reportable incidents and shall otherwise comply with the incident reporting requirements set forth under 935 CMR 500.110(9).

(h) The following individuals shall have access to Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement 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;
2. Representatives of other state agencies acting within their jurisdiction; and
3. Law Enforcement Authorities and emergency medical services in the course of responding to an emergency.

(i) 935 CMR 500.000 shall not be construed to prohibit access to authorized state or local Law Enforcement Authorities or public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.

(j) All vehicles used by the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement for Consumer delivery are subject to inspection and approval by the Commission prior being put into use. It shall be the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements 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.

(k) Firearms are strictly prohibited from Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement 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 in 935 CMR 500.110(9) 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, Inversion, 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 public safety event that requires response by federal, state or local personnel;
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;
9. A significant motor vehicle crash that occurs while transporting or delivering Marijuana or Marijuana Products and would require the filing of a Motor Vehicle Crash Operator Report pursuant to M.G.L. c. 90 § 26; provided however that a motor vehicle crash that renders the Licensee's vehicle inoperable shall be reported immediately to state and local law enforcement so that Marijuana or Marijuana Products may be adequately secured;
10. Any medical event or health and safety emergency that requires response by federal, state or local personnel;
11. Any notice issued to the Licensee from federal, state or local officials indicating to the Licensee a received complaint or cited violation related to the Licensee's operation; or
12. 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.

500.110: continued

(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 shall, 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 shall 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 shall 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 and security requirements provided in 935 CMR 500.110, Marijuana Cultivators shall comply with additional operational requirements required under 935 CMR 500.120.

(2) A Marijuana Cultivator may cultivate its own Marijuana or acquire Marijuana from other Marijuana Establishments for the purposes of Propagation. Prior to commencing operations, Marijuana Cultivators shall disclose all growing media and plant nutrients intended to be used during the cultivation process. In all instances, Marijuana Cultivators shall disclose all growing media and plant nutrients used for cultivation upon request.

(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 Limited Access Area where Marijuana is not visible from a public place without the use of binoculars, aircraft or other optical aids. Marijuana is not visible if it cannot be reasonably identified.

(5) Application of Pesticides shall be performed in compliance with M.G.L. c. 132B and the regulations promulgated at 333 CMR 2.00 through 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 and Marijuana Products with the word "organic" only if all cultivation is consistent with US Department of Agriculture organic requirements at 7 CFR 205: *National Organic Program* 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 935 CMR 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.

(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*.

500.120: continued

(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) shall 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, shall meet minimum Massachusetts Building Code requirements and all Massachusetts amendments (780 CMR: *Massachusetts Amendments to the International Building Code 2009*), International Energy Conservation Code (IECC) Section C402 or The American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) Standard 90.1 Sections 5.4 and 5.5 as applied or incorporated by reference in 780 CMR: *Massachusetts Amendments to the International Building Code 2009*, 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 shall meet one of the following compliance requirements:

1. Horticulture Lighting Power Density may not exceed 36 watts per square foot, except for Tier 1 and Tier 2 which may 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% above the minimum Horticultural QPL threshold rounded up to the nearest 0.1 μmol/J (micromoles per joule).

3. A facility seeking to use horticultural lighting not included on the Horticultural QPL or other similar list approved by the Commission shall seek a waiver pursuant to 935 CMR 500.850 and provide documentation of third-party certification of the energy efficiency features of the proposed lighting. All facilities, regardless of compliance path, shall provide third-party safety certification by an OSHA NRTL or SCC-recognized body, which shall certify that products meet a set of safety requirements and standards deemed applicable to horticultural lighting products by that safety organization.

(c) Heating Ventilation and Air Condition (HVAC) and dehumidification systems shall meet Massachusetts Building Code requirements and all Massachusetts amendments (780 CMR: *Massachusetts Amendments to the International Building Code 2009*), IECC Section C403 or ASHRAE Chapter 6 as applied or incorporated by reference in (780 CMR: *Massachusetts Amendments to the International Building Code 2009*). As part of the documentation required under 935 CMR 500.120(11)(b), a Marijuana Cultivator shall provide a certification from a Massachusetts Licensed Mechanical Engineer that the HVAC and dehumidification systems meet Massachusetts building code as specified in 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, Consumers, or Visitors (*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 on-site energy use for all fuels (expressed on a MWh basis) from an on-site clean or renewable generating source, or

500.120: continued

renewable thermal generation, as provided in M.G.L. c. 25A § 11F and 11F½. Additionally, the Marijuana Establishment shall document that renewable energy credits or alternative energy credits representing the portion of the Licensee's energy usage not generated onsite have been purchased and retired on an annual basis.

(f) Prior to final licensure, a Marijuana Cultivator Licensee shall 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. For a Microbusiness or Craft Marijuana Cooperative with a cultivation location sized as Tier 1 or Tier 2, or such other Marijuana Cultivators that have been granted a waiver under 935 CMR 500.850, 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 CMO with a final Certificate of Licensure issued before November 1, 2019 shall have until July 1, 2020 to comply with 935 CMR 500.120(11), except that any additions to or renovations to a facility shall comply with 935 CMR 500.120(11). A CMO subject to 935 CMR 500.120(11)(g) may apply for an additional six-month extension if it agrees to install meters to monitor energy usage, water usage and other data determined by the Commission as necessary in order to provide reports on energy usage, water usage, waste production and other data in a form and manner determined by the Commission.

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

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 CMO 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, Inversion, theft, or loss, for correcting all errors and inaccuracies in inventories, and for maintaining accurate inventory. The policies and procedures, at a minimum, shall comply 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, shall comply with 935 CMR 500.105(12);

500.120: continued

(d) Policies and Procedures for Transportation. The policies and procedures, at a minimum, shall comply 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, shall comply with 935 CMR 500.105(15) and 935 CMR 500.120(11);
(f) Policies and procedures for ensuring fire safety in cultivation activities including, but not limited to, the storage and processing of chemicals or fertilizers, in compliance with the standards set forth in 527 CMR 1.00: *The Massachusetts Comprehensive Fire Safety Code*;
(g) Policies and procedures for the Transfer, acquisition, or sale of Marijuana between Marijuana Establishments;
(h) Policies and procedures for developing and providing Vendor Samples to a Marijuana Product Manufacturer, a Marijuana Retailer or a Delivery Operator. Policies and procedures shall include methods by which the Marijuana Cultivator will adequately track, record, and document all Vendor Samples developed on, or provided from, the licensed Premises in satisfaction of 935 CMR 500.120(13);
(i) Policies and procedures for developing and providing Quality Control Samples to employees for the purpose of ensuring product quality and determining whether to make the product available to sell. Policies and procedures shall include methods by which the Marijuana Cultivator will adequately track, record, and document all Quality Control Samples developed on, or provided from, the licensed Premises in satisfaction of 935 CMR 500.120(14). Policies and procedures shall further prohibit consumption of Quality Control Samples on the licensed Premises; and
(j) Policies and procedures for packaging Marijuana and White Labeling Marijuana Cultivators shall retain all Wholesale Agreements entered into with Delivery Operators and shall make them available to the Commission upon request.

(13) Vendor Samples.
(a) A Marijuana Cultivator may provide a Vendor Sample of Marijuana flower to a Marijuana Product Manufacturer or to a Marijuana Retailer. Provision of a Vendor Sample under 935 CMR 500.120(13) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.
(b) Vendor Samples provided under 935 CMR 500.120(13):
1. May not be consumed on any licensed Premises;
2. May not be sold to another licensee or Consumer;
3. Shall be tested in accordance with 935 CMR 500.160; and
4. Shall be transported in accordance with 935 CMR 500.105(13). A Marijuana Cultivator may include Vendor Samples with other Marijuana flower intended for transportation to an individual Marijuana Product Manufacturer or an individual Marijuana Retailer;
(c) Vendor Sample limits. A Marijuana Cultivator is limited to providing the following aggregate amount of Vendor Samples to an individual Marijuana Product Manufacturer or an individual Marijuana Retailer in a calendar month period: Four grams per strain of Marijuana flower and no more than seven strains of Marijuana flower.
(d) All Vendor Samples provided by a Marijuana Cultivator under 935 CMR 500.120(13) shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission, and further, shall be designated as "Vendor Sample";
(e) Vendor Samples provided under 935 CMR 500.120(13) shall have a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size containing at minimum the following information:
1. A statement that reads: "VENDOR SAMPLE NOT FOR RESALE";
2. The name and registration number of the Marijuana Cultivator;
3. The quantity, net weight, and type of Marijuana flower contained within the package; and
4. A unique sequential, alphanumeric identifier assigned to the Cultivation Batch associated with the Vendor Sample that is traceable in the Seed-to-sale SOR.

500.120: continued

(14) Quality Control Samples.

(a) A Marijuana Cultivator may provide a Quality Control Sample of Marijuana flower to its employees for the purpose of ensuring product quality and determining whether to make the product available to sell. Provision of a Quality Control Sample under 935 CMR 500.120(14) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.

(b) Quality Control Samples provided to employees under 935 CMR 500.120(14):

1. May not be consumed on the licensed Premises;
2. May not be sold to another licensee or Consumer; and
3. Shall be tested in accordance with 935 CMR 500.160.

(c) Quality Control Sample Limits. A Marijuana Cultivator is limited to providing the following aggregate amount of Quality Control Samples to all employees in a calendar month period: Four grams per strain of Marijuana flower and no more than seven strains of Marijuana flower.

(d) All Quality Control Samples provided by a Marijuana Cultivator under 935 CMR 500.120(14) shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission, and further, shall be designated as "Quality Control Sample."

(e) Quality Control Samples provided under 935 CMR 500.120(14) shall have a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size containing, at minimum, the following information:

1. A statement that reads: "QUALITY CONTROL SAMPLE NOT FOR RESALE";
2. The name and registration number of the Marijuana Cultivator;
3. The quantity, net weight, and type of Marijuana flower contained within the package; and
4. A unique sequential, alphanumeric identifier assigned to the Cultivation Batch associated with the Quality Control Sample that is traceable in the Seed-to-sale SOR.

(f) Upon providing a Quality Control Sample to an employee, the Marijuana Cultivator shall record:

1. The reduction in quantity of the total weight or item count under the unique alphanumeric identifier associated with the Quality Control Sample;
2. The date and time the Quality Control Sample was provided to the employee;
3. The agent registration number of the employee receiving the Quality Control Sample; and
4. The name of the employee as it appears on their agent registration card.

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 and security requirements provided in 935 CMR 500.110, Marijuana Product Manufacturers shall comply with additional operational requirements required under 935 CMR 500.130.

(2) Production of Edibles shall take place in compliance with the following:

(a) All Edibles shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: *State Sanitary Code Chapter X: Minimum Sanitation 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 drink product shall be packaged and labelled as required by 935 CMR 500.105(5) and (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.

500.130: continued

(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, 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.

(a) A Product Manufacturer shall retain all records of purchases from any manufacturer or supplier of any ingredient, additive, device, component part or other materials obtained by the Product Manufacturer in relation to the manufacturing of Marijuana Vaporizer Devices and such records shall be made available to the Commission on request.

(b) A Marijuana Product Manufacturer shall maintain records of the name and business address of the manufacturer of any cartridge, battery, atomizer coil, hardware or other component of Marijuana Vaporizer Products manufactured by the Licensee. Further, the Product Manufacturer shall, on request by the Commission, identify the materials used in the device's atomizer coil (*e.g.*, titanium, titanium alloy, quartz, copper, nichrome, kanthal, or other specified material) or state if such information cannot be reasonably ascertained.

(c) A copy of the Certificate of Analysis for each thickening agent, thinning agent or terpene infused or incorporated into a Marijuana Vaporizer Device during production shall be retained by a Product Manufacturer and provided as a part of a wholesale transaction with any Marijuana Retailer, MTC or Delivery Operator.

(d) A Product Manufacturer that wholesales Marijuana Vaporizer Devices to a Marijuana Retailer, MTC or Delivery Operator shall provide the recipient with the information insert required by 935 CMR 500.105(5)(c) or the necessary information to produce such an insert and the appropriate labeling information required by 935 CMR 500.000; provided, however, that White Labeling of Marijuana Vaporizer Devices is explicitly prohibited.

(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, Inversion, theft, or loss, and for correcting all errors and inaccuracies in inventories. The policies and procedures, at a minimum, shall comply 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 or Marijuana Products are segregated from other Marijuana and destroyed. Such procedures shall provide for written documentation of the disposition of the Marijuana or Marijuana Products. The policies and procedures, at a minimum, shall comply with 935 CMR 500.105(12);

(d) Policies and procedures for transportation. The policies and procedures, at a minimum, shall comply 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, shall comply with 935 CMR 500.105(15);

(f) Policies and procedures for the Transfer, acquisition, or sale of Marijuana Products between Marijuana Establishments, and if applicable, MTCs and CMOs;

(g) Policies and procedures to ensure that all Edibles are prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: *State Sanitary Code Chapter X: Minimum Sanitation 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*;

(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;

500.130: continued

(i) Policies and procedures for ensuring safety in all processing activities and the related uses of extraction equipment in compliance with the standards set forth in 527 CMR 1.00: *The Massachusetts Comprehensive Fire Safety Code*;

(j) Policies and procedures for developing and providing Vendor Samples to a Marijuana Retailer. Policies and procedures shall include methods by which the Marijuana Product Manufacturer will adequately track, record, and document all Vendor Samples developed on, or provided from, the licensed Premises in satisfaction of 935 CMR 500.130(8);

(k) Policies and procedures for developing and providing Quality Control Samples to employees for the purpose of ensuring product quality and determining whether to make the product available to sell. Policies and procedures shall include methods by which the Marijuana Product Manufacturer will adequately track, record, and document all Quality Control Samples developed on, or provided from, the licensed Premises in satisfaction of 935 CMR 500.130(8). Policies and procedures shall further prohibit consumption of Quality Control Samples on the licensed Premises; and

(l) Policies and procedures for White Labeling on behalf of any Delivery Operator. Marijuana Product Manufacturers shall retain all Wholesale Agreements entered into with Delivery Operators and shall make them available to the Commission upon request.

(6) Product Database. In addition to the requirement to establish policies and procedures for maintaining a product catalogue under 935 CMR 500.130(5)(h), a Marijuana Product Manufacturer, after receiving a Provisional License but prior to receiving a Certificate to Commence Operations, shall provide the following information about the Finished Marijuana Products it intends to produce and make available at wholesale to a Marijuana Retailer or Delivery Operator prior to commencement of operations. This information may be used by the Commission for its Product Database.

(a) The Marijuana Product Manufacturer shall provide the following:

1. Marijuana Product type;
2. Marijuana Product Brand Name;
3. List of direct ingredients;
4. List of indirect ingredients;
5. Serving size, including a description of what constitutes a serving size for a product that is not already a single serving;
6. Potency;
7. A photograph of a Finished Marijuana Product, against a white background, outside of but next to the Marijuana Product's packaging, including any external or internal packaging, provided however that where single servings of a multi-serving product are unable to be easily identified because of its form, a description of what constitutes a single serving shall be provided (*e.g.* a single serving is a 1" x 1" square), and where an Edible cannot be stamped, for example, due to size or a coating, the photograph of the Edible outside of, but next to, its external and internal packaging, such as the wrapper, and labeling information for the Edible;
8. A photograph of the Marijuana Product, against a white background, inside the packaging; and
9. A list of Marijuana Products to be sold based on anticipated or executed agreements between the Marijuana Product Manufacturer and Marijuana Retailer or Delivery Operator.

(b) Photographs shall be submitted in a form and manner determined by the Commission.

(c) A Marijuana Product Manufacturer shall provide the information required under 935 CMR 500.130(6)(a) for each Marijuana Product that it produces prior to the product being made available for sale through a licensed Marijuana Retailer, MTC or Delivery Operator and shall update the information whenever a substantial change to the product information occurs. Substantial changes, including changes to information listed in 935 CMR 500.130(6)(a)1. through 9., shall be submitted to the Commission for inclusion in the Product Database prior to the transfer of the Marijuana Product.

(7) Notwithstanding a stricter municipal or state regulation, a Marijuana Product Manufacturer shall identify the method of extraction (*e.g.*, Butane, Propane, CO2) on a physical posting at all entrances of the Marijuana Establishment. The Posting shall be a minimum of 12" x 12" and

500.130: continued

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.

(8) Vendor Samples.

(a) A Marijuana Product Manufacturer may provide a Vendor Sample of a Marijuana Product to a Marijuana Retailer, or Delivery Operator, Provision of a Vendor Sample under 935 CMR 500.130(8) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.

(b) Vendor Samples provided under 935 CMR 500.130(8):

1. May not be consumed on any licensed Premises;
2. May not be sold to another licensee or Consumer;
3. Shall be tested in accordance with 935 CMR 500.160; and
4. Shall be transported in accordance with 935 CMR 500.105(13). A Marijuana Product Manufacturer may include Vendor Samples with other Marijuana Products intended for transportation to an individual Marijuana Retailer or Delivery Operator.

(c) Vendor Sample Limits. A Marijuana Product Manufacturer is limited to providing the following aggregate amounts of Vendor Samples to an individual Marijuana Retailer or Delivery Operator in a calendar month period:

1. Five grams of Marijuana concentrate or extract including, but not limited to, tinctures;
2. Five hundred milligrams of Edibles whereby the serving size of each individual sample does not exceed five milligrams and otherwise satisfies the potency levels set forth in 935 CMR 500.150(4); and
3. Five units of sale per Cannabis product line and no more than six individual Cannabis product lines. For purposes of 935 CMR 500.130(8), a Cannabis product line shall mean items bearing the same Stock Keeping Unit Number.

(d) All Vendor Samples received from a Marijuana Cultivator pursuant to 935 CMR 500.120(13) that are used to manufacture a Marijuana Product shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission, and further, shall be designated as "Vendor Sample";

(e) All Vendor Samples provided by a Marijuana Product Manufacturer under 935 CMR 500.130(8) shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission and shall further be designated as "Vendor Sample";

(f) Vendor Samples provided under 935 CMR 500.130(8) shall have a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size containing at minimum the following information:

1. A statement that reads: "VENDOR SAMPLE NOT FOR RESALE";
2. The name and registration number of the Marijuana Product Manufacturer;
3. The quantity, net weight, and type of Marijuana Product contained within the package; and
4. A unique sequential, alphanumeric identifier assigned to the Production Batch associated with the Vendor Sample that is traceable in the Seed-to-sale SOR.

(9) Quality Control Samples.

(a) A Marijuana Product Manufacturer may provide a Quality Control Sample of Marijuana Product to its employees for the purpose of ensuring product quality and determining whether to make the product available to sell. Provision of a Quality Control Sample under 935 CMR 500.130(9) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.

(b) Quality Control Samples provided to employees under 935 CMR 500.130(9):

1. May not be consumed on the licensed Premises;
2. May not be sold to another licensee or Consumer; and
3. Shall be tested in accordance with 935 CMR 500.160.

(c) Quality Control Sample Limits. A Marijuana Product Manufacturer is limited to providing the following aggregate amounts of Quality Control Samples to all employees in a calendar month period:

500.130: continued

1. Five grams of Marijuana concentrate or extract including, but not limited to, tinctures;
2. Five hundred milligrams of Edibles whereby the serving size of each individual sample does not exceed five milligrams and otherwise satisfies the potency levels set forth in 935 CMR 500.150(4); and
3. Five units of sale per Cannabis product line and no more than six individual Cannabis product lines. For purposes of 935 CMR 500.130(8), a Cannabis product line shall mean items bearing the same Stock Keeping Unit Number.

(d) All Quality Control Samples provided under 935 CMR 500.130(8) shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission, and further, shall be designated as "Quality Control Sample."

(e) Quality Control Samples provided under 935 CMR 500.130(9) shall have a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size containing at minimum the following information:

1. A statement that reads: "QUALITY CONTROL SAMPLE NOT FOR RESALE";
2. The name and registration number of the Marijuana Product Manufacturer;
3. The quantity, net weight, and type of Marijuana flower contained within the package; and
4. A unique sequential, alphanumeric identifier assigned to the Production Batch associated with the Quality Control Sample that is traceable in the Seed-to-sale SOR.

(f) Upon providing a Quality Control Sample to an Employee, the Marijuana Product Manufacturer shall record:

1. The reduction in quantity of the total weight or item count under the unique alphanumeric identifier associated with the Quality Control Sample;
2. The date and time the Quality Control Sample was provided to the Employee;
3. The agent registration number of the employee receiving the Quality Control Sample; and
4. The name of the Employee as it appears on their agent registration card.

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 and security requirements provided in 935 CMR 500.110, Licensees engaged in retail sales shall comply with 935 CMR 500.140.

(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) In accordance with M.G.L. c. 94G, § 4(c)(3), a Marijuana Retailer may not acquire or record Consumer personal information other than information typically required in a retail transaction, which can include 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, except as provided in 935 CMR 500.140(2)(d) and (e).

(d) A Marijuana Retailer that has entered into Delivery Agreements with Delivery Licensees for the purpose of transacting home deliveries to Consumers shall establish a Pre-verification process for Consumers who intend to place orders for delivery with the Marijuana Establishment. A Marijuana Retailer that holds more than one Marijuana Retailer license may establish a process to share Pre-verification information about Consumers among their multiple locations for the purpose of enabling deliveries from any licensed location operated by the Marijuana Retailer; provided, however that information shall only be shared among locations upon the affirmative election by a Consumer. To comply with the requirements of Pre-verification, the Marijuana Establishment shall:

500.140: continued

1. Require the Consumer to pre-verify with the Marijuana Establishment either in person or through a Commission-approved electronic means by presenting or submitting the Consumer's valid, unexpired government-issued photo identification; and
2. Examine the government-issued identification card and verify that the individual Consumer presenting or submitting the government-issued identification card is the individual Consumer that matches the government-issued identification card and that the individual Consumer is 21 years of age or older.

(e) A Marijuana Retailer shall 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 is legally allowed to receive Marijuana and Marijuana Products, which shall be limited to:

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 under 935 CMR 500.145 and shall be otherwise maintained confidentially.

(3) Limitation on Sales.

(a) In accordance with M.G.L. c. 94G, § 7, a Marijuana Retailer may not knowingly sell more than one ounce of Marijuana or its combined dry weight equivalent in Marijuana concentrate or Edibles 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 Edibles.
3. Topicals and ointments shall not be subject to a limitation on daily sales.

(b) A Marijuana Retailer may not sell Marijuana or Marijuana Products in excess of the potency levels established by 935 CMR 500.150(4); and

(c) A Marijuana Retailer shall demonstrate that it has a point-of-sale system that does not allow for a transaction in excess of the limit established in 935 CMR 500.140(3)(a) or the potency levels established in 935 CMR 500.140(3)(b).

(d) Unless authorized by the Commission, a Marijuana Establishment may not sell any service or product other than Marijuana Products, Marijuana Accessories, and Branded Goods.

(e) A Marijuana Establishment may sell non-infused food, water, and drink items that are pre-packaged prior to arrival on the Premises and are Shelf-stable. Such sales of Shelf-Stable Products shall be limited to products sold in a manner that does not cause the Marijuana Establishment to be considered a Food Establishment under 105 CMR 590.001. The Marijuana Establishment shall obtain all licenses and permits, as necessary, prior to the sale of Shelf-stable products.

(f) A Marijuana Retailer shall not sell alcohol or Tobacco.

(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 government-issued identification.

(b) A retailer shall 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 or Inversion.

(c) A retailer may not sell to an individual more than one ounce of Marijuana or its dry weight equivalent in Marijuana concentrate or Edibles per transaction. A retailer may not knowingly sell to an individual more than one ounce of Marijuana or its dry weight equivalency per day.

500.140: continued

(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 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.
(e) 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.
(f) A retailer shall comply with 830 CMR 62C.25.1: *Record Retention and DOR Directive 16-1* regarding recordkeeping requirements.
(g) A retailer shall adopt separate accounting practices at the point of sale for Marijuana and Marijuana Product sales, and non-Marijuana sales.
(h) 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 500.140(5).
(i) A Marijuana Retailer who operates a Supplemental On-site Consumption License in the Premises shall distinguish sales for retail only and sales for consumption through the Seed-to-sale SOR. After the point of sale, there shall be a reconciliation of that inventory in the Seed-to-sale SOR.

(6) Consumer Education. A Marijuana Retailer shall make available educational materials about Marijuana Products to Consumers. A retailer shall have an adequate supply of current educational material available for distribution. Educational materials shall 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 educational material shall 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 shall also be explained;
(f) A discussion of tolerance, dependence, and withdrawal;
(g) Facts regarding substance use disorder signs and symptoms, as well as referral information for substance use disorder treatment programs, and the telephone number for the Massachusetts Substance Use Helpline;

500.140: continued

(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. The product shall be deemed to comply with the standards required under 935 CMR 500.160. Potency levels derived from the Cannabinoid Profile, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids, contained within Finished Marijuana or Marijuana Product to be sold or otherwise marketed, shall be recorded in the Seed-to-sale SOR.

(8) Repackaging. Repackaged Marijuana shall comply with the labeling and packaging requirements under 935 CMR 500.105(5) and 500.105(6).

(9) Advance Contactless Order Fulfillment.
(a) A Marijuana Retailer may allow for advance contactless ordering of Marijuana and Marijuana Products by telephone, website or third-party platform, which shall be available for inspection prior to commencing operations and on request.
(b) Marijuana Retailer may fulfill advance orders through contactless means by not requiring contact between a Consumer and Registered Marijuana Agent.
(c) Any physical unit used for the purpose of the fulfillment of an advance contactless order (order) shall ensure that access to orders of Marijuana or Marijuana Products is limited to the Consumer who placed the order.
(d) Any physical unit used for the purpose of order fulfillment shall be located within the Marijuana Retailer's building and be bolted or otherwise permanently affixed to the Marijuana Establishment Premises.
(e) A Marijuana Retailer that adopts a contactless means of fulfilling orders shall have a written operations plan which shall be submitted to the Commission prior to commencing these operations and on request. The plan shall include a detailed description of how the Marijuana Retailer will ensure that advance contactless order fulfillment complies with the requirements of:
1. 935 CMR 500.105(3)(b) and (c) for the safe storage of Marijuana and Marijuana Products;
2. 935 CMR 500.110(1)(a) and M.G.L. c. 94G, § 4(c)(3) for the positive identification of individuals seeking access to the Premises of the Marijuana Establishment for the purpose of obtaining an order placed in advance to limit access solely to individuals 21 years of age or older;
3. 935 CMR 500.110(5)(a)(4) for the video surveillance of the advance contactless order; and
4. 935 CMR 500.140(8)(c) and (d).
(f) Orders placed in advance may not be retained in a physical unit used for the purpose of contactless order fulfillment overnight or outside of business hours.

(10) Product Database. A Marijuana Retailer that purchases wholesale Marijuana Products from a licensed Marijuana Product Manufacturer for the purpose of Repackaging Marijuana Products for sale to Consumers shall provide the Commission with the following information. This information may be used by the Commission for its Product Database.
(a) The Marijuana Retailer shall provide the following:
1. A photograph of a Finished Marijuana Product outside of, but next to, the Marijuana Product's packaging; provided, however that where single servings of a multi-serving product are unable to be easily identified because of its form, a description of what constitutes a single-serving shall be provided (*e.g.* a single-serving is a 1" x 1" square);
2. A photograph of the Marijuana Product inside packaging; and
3. The name of the Product Manufacturer that produced the Marijuana Product.
(b) Photographs submitted shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

500.140: continued

(c) Marijuana Retailers shall provide the information required under 935 CMR 500.140(8)(a) for each Marijuana Product it Repackages for sale prior to the product being made available for sale and shall update the information whenever a substantial change to packaging or label of the Marijuana Product occurs. For purposes of 935 CMR 500.140(10), a substantial change shall be a change to the physical attributes or content of the package or label.

(11) In addition to the written operating policies required under 935 CMR 500.105(1), a Marijuana Retailer shall maintain written policies and procedures which shall include:

(a) Policies and procedures for adequately tracking, recording, and documenting all Vendor Samples that the Marijuana Retailer receives from a Marijuana Cultivator or a Marijuana Product Manufacturer; and

(b) Policies and procedures for adequately tracking, recording, and documenting all Vendor Samples that the Marijuana Retailer provides to employees for the purpose of assessing product quality and determining whether to make the product available to sell, in compliance with 935 CMR 500.140(15).

(12) Vendor Samples.

(a) A Marijuana Retailer may receive a Vendor Sample of Marijuana flower from a Marijuana Cultivator pursuant to 935 CMR 500.120(13). A Marijuana Retailer may also receive a Vendor Sample of Marijuana Product from a Marijuana Product Manufacturer pursuant to 935 CMR 500.130(7). Receipt of a Vendor Sample under 935 CMR 500.140(12) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.

(b) Vendor Samples may not be sold to another licensee or Consumer.

(c) A Marijuana Retailer may provide the Vendor Samples it receives from a Marijuana Cultivator or a Marijuana Product Manufacturer to its Employees for the purpose of assessing product quality and determining whether to make the product available to sell the product. Vendor Samples may not be consumed on any licensed Premises.

(d) Vendor Sample limits. A Marijuana Retailer is limited to providing the following aggregate amounts of Vendor Samples to all Employees in a calendar month period:

1. Four grams per strain of Marijuana flower and no more than seven strains of Marijuana flower;

2. Five grams of Marijuana concentrate or extract including, but not limited to, Tinctures;

3. Five hundred milligrams of Edibles whereby the serving size of each individual sample does not exceed five milligrams and otherwise satisfies the potency levels set forth in 935 CMR 500.150(4); and

4. Five units of sale per Cannabis product line and no more than six individual Cannabis product lines. For purposes of 935 CMR 500.140(15), a Cannabis product line shall mean items bearing the same Stock Keeping Unit Number.

(e) Upon providing a Vendor Sample to an employee, the Marijuana Retailer shall record:

1. The reduction in quantity of the total weight or item count under the unique alphanumeric identifier associated with the Vendor Sample;

2. The date and time the Vendor Sample was provided to the Employee;

3. The agent registration number of the employee receiving the Vendor Sample; and

4. The name of the Employee as it appears on their agent registration card.

(f) All Vendor Samples provided by a Marijuana Retailer to its employees shall also be entered into the point-of-sale system and shall count against the individual employee's daily purchase limit, if applicable, consistent with 935 CMR 500.140(3).

(13) Sale of Marijuana Vaporizer Devices.

(a) Marijuana Retailers offering Marijuana Vaporizer Devices for sale to Consumers shall include signage at the point of sale, that is legible and enlarged and contains the following statements:

1. "Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled."

2. "Consumers shall have access to the test results of Marijuana Vaporizer Devices including copies of any Certificates of Analysis provided by the device's manufacturer."

(b) Marijuana Retailers shall provide a physical insert to Consumers that accompanies all purchased Marijuana Vaporizer Devices that states, including capitalization and emphasis, the following: "Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled."

(c) The sale of disposable and reusable vaporizer pens and devices shall be accompanied by a product insert identifying the materials used in the vaporizer device's atomizer coil (*e.g.*, titanium, titanium alloy, quartz, copper, nichrome, kanthal, or other specified material), and manufacturer identification of the device hardware, cartridge, battery and other components;

(d) A Marijuana Retailer shall make available the information contained in 935 CMR 500.105(5)(c)6. in the product description at the point of sale and as part of any product list posted on the Marijuana Retailer's website or Third-party Technology Platforms or applications employed for preordering or delivery.

(e) A Marijuana Retailer shall retain all records of purchases from any Product Manufacturer or supplier of any ingredient, additive, device, component part or other materials provided to the Marijuana Retailer about Marijuana Vaporizer Devices sold at retailers. Such records shall be made available to the Commission upon request.

(14) Physical Separation of Marijuana and MIPs or Marijuana Products for Medical- or Adult-use. A CMO shall provide for physical separation between medical and adult use sales areas. Separation may be provided by a temporary or semipermanent physical barrier, such as a stanchion, that, in the opinion of the Commission, adequately separates sales areas of MIPs for medical-use from sales areas of Marijuana products for adult use for the purpose of Patient Confidentiality.

(a) A CMO shall provide for separate lines for sales of Marijuana or MIPs for medical-use from Marijuana Products for adult use within the sales area, provided that the holder of a patient registration card may use either line and may not be limited only to the medical use line, so long as the CMO can record the patient's transaction in accordance with 935 CMR 501.140(5).

(b) A CMO shall additionally provide a patient consultation area, an area that is separate from the sales floor that is enclosed to allow privacy and for confidential visual and auditory consultation with Qualifying Patients.

(c) A CMO's patient consultation area shall have signage stating, "Consultation Area". The private consultation area shall be separate from the sales area. It shall be accessible by a Qualifying Patient or Caregiver without having to traverse a Limited Access Area.

(d) A CMO shall use best efforts to prioritize Patient and Caregiver identification verification and physical entry into its retail area.

(15) Patient Supply.

(a) A CMO shall ensure access to a sufficient quantity and variety of marijuana products, including marijuana, for patients registered under 935 CMR 501.000: *Medical Use of Marijuana*.

1. Where the CMO has been open and dispensing for a period of less than six months, the license shall reserve 35% of the MTC's marijuana products.

2. Where the CMO has been open and dispensing for a period of six months or longer, the licensee shall maintain a quantity and variety of marijuana products for patients registered under 935 CMR 501.000: *Medical Use of Marijuana*, sufficient to meet the demand indicated by an analysis of sales data collected by the licensee during the preceding six months in accordance with 935 CMR 500.140(5), and 935 CMR 501.140(5): *Recording Sales*.

(b) Marijuana products reserved for patient supply shall, unless unreasonably impracticable, reflect the actual types and strains of marijuana products documented during the previous six months. If a substitution must be made, the substitution shall reflect as closely as possible the type and strain no longer available.

500.140: continued

(c) On a biannual basis, the CMO shall submit to the Commission an inventory plan to reserve a sufficient quantity and variety of medical use Marijuana Products for Registered Qualifying Patients, based on reasonably anticipated patient needs as documented by sales records over the preceding six months. On each occasion that the supply of any product within the reserved patient supply is exhausted and a reasonable substitution cannot be made, the CMO shall submit a report to the Commission in a form determined by the Commission.

(d) Marijuana Products reserved for patient supply shall be either maintained on-site at the retailer or easily accessible at another location operated by the licensee and transferable to the retailer location within 48 hours of notification that the on-site supply has been exhausted. CMOs shall perform audits of available patient supply on a weekly basis and retain those records for a period of six months.

(e) The Commission shall, consistent with 935 CMR 500.301 or 935 CMR 501.301: *Inspections and Compliance*, inspect and audit CMOs to ensure compliance with 935 CMR 500.140. The Commission may, in addition to the issuance of a deficiency statement under 935 CMR 500.310 or 935 CMR 501.310: *Deficiency Statements* and a plan of correction under 935 CMR 500.320 or 935 CMR 501.320: *Plans of Correction*, demand that the CMO take immediate steps to replenish its reserved patient supply to reflect the amounts required under 935 CMR 500.140(15)(a) or 935 CMR 501.140(13)(a). Failure to adequately address a deficiency statement or follow a plan of correction shall result in administrative action by the Commission pursuant to 935 CMR 500.450 and 935 CMR 500.500 or 935 CMR 501.450: *Medical Marijuana Treatment Center Registration or License*: *Grounds for Suspension, Revocation, and Denial of Renewal Application* and 935 CMR 501.500: *Hearings and Appeals of Actions on Registrations or Licenses*.

(f) CMOs may transfer marijuana products reserved for medical-use to adult-use within a reasonable period of time prior to the date of expiration provided that the product does not pose a risk to health or safety.

(16) Undeliverable Marijuana and Marijuana Products. Any Finished Marijuana Product that is undeliverable by a Marijuana Courier or is refused by the Consumer shall be transported back to the originating Marijuana Retailer that provided the product once all other deliveries included on a delivery manifest have been made. The Marijuana Retailer shall ensure that a Registered Marijuana Agent remains at the premises to receive any undeliverable Marijuana or Marijuana Product from a Marijuana Courier. A process for ensuring that undelivered Marijuana and Marijuana Products can be returned to the Marijuana Retailer by the Marijuana Courier shall be a term of the Delivery Agreement.

(17) Prohibition on Monopolies.

(a) It shall be a violation of, 935 CMR 500.000, for any Marijuana Retailer to or attempt to monopolize, or combine or conspire with any other person or entity including, but not limited to, a Third-party Technology Platform Provider, to monopolize any part of licensed activities authorized under 935 CMR 500.000.

(b) It shall be a violation of these regulations, 935 CMR 500.000, for any Marijuana Retailer engaged in activities authorized under 935 CMR 500.000 to make a contract for services with a Third-party Technology Platform Provider for the listing of a Marijuana Retailer's Finished Marijuana Products on the condition, agreement or understanding that the parties to the contract shall not deal in Marijuana or Marijuana Products, either generally or specific brands or categories of Finished Marijuana Products, of a competitor or competitors of the parties where the effect of such contract or such condition, agreement or understanding may be to lessen substantially competition or tend to create a monopoly in any activity engaged in under 935 CMR. 500.000.

500.141: Additional Operational Requirements for Social Consumption Establishments

(1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105, and except as otherwise provided in 935 CMR 500.141, a Social Consumption Establishment shall comply with 935 CMR 500.110, and additional operational requirements under 935 CMR 500.140 and 935 CMR 500.141.

500.141: continued

(2) Written Policies and Procedures. In addition to the written operating policies required under 935 CMR 500.105(1), prior to commencing operations, a Social Consumption Establishment shall maintain and adhere to written policies and procedures for the sale, distribution, packaging and serving of Marijuana and Marijuana Products and provide in-house training to employees to the extent not covered in Responsible Vendor Training Program courses or other required trainings on such policies and procedures. In-house training provided under 935 CMR 500.141(2) may be counted toward the eight-hour total training requirement required under 935 CMR 500.105(2)(a). Such written policies and procedures shall include, without limitation:

(a) Methods for preventing, identifying, recording, and reporting Diversion, Inversion, theft, or loss, and for correcting all errors and inaccuracies in inventories. These policies shall, at minimum, include plans for compliance with 935 CMR 500.105(8), 935 CMR 500.110(9), and 935 CMR 500.141(8), if applicable;

(b) Procedures to ensure that products purchased for consumption on-site are distinguished from products purchased for retail sale which are not to be consumed on-site, if applicable;

(c) Procedures to ensure that all sales and service of Marijuana and Marijuana Products under a Social Consumption Establishment license comply with 935 CMR 500.141(4)(a);

(d) Procedures that describe sales and service practices, including but not limited to procedures for order taking, product handling, portioning, delivery to Consumers, and ensuring that all sales and service activities are conducted in compliance with 935 CMR 500.140 and 935 CMR 500.141. Such procedures shall include a description of dose verification practices to ensure that any Marijuana Products offered for consumption on-site are sold or served in accordance with the limitations established in 935 CMR 500.141(3);

(e) Procedures that describe infusion processes permitted by Consumers, including procedures to prevent cross-contamination and to ensure that no infusion activities occur by Marijuana Establishment Agents in violation of 935 CMR 500.141(9)(c);

(f) Security procedures, including specific plans for securing entrances and that all Marijuana and Marijuana Products are kept, sold, stored, and, if applicable, consumed, out of plain sight and not visible from a public place;

(g) Procedures to ensure that only Marijuana or Marijuana Products purchased on the Premises are consumed at the Social Consumption Establishment;

(h) Procedures that ensure that only Marijuana Accessories provided or sold by the Social Consumption Establishment are used on the Premises;

(i) Procedures to ensure that Marijuana or Marijuana Products purchased on-site do not leave the Premises; except as otherwise authorized in an opaque child-resistant sealed exit bag or an opaque child-resistant sealed exit container suitable for liquids under 935 CMR 500.141(3)(b)3. and 935 CMR 500.141(4)(k);

(j) Procedures for the storage of Marijuana or Marijuana Products at a Social Consumption Establishment in accordance with Storage Requirements in 935 CMR 500.105(11). Marijuana Event Organizers shall create procedures for the temporary storage of Marijuana, Marijuana Products and Marijuana Accessories at Temporary Consumption Events;

(k) Procedures for the identification and Waste of unconsumed, abandoned, or unattended Marijuana or Marijuana Products in accordance with 935 CMR 500.105(12);

(l) Procedures for Social Consumption Establishments regarding transportation between Marijuana Establishments and, if applicable, to Temporary Consumption Events, in accordance with 935 CMR 500.105(13);

(m) Procedures for Marijuana Event Organizers to describe the orderly preparation, execution, and clean-up of the Temporary Consumption Event from set-up to the closing;

(n) Procedures outlining how a Licensee will assist Consumers who may be impaired due to consumption of Marijuana or Marijuana Products in the Social Consumption Establishment by assisting the Customer with means of transportation or other services. Such requirements shall be tailored to the Host Community or region in which the Social Consumption Establishment is located and reviewed for comments by the municipality's

500.141: continued

chief law enforcement officer. The Commission shall take the chief law enforcement officer's opinion into consideration in determining whether to approve the impaired Consumer transportation assistance SOP, provided that the chief law enforcement officer's opinion shall not be determinative. If no response is received from the chief law enforcement officer or delegee within 30 days of submitting the request to the chief law enforcement officer, the Commission shall proceed with its review;

(o) Procedures to prevent overserving Consumers, including the development of standards, consistent with Responsible Vendor Training, for Marijuana Establishment Agents to use to evaluate impairment;

(p) Emergency response procedures where Social Consumption Establishments shall contact emergency responders if a Consumer demonstrates signs of unresponsiveness or medical distress in accordance with 935 CMR 500.110(9)(a)10. These procedures shall require a Marijuana Establishment Agent(s) to remain with the Consumer until emergency responders arrive;

(q) Procedures to ensure that no one younger than 21 years old may access the establishment;

(r) If Indoor Smoking Consumption Areas are allowed by the Social Consumption Establishment, including the ability for Consumers to use the methods of combustion smoke, heat, vaporization or aerosolization indoors, procedures and building plans or schematics to ensure compliance with 935 CMR 500.141(10);

(s) If Outdoor Smoking Consumption Areas are allowed by the Social Consumption Establishment, including the ability for Consumers to use the methods of combustion smoke, heat, vaporization or aerosolization outdoors, procedures and building plans or schematics to ensure compliance with 935 CMR 500.141(11);

(t) Procedures to ensure that smoking or consuming Tobacco is prohibited;

(u) Sanitary practices in compliance with 105 CMR 590.000 and 105 CMR 300.000, if applicable;

(v) Procedures to ensure the cleaning and sanitation of all Consumption Areas;

(w) Procedures to ensure that all Marijuana Accessories provided by the Social Consumption Establishment used by Consumers on-site are cleaned and sanitized after use;

(x) A detailed description of intended training(s) for Marijuana Establishment Agents who will be employees;

(y) Policies to ensure that Marijuana Establishment Agents do not consume Marijuana or Marijuana Products while at work; and

(z) A Social Consumption Establishment Licensee shall update its standard operating procedures when utilizing new consumption technologies or Marijuana Accessories in its Indoor Smoking Consumption Areas in order to limit second-hand smoke or vapor and in accordance with 935 CMR 500.104(5).

(3) Limitation on Sales.

(a) General Requirements.

1. All Marijuana and Marijuana Products offered at a Social Consumption Establishment shall be sourced in compliance with 935 CMR 500.105, and shall have undergone testing in accordance with 935 CMR 500.160 prior to sale or service.

2. A Marijuana Establishment Agent shall not sell Marijuana or Marijuana Products to any individual in excess of the limitations set forth in M.G.L. c. 94G, § 7, 935 CMR 500.140(3)(a), 935 CMR 500.140(4)(c) and 935 CMR 500.150(4)(a) and (b).

(b) Point-of-Service Limitations.

1. At the Point-of-Service, a Social Consumption Establishment shall not serve to a Consumer at one time more than one-half of the limits established in M.G.L. c. 94G, § 7, 935 CMR 500.140(3)(a), and 935 CMR 500.140(4)(c).

2. A Social Consumption Establishment may maintain an Open Bill for a Consumer; provided however, that the sale or service of Marijuana or Marijuana Products complies with 935 CMR 500.141(3)(a)2. and 935 CMR 500.141(3)(b)1.

500.141: continued

3. A Marijuana Establishment Agent may sell or serve Marijuana or Marijuana Products in excess of the Point-of-Service limits set forth in 935 CMR 500.141(3)(b)1.; provided however, all sales and service comply with 935 CMR 500.141(3)(a)2.; and provided further, that a Marijuana Establishment Agent shall place all Marijuana or Marijuana Products in excess of the Point-of-Service limits set forth in 935 CMR 500.141(3)(b)1. directly into an opaque child-resistant sealed exit bag prior to being provided to the Consumer.

(c) Repackaging and Portioning of Marijuana Products. A Social Consumption Establishment may Repackage or portion servings of Marijuana-infused Products, including Edibles, Beverages and tinctures, into single or multiple-serving sizes for sale or service to Consumers; provided however, that all individual serving sizes shall comply with the serving size limitations of 935 CMR 500.105(6) and all potency limitations established in 935 CMR 500.150(4).

(d) Other Sales.

1. Sale of Shelf-stable Products. A Social Consumption Establishment shall sell non-infused food, water, and drink items that are pre-packaged prior to arrival on the Premises and are Shelf-stable. Such sales of Shelf-stable Products shall be limited to products sold in a manner that does not cause the Social Consumption Establishment to be considered a Food Establishment under 105 CMR 590.001. A Social Consumption Establishment shall obtain all licenses and permits, as necessary, prior to the sale of Shelf-stable products. Such Shelf-stable Products shall be stored or refrigerated separately from all Marijuana and Marijuana Products. A Social Consumption Establishment shall not sell alcohol or Tobacco.

2. Sale of Food. The Department of Public Health and the applicable local Board of Health have jurisdiction over the sale of non-infused food and drink. A Social Consumption Establishment shall obtain necessary permits, or other authorizations from the Department of Public Health pursuant to 105 CMR 590.000, and any local ordinances or by-laws prior to sale of non-infused food and drink. All non-infused food and drinks shall be stored, refrigerated, and prepared separately from Marijuana and Marijuana Products. Nothing in 935 CMR 500.141, shall be construed to authorize the Commission to license or regulate Food Establishments.

3. Sale of Outside Food. A Social Consumption Establishment may allow sales or delivery of non-infused food or drinks for consumption on-site from a Food Establishment holding a valid permit issued pursuant to 105 CMR 590.000. The allowance of outside non-infused food or drinks from a Food Establishment shall not, by itself, cause a Social Consumption Establishment to be considered a Food Establishment under 105 CMR 590.001: *Purpose and Definitions.*

4. Sale and Use of Accessories. A Social Consumption Establishment may sell Marijuana Accessories. A Social Consumption Establishment may rent or provide Marijuana Accessories for use by Consumers in Consumption Areas; provided however, all Marijuana Accessories for rent or use by Consumers that are not disposable or for single-use, must be thoroughly cleansed and properly sterilized prior to rental or use, and after rental or use by each Consumer.

5. Access to Consumer Support Items. A Social Consumption Establishment may provide access to or sell products intended to assist Consumers in alleviating or mitigating the effects of intoxication from Marijuana or Marijuana Products; provided however, that the Social Consumption Establishment shall maintain documentation demonstrating the basis for the product's intended use, including but not limited to manufacturer descriptions, product labeling, or other materials, which shall be made available to the Commission or the municipality upon request. Consumer support items shall not be marketed or represented as medical treatment and shall be offered only in compliance with all applicable laws.

6. Sale of Other Items. A Social Consumption Establishment may sell items not expressly authorized herein only after receiving the express written permission of the Host Community of the Supplemental On-site Social Consumption Establishment or Hospitality On-site Social Consumption Establishment, or, for a Marijuana Event Organizer, the municipality where a Temporary Consumption Event is located; provided

500.141: continued

however, that the sale of any items not expressly authorized herein complies with 935 CMR 500.141(9). Such express written permission shall be submitted to the Commission pursuant to 935 CMR 500.101(3)(i)8. and updated upon any change in accordance with 935 CMR 500.104(5).

(4) Social Consumption Establishment Sales.

(a) Except as otherwise authorized in 935 CMR 500.141(3), 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 500.141(5) that they are 21 years of age or older.

2. A Social Consumption Establishment shall use Automatic Identification Technology to provide Consumers with access to Certificates of Analysis, and may use AIT to provide Consumers with access to menus, Consumer education information, access to Marijuana or Marijuana Product labels, and any additional content or materials as may be determined by the Commission; provided however, that a Social Consumption Establishment utilizing AIT is prohibited from collecting, storing, or using any Consumer personal data through such technology.

3. In addition to the requirements of 935 CMR 500.140(6), a Social Consumption Establishment shall readily display a Consumer information card to each Consumer at the point of sale or service or within the Consumption Area. A Social Consumption Establishment may use Automatic Identification Technology to display the Consumer information card, or provide visible signage at the point of sale or service or in the Consumption Area. Visible Signage shall contain the same information as the Consumer information card. The content shall include the following:

a. Content 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 content of the information card or visible signage will be scientifically based on available and current public health research.

b. For Edibles, Marijuana-infused Products, or for Beverages, the warning, "The impairment effects of Marijuana-infused Products may be impacted or delayed up to two hours or more depending on several factors, including but not limited to, potency, method of consumption, amount consumed, alcohol consumption, non-infused food and drink consumption prior to and during the use of Marijuana and Marijuana Products, and body-weight, previous use, prescription medication used and tolerance of the Consumer, and may cause psychosis."

4. In addition to the requirements of 935 CMR 500.105(5), a Social Consumption Establishment shall ensure that all Marijuana and Marijuana Products sold or served on-site are accompanied by an Automatic Identification Technology, menu, label, or supplementary insert provided to the Consumer that includes:

a. The estimated amount of time for the onset effects of Marijuana and Marijuana Products and the projected duration of the effects for each specific product offered for sale by the Licensee; and

b. Access to the Certificate of Analysis for each batch of Marijuana and Marijuana Products available for sale or service. A Social Consumption Establishment shall make individual package Certificates available to Consumers upon request.

(b) A Social Consumption Establishment shall not allow the consumption of alcohol or Tobacco, or the sale of alcohol or Tobacco on its Premises.

(c) Hospitality On-Site Consumption Licensee or Marijuana Event Organizer Licensee shall not allow consumption by Consumers in a space that is shared with another entity serving alcohol unless there is a physical barrier to the Consumption Areas and Premises or alcohol sales are not offered at the same time as consumption of Marijuana or Marijuana Products by Consumers.

500.141: continued

(d) A Supplemental On-Site Consumption Licensee that also has a valid Marijuana Retailer license may conduct both social consumption sales in compliance with 935 CMR 500.141 and retail sales in compliance with 935 CMR 500.140. A Social Consumption Establishment shall ensure that Marijuana and Marijuana Products purchased for consumption on-site are distinguished from Marijuana and Marijuana Products purchased for retail sale through the Seed-to-sale SOR. Marijuana and Marijuana Products purchased for retail sale shall not be consumed on-site.

(e) All Marijuana and Marijuana Product sales shall be tracked by Social Consumption Establishments using the Seed-to-sale SOR. Marijuana Establishments licensed to operate Supplemental On-site Consumption Establishments in its existing Marijuana Establishment Premises shall ensure separation of sales under the Marijuana Establishment license and sales under the Social Consumption Establishment License. Marijuana Establishments selling Marijuana and Marijuana Products through a Marijuana Event Organizer Licensee at Temporary Consumption Events shall track such sales in the Seed-to-sale SOR and shall provide this information to the Social Consumption Establishment.

(f) 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 and service shall only occur between the hours of 7:00 A.M. and 12:00 A.M., and shall cease no later than 30 minutes prior to the latest time the licensee is authorized to conduct sales under 935 CMR 500.000. Nothing in this subsection shall prohibit a licensee from continuing to operate or conduct other lawful business activities, including the sale of non-Marijuana items such as non-infused food or drink, or entertainment, after the sale and service of Marijuana and Marijuana Products cease.

(g) Every effort shall be made to minimize the amount of cash held by a Social Consumption Licensee at any one time. Licensees shall use reasonable efforts to implement platforms for the electronic payment of funds.

(h) A Social Consumption Establishment shall prohibit the sale and consumption of Marijuana or Marijuana Products by a visibly intoxicated Consumer.

(i) A Social Consumption Establishment shall adopt separate accounting practices at the point of sale for Marijuana, Marijuana Products, and non-Marijuana sales.

(j) A Consumer's presence at a licensed Social Consumption Establishment during permitted hours of operation shall be presumed lawful and shall not constitute loitering.

(k) The Social Consumption Establishment shall offer Consumers an opaque child-resistant sealed exit bag to take unconsumed or partially consumed Marijuana or Marijuana Products from the Premises; provided however, that any open Beverage, or any drink or other liquid that becomes infused by a Consumer on the Premises shall be consumed on-site and may not be removed from the Premises, unless secured in an opaque child-resistant sealed exit container suitable for liquids provided by the Social Consumption Establishment.

(5) Age Verification.

(a) Entry into the Premises of a Social Consumption Establishment by Persons younger than 21 years old is prohibited.

(b) A Social Consumption Establishment shall conduct age verification upon entry using ID scanning software.

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

(6) Consumption Areas.

(a) Access to Consumption Areas.

1. Access to Consumption Areas is restricted to Consumers, Marijuana Establishment Agents, outside vendors and contractors, agents of the Commission, Commission Delegees, state and local personnel acting within their lawful jurisdictions, and police, fire departments, and emergency medical services acting in the course of their official capacity.

500.141: continued

2. 935 CMR 500.000 shall not be construed to prohibit access to authorized state or local Law enforcement Authorities or public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.

(b) Separation of Consumption Areas from Sales and Service.

1. A Social Consumption Establishment that allows an Indoor Smoking Consumption Area or an Outdoor Smoking Consumption Area shall separate the designated sales and service areas from Consumption Areas. Each Indoor Smoking Consumption Area and Outdoor Smoking Consumption Area shall be isolated from other non-smoking areas of the establishment.

2. Indoor Non-Smoking Consumption Areas and Outdoor Non-Smoking Consumption Areas may separate the designated sales and service areas from Consumption Areas.

3. The Indoor Smoking Consumption Area shall be an Enclosed Space separated from the sales and service areas with a secure door and shall only be accessible from the sales area in Supplemental On-site Consumption and Hospitality On-site Consumption establishments. For Marijuana Event Organizers operating a Temporary Consumption Event, the Indoor Smoking Consumption Area shall be an Enclosed Space accessible only through a secure door.

4. The Outdoor Smoking Consumption Areas in a Supplemental On-site Consumption or Hospitality On-site Consumption establishment shall be separated from the indoor portion of the Social Consumption Establishment's Premises by walls or other barriers and a secure door, and shall be separated from sales and service areas. Outdoor Smoking Consumption Areas shall be accessible only from the sales area in a Supplemental On-site Consumption or Hospitality On-site Consumption establishment.

5. Marijuana Event Organizers shall submit as part of its Event Plan an explanation and diagram where Indoor Smoking Consumption Areas or Outdoor Smoking Consumption Areas are located. An Outdoor Smoking Consumption Area shall be at least 30 feet away from the sales areas. The Marijuana Event Organizer shall separate sales and service areas taking place in temporary or mobile structures, including but not limited to tents, trailers, trucks, or other enclosures, from Outdoor Smoking Consumption Areas.

(c) Monitoring of Consumption Areas.

1. Visibility of the Indoor Smoking Consumption Areas and Outdoor Smoking Consumption Areas shall be observed by Marijuana Establishment Agents *via* natural sight, through windows, or *via* CCTV or a similar monitoring technology.

2. A Supplemental On-site Consumption establishment and a Hospitality On-site Consumption establishment's Consumption Areas shall have clear, unobstructed camera coverage as follows:

a. Cameras shall be of quality sufficient to capture a clear, still image, whether live or recorded;

b. Cameras shall cover all entrances or reasonable areas of ingress to the Consumption Areas;

c. Cameras shall be angled in at designated entrances to allow clear and certain identification of any person entering or exiting the Consumption Area;

d. Cameras shall be placed in such a way as to monitor all locked receptacles for the disposal, of abandoned, discarded, or unattended Marijuana or Marijuana Products.

e. If a licensee cannot comply with 935 CMR 500.110(2) due to conflicting laws or regulations, it shall submit a request for an Alternative Security Provision under 935 CMR 500.110(2).

3. Marijuana Event Organizers shall at minimum provide camera coverage for all sales areas.

(d) Location of Consumption Areas.

1. A Social Consumption Establishment shall provide signage to designate the approved Consumption Area(s), and shall employ additional physical or visual markers to inform Consumers and Marijuana Establishment Agents of the boundaries of the Consumption Area(s).

2. A Consumption Area shall be located only within areas of the Premises approved by the Commission for on-site consumption and shall comply with the following:

500.141: continued

a. A Consumption Area shall not be located at or within any Limited Access Areas.
b. A Consumption Area shall not be located within any restroom, janitorial, or storage areas.

3. For a Supplemental On-site Social Consumption Establishment, a Consumption Area shall not be located at or within any retail sales counter, retail point-of-sale station, retail queuing area, or other area designated for the retail sale or payment of Marijuana or Marijuana Products, and shall not intersect with ingress or egress areas for retail sales.

4. The Marijuana Establishment shall maintain an accurate and up-to-date diagram of the Consumption Areas which shall show the location of:

a. The licensed Premises of the Marijuana Establishment or Temporary Consumption Event;
b. Consumption Areas, sales areas, service areas, and food service areas, if applicable;
c. Ventilation exhaust points, if applicable;
d. The employee monitoring area;
e. Doors, windows, or other exits; and
f. Any other information required by the Commission.

(e) Indoor Consumption Areas.

1. A Supplemental On-site Consumption licensee that operates in a Marijuana Retailer, and operates an Indoor Non-Smoking Consumption Area, may continue retail operations, and may allow retail sales and social consumption sales and service to occur at the same time; provided however that all Consumption Areas comply with 935 CMR 500.141(6).

2. Consumption of Marijuana or Marijuana Products in an Indoor Smoking Consumption Area shall comply with 935 CMR 500.141(10). Further:

a. A Supplemental On-site Consumption Licensee shall not operate an Indoor Smoking Consumption Area at the same time as the existing Marijuana Establishment if they operate in the same space and during the same operating hours.
b. A Supplemental On-site Consumption Licensee shall ensure that the Indoor Smoking Consumption Areas are separated from the existing Marijuana Establishment's operations by an Enclosed Space approved by the Commission.
c. A Hospitality On-site Consumption Licensee and a Marijuana Event Organizer shall ensure that Indoor Smoking Consumption Areas within a new or existing Non-Cannabis Entity are separate from the new or existing Non-Cannabis Entity's operations by having an Enclosed Space approved by the Commission.

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

(g) If an emergency requires law enforcement personnel, firefighters, emergency medical services providers, or other public safety workers to enter an Indoor Smoking Consumption Area or an Outdoor Smoking Consumption Area, the Social Consumption Establishment shall cease the combustion, heat, vaporization, or aerosolization of Marijuana and Marijuana Products if requested by such officials until such public safety workers have completed their investigation or services and have left the Premises.

(7) Waste Disposal.

(a) The Social Consumption Establishment shall provide Consumers at least one locked receptacle in a Consumption Area for the disposal of unwanted, unattended, abandoned, or discarded Marijuana or Marijuana Products. Where combustion or heat is used to consume Marijuana or Marijuana Products, the locked receptacles shall be fireproof.

(b) The Social Consumption Establishment shall ensure the Consumption Area is regularly checked for abandoned, discarded, or unattended Marijuana or Marijuana Products and shall promptly dispose of the same in the locked receptacle.

(c) Social Consumption Establishments shall ensure that all Marijuana and Marijuana Products are properly wasted in accordance with 935 CMR 500.105(12). The locked receptacle shall be emptied, and the Marijuana and Marijuana Products shall be properly wasted no later than at the end of each day, or when the receptacle is at capacity, whichever occurs first.

(d) Marijuana or Marijuana Products returned by a Consumer shall be disposed of in accordance with 935 CMR 500.105(12).

500.141: continued

(8) Incident Reporting.

(a) The Social Consumption Establishment shall provide notice to appropriate Law Enforcement Authorities and the Commission in accordance with 935 CMR 500.110(9).

(b) In addition to the incidents identified in 935 CMR 500.110(9)(a), a Social Consumption Establishment shall notify the Commission of any of the following incidents immediately, or if circumstances prevent immediate reporting, no more than 24 hours after the following:

1. Any consumption of Tobacco or alcohol on the Premises;
2. Any instance involving the consumption of any Marijuana or Marijuana Product at the Social Consumption Establishment by a Consumer that was not purchased from the Social Consumption Establishment;
3. Any instance involving the consumption of any Marijuana or Marijuana Product from the Social Consumption Establishment being consumed in any area outside the designated Consumption Area and on the Premises;
4. Any instance in which the Social Consumption Establishment has actual knowledge, through formal notice or by direct communication, from federal, state or local officials, Marijuana Establishment Agents, or insurance companies, that a Consumer who patronized the Social Consumption Establishment was arrested for operating under the influence of marijuana as prohibited by M.G.L. c. 90, § 24.
5. Any instance involving the entry onto the Premises by, or sales or service to, an individual younger than 21 years old; or
6. Any instance in which the ventilation or filtration system in an Indoor Smoking Consumption Area fails or stops functioning properly.

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

(a) Sell Marijuana or Marijuana Products other than those authorized pursuant to 935 CMR 500.141.

(b) Permit the sale or consumption of Marijuana or Marijuana Products in violation of 935 CMR 500.160.

(c) Infuse or combine Marijuana or Marijuana Products with food or drink by a Marijuana Establishment Agent at the Social Consumption Establishment. Nothing in 935 CMR 500.141(9) shall prohibit a Consumer from infusing their own food or drink with Marijuana or Marijuana Products that have been lawfully purchased at the Social Consumption Establishment.

(d) Allow any Marijuana Establishment Agent to consume Marijuana or Marijuana Products during the course of a work shift;

(e) Allow the sale or consumption of Tobacco or alcohol on the Premises;

(f) Allow the consumption of any Marijuana or Marijuana Product that was not purchased from the Social Consumption Establishment;

(g) Allow, encourage or permit any organized game or contest involving the competitive or cooperative consumption of Marijuana or Marijuana Product or awarding of Marijuana or Marijuana Products as a prize;

(h) Advertise, market or brand any practice prohibited under 935 CMR 500.141(9) or 935 CMR 500.105(4)(b);

(i) Allow consumption outside of designated Consumption Areas; and

(j) Permit Marijuana or Marijuana Products to be sold or served to an intoxicated Consumer.

(10) Indoor Smoking Consumption Area Requirements.

(a) The prohibition on smoking of Tobacco indoors cannot be waived.

(b) Social Consumption Establishments shall not allow combustion, heat, vaporization, or aerosolization of Marijuana or Marijuana Products indoors unless expressly permitted by the Commission in an authorized Indoor Smoking Consumption Area.

(c) The Indoor Smoking Consumption Area is compliant with all fire codes.

(d) Social Consumption Establishments with an Indoor Smoking Consumption Area shall provide Marijuana Establishment Agents with adequate Personal Protective Equipment and shall provide options to Marijuana Establishment Agents to view the Indoor Smoking Consumption Areas in a smoke-free, and vapor-free area.

500.141: continued

1. A Social Consumption Establishment shall not prohibit or restrict a Marijuana Establishment Agent from wearing or using Personal Protective Equipment while working in or around an Indoor Smoking Consumption Area.

2. A Social Consumption Establishment shall comply with all applicable OSHA requirements.

(e) Social Consumption Establishments with an Indoor Smoking Consumption Area shall include:

1. A ventilation system within the Indoor Smoking Consumption Area that shall maintain negative air pressure relative to adjacent spaces at all times of operation.

2. A separate ventilation system within the Indoor Smoking Consumption Area shall be capable of 20 complete air changes per hour at a minimum. Excess air required to create negative air pressure volume must be directly exhausted to the outdoors in compliance with all applicable building and fire codes and environmental regulations.

3. A separate system within the rest of the Social Consumption Establishment that shall be capable of six complete air changes per hour at a minimum. Excess air required to create negative pressure volume must be directly exhausted to the outdoors in compliance with all applicable building and fire codes and environmental regulations.

4. A Minimum Efficiency Reporting Value (MERV) 14 or higher filtration system shall be capable of handling the entire volume of air within the Indoor Smoking Consumption Area, or an equivalent system pursuant to 935 CMR 500.141(10)(g);

5. Odor control equipment sufficient to mitigate cannabis odor from being detected outside the limits of the Premises.

(f) Prior to final licensure, a Social Consumption Establishment with an Indoor Smoking Consumption Area shall demonstrate compliance with 935 CMR 500.141(10) by submitting a ventilation and filtration compliance letter, bearing the stamp and signature of a Massachusetts Licensed Mechanical Engineer in accordance with M.G.L. c. 112, § 81M, together with supporting documentation, including but not limited to plans, computations, and specifications demonstrating system design and performance.

(g) Notwithstanding 935 CMR 500.141(10)(e), a Social Consumption Establishment may submit an alternative ventilation and filtration plan, bearing the stamp and signature of a Massachusetts Licensed Mechanical Engineer in accordance with M.G.L. c. 112, § 81M, together with supporting documentation, including but not limited to plans, computations, and specifications demonstrating system design, performance, and demonstrating protection of Consumers and Marijuana Establishment Agents at least equivalent to the requirements of 935 CMR 500.141(10)(e). The plan shall set forth performance criteria and proposed monitoring methods to demonstrate ongoing compliance with 935 CMR 500.141(10).

(h) A Social Consumption Establishment with an Indoor Smoking Consumption Area shall maintain and demonstrate ongoing compliance with 935 CMR 500.141(10). At a minimum, the Social Consumption Establishment shall:

1. Obtain certification, bearing the stamp and signature of a Massachusetts Licensed Mechanical Engineer in accordance with M.G.L. c. 112, § 81M, demonstrating continued compliance with 935 CMR 500.141(10)(e), or with the performance criteria set forth in an alternative ventilation and filtration plan pursuant to 935 CMR 500.141(10)(g), if applicable, not less than once every 12 months;

2. Maintain records of all ventilation and filtration system inspections, maintenance, and repairs for the two most recent certification periods. Such records shall be retained from the date of each certification of compliance until the next certification is obtained. Upon issuance of a new annual certification pursuant to 935 CMR 500.141(10)(h), the Social Consumption Establishment may archive or dispose of records predating the two most recent certification periods;

3. For Social Consumption Establishments operating under an alternative ventilation and filtration plan pursuant to 935 CMR 500.141(10)(g), maintain records of all inspections, maintenance, repairs, and monitoring data demonstrating compliance with the performance criteria set forth in the alternative ventilation and filtration plan for the two most recent certification periods. Such records shall be retained from the date of each certification of compliance until the next certification is obtained. Upon issuance of a new annual certification pursuant to 935 CMR 500.141(10)(h), the Social Consumption Establishment may archive or dispose of records predating the two most recent certification periods; and

500.141: continued

4. Make all such records, including inspections, maintenance, repair logs, certifications, and monitoring data, for the two most recent certification periods available to the Commission or municipality upon request.

(i) Upon any failure or improper functioning of the ventilation or filtration system or any alternative ventilation and filtration plan in an Indoor Smoking Consumption Area, a Social Consumption Establishment shall immediately require all Consumers to cease the consumption of all Marijuana or Marijuana Products in the Indoor Smoking Consumption Area and shall ensure that the Indoor Smoking Consumption Area is promptly vacated by Consumers.

1. The Indoor Smoking Consumption Area shall remain closed to consumption unless and until the ventilation and filtration system, or any alternative ventilation and filtration plan, is repaired and functioning appropriately and the Social Consumption Establishment has complied with 935 CMR 500.141(10)(j).

2. During the period of closure in accordance with 935 CMR 500.141(10)(i)1., the Indoor Smoking Consumption Area may be entered only by Marijuana Establishment Agents, outside vendors and contractors, agents of the Commission, Commission Delegees, state and local personnel acting within their lawful jurisdictions, and police, fire department, and emergency medical services personnel acting in the course of their official duties.

3. No consumption of Marijuana or Marijuana Products shall occur in the Indoor Smoking Consumption Area for a minimum of 48 hours following the detection of the ventilation or filtration system failure or improper functioning, or the failure or improper functioning of any alternative ventilation and filtration plan; provided however, that beginning 48 hours after the Social Consumption Establishment notifies the Commission of such failure or improper functioning pursuant to 935 CMR 500.141(8)(b)6., and continuing until the Social Consumption Establishment has complied with 935 CMR 500.141(10)(j), the Indoor Smoking Consumption Area may be utilized as an Indoor Non-Smoking Consumption Area.

4. Notwithstanding 935 CMR 500.141(10)(i), operation of the Indoor Smoking Consumption Area may resume at any time if the Social Consumption Establishment has complied with 935 CMR 500.141(10)(j).

(j) A Social Consumption Establishment shall report any instance in which the ventilation or filtration system in the Indoor Smoking Consumption Area fails or stops functioning properly to the Commission in accordance with 935 CMR 500.141(8)(b)6., as well as the actions that will be taken to fix the system. Combustion, heat, vaporization, and aerosolization of Marijuana or Marijuana Products in an Indoor Smoking Consumption Area shall not resume until the Social Consumption Establishment provides written notice to the Commission, bearing the stamp and signature of a Massachusetts Licensed Mechanical Engineer in accordance with M.G.L c. 112, § 81M, together with supporting documentation, including but not limited to plans, computations, and specifications demonstrating that the ventilation or filtration system has been repaired, is functioning properly, and complies with 935 CMR 500.141(10)(e) or, if applicable, the performance criteria in an approved alternative ventilation and filtration plan under 935 CMR 500.141(10)(g).

(k) All combustion, heat, vaporization, or aerosolization of Marijuana or Marijuana Products within an Indoor Smoking Consumption Area shall occur out of plain sight and shall not be visible from a public place, outside of the Marijuana Establishment, or in the case of a Temporary Consumption Event, the Event Premises, without the use of binoculars, optical aids, or aircraft.

(11) Outdoor Smoking Consumption Area Requirements.

(a) An Outdoor Smoking Consumption Area shall be open to the air at all times. The Outdoor Smoking Consumption Area shall be required to have unobstructed circulation of outside air to all parts of the Outdoor Smoking Consumption Area. This requirement shall be met if:

1. The Outdoor Smoking Consumption Area has a ceiling and at least ½ of the total surface area of the walls and other vertical boundaries of the space permit unobstructed flow of outside air into the space; or

500.141: continued

2. The Outdoor Smoking Consumption Area has no ceiling and no more than two walls or other barriers or other vertical boundaries of the space that obstruct the flow of air into the area exceeding 8 feet in height.

(b) The Outdoor Smoking Consumption Area is compliant with all fire codes.

(c) Social Consumption Establishments with an Outdoor Smoking Consumption Area shall provide Marijuana Establishment Agents with adequate Personal Protective Equipment and shall provide options to Marijuana Establishment Agents to view the Outdoor Smoking Consumption Areas in a smoke-free, and vapor-free area.

1. No Social Consumption Establishment shall prohibit or restrict a Marijuana Establishment Agent from wearing or using Personal Protective Equipment while working in or around an Outdoor Smoking Consumption Area.

2. A Social Consumption Establishment shall comply with all applicable OSHA requirements.

(d) Outdoor Smoking Consumption Areas shall:

1. Be clearly marked with appropriate signage;

2. Be physically separated from non-smoking areas and areas accessible to minors;

3. Be regularly cleaned and maintained to minimize waste, odor, and the risk of Diversion or Inversion of Marijuana and Marijuana Products; and

4. Be monitored to prevent the unlawful consumption or unlawful transfer of Marijuana or Marijuana Products.

(e) Reasonable efforts are made to mitigate smoke migration to indoor locations.

(f) If an Outdoor Smoking Consumption Area has removable elements, such as ceilings, walls, other barriers or windows that impede the free flow of outside air, the Consumption Area shall be considered an Indoor Smoking Consumption Area for the purposes of compliance with 935 CMR 500.141(10), when the removable elements are in place.

(g) All combustion, heat, vaporization, or aerosolization of Marijuana or Marijuana Products within an Outdoor Smoking Consumption Area shall occur out of plain sight and shall not be visible from a public place, outside of the Marijuana Establishment or, in the case of a Temporary Consumption Event, the Event Premises, without the use of binoculars, optical aids, or aircraft.

(12) Marijuana Event Organizer Warehousing.

(a) Notwithstanding the Vault requirements in 935 CMR 500.110, a Marijuana Event Organizer may operate a Warehouse for the storage of Finished Marijuana, Marijuana Products, and Marijuana Accessories and for the preparation of sale to consumers at Temporary Consumption Events. A Marijuana Event Organizer who does not operate a Warehouse shall indicate to the Commission all Marijuana Establishments who will conduct sales of Marijuana, Marijuana Products, and Marijuana Accessories, at each Temporary Consumption Event.

(b) Warehouses shall comply with all applicable requirements for 935 CMR 500.105 and 935 CMR 500.110.

(c) Warehouses shall incorporate a sally port or loading area immediately adjacent to the Warehouse that enables the Transfer of Finished Marijuana Products to and from Temporary Consumption Events.

500.145: Additional Operational Requirements for Delivery of Marijuana, Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods to Consumers and as Permitted, to Patients or Caregivers

(1) General Requirements.

(a) For purposes of 935 CMR 500.145, Delivery Items means Finished Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods.

(b) A Delivery License or Delivery Endorsement is a necessary prerequisite for the delivery of Delivery Items directly to Consumers, and as permitted, Marijuana Couriers, to Patients or Caregivers. Applications for a Delivery License or Delivery Endorsement shall be in a form and manner to be determined by the Commission.

(c) Prior to commencing operations, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall comply with all operational requirements imposed by:

500.145: continued

1. 935 CMR 500.105;
2. 935 CMR 500.110 as applicable, including 935 CMR 500.110(8); and
3. 935 CMR 500.145.

(d) All individuals delivering for a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement directly to Consumers, and as permitted Patients or Caregivers, shall be employees of the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and shall hold a valid Marijuana Establishment Agent registration.

(e) All Marijuana and Marijuana Products delivered by a Marijuana Courier shall be obtained from a licensed Marijuana Retailer, Social Consumption Establishment, or MTC. A Marijuana Courier may deliver Marijuana Establishment Branded Goods and MTC Branded Goods carrying the Marijuana Courier's brand or that of a licensed Marijuana Retailer, Social Consumption Establishment, or MTC. A Marijuana Courier may deliver Marijuana Accessories from a licensed Marijuana Retailer, Social Consumption Establishment, or MTC, or acquire and deliver their own Marijuana Accessories. A Marijuana Courier may not acquire electronic vape devices, hardware or batteries utilized in products that vaporize concentrates and oils, other than from a licensed Marijuana Retailer, Social Consumption Establishment, or MTC.

1. Marijuana Couriers shall only obtain Marijuana or Marijuana Products for delivery from a licensed Marijuana Retailer, Social Consumption Establishment, or MTC with which the Marijuana Courier has a Delivery Agreement.
2. All agreements between a Marijuana Courier and a Marijuana Retailer, Social Consumption Establishment, or MTC shall be disclosed under the requirements of licensure in 935 CMR 500.101 and subject to limitations on control over Licenses under 935 CMR 500.050(1)(b).
3. The Commission shall be notified in writing of any Substantial Modification to a Delivery Agreement.

(f) Delivery Operators shall only deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods carrying the Delivery Operator's brand or that of a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Social Consumption Establishment, Microbusiness or Craft Marijuana Cooperative. All Finished Marijuana Products delivered by a Delivery Operator Licensee shall be obtained from a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Social Consumption Establishment, Microbusiness or Craft Marijuana Cooperative and shall comply with 935 CMR 500.105(1)(e). Delivery Operators may deliver Marijuana Establishment Branded Goods carrying the Delivery Operator's brand or that of a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Social Consumption Establishment, Microbusiness or Craft Marijuana Cooperative.

1. A Delivery Operator shall only obtain Finished Marijuana Products for delivery from a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Social Consumption Establishment, Microbusiness or Craft Marijuana Cooperative with which the Delivery Operator has a Wholesale Agreement.
2. All Wholesale Agreements between a Delivery Operator and a Marijuana Cultivator, a Marijuana Product Manufacturer, a Social Consumption Establishment, a Microbusiness or a Craft Marijuana Cooperative shall be subject to limitations on control over Licenses under 935 CMR 500.050(1)(b) and shall be subject to inspection and disclosure under 935 CMR 500.105(9).
3. The Commission shall be notified in writing of any Substantial Modification to a Wholesale Agreement.

(g) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and Marijuana Retailer may use a Third-party Technology Platform Provider to facilitate orders by Consumers, and as permitted Patients or Caregivers.

1. All agreements between a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and a Third-party Technology Platform Provider shall be submitted to the Commission prior to Final Licensure as part of the requirements for licensure in 935 CMR 500.101 and shall be subject to the control limitations under 935 CMR 500.050(1)(b).

500.145: continued

2. The Commission shall be notified in writing within five days of the following:
   a. Any Substantial Modification to an agreement.
   b. Any new or additional or assigned agreements between a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and a Third-party Technology Platform Provider.

3. Contracts between Delivery Licensees and Third-party Technology Platform Providers shall be negotiated at arm's length and entered into knowingly and willingly by both parties.
   a. The terms of a contract between a Delivery Licensee and a Third-party Technology Platform Provider shall be transparent and shall describe the methodology for determining the placement of Delivery Licensees in search results.
   b. The terms of a contract between a Delivery Licensee and a Third-party Technology Platform Provider shall define the fee structure for payment of services provided under the contract.
   c. The terms of a contract between a Delivery Licensee and a Third-party Technology Platform Provider shall include that the placement of Delivery Licensees in search results shall be based on objective, consumer-oriented criteria which may include, but shall not be limited to, time to deliver to the Consumer; Finished Marijuana Product price; and Finished Marijuana Product availability.
   d. Inducements intended to influence the placement of Delivery Licensees shall be strictly prohibited. No Delivery Licensee shall directly or indirectly give, permit other people or entities to give, receive or otherwise accept, an Inducement in any effort to persuade or influence a Third-party Technology Platform Provider to list any particular Delivery Licensee, brand or kind of Finished Marijuana Product, or to persuade or influence a Third-party Technology Platform Provider from listing any particular Delivery Licensee, brand or kind of Finished Marijuana Product.
   e. Advertising by a Delivery Licensee on a Third-party Technology Platform Provider shall not be considered to be an Inducement, provided:
      i. The contract terms for Advertising clearly state that the decision by a Delivery Licensee to advertise or not to advertise on a Third-party Technology Platform Provider shall not influence the placement of that Delivery Licensee in search results.
      ii. Any advertisement shall include a clear and conspicuous disclosure on the face of the advertisement that it is paid Advertising.
      iii. No Delivery Licensee may advertise or market Marijuana or Marijuana Products in conjunction with a Third-party Technology Platform Provider outside of the technology platform and shall ensure that the Third-party Technology Platform Provider does not use the Delivery Licensee's license number, legal business name or Brand Name on any advertisement or marketing that primarily promotes the services of the technology platform.

4. A Delivery Licensee, in its engagement with a Third-party Technology Platform Provider shall ensure compliance with the consumer and patient protection standards established by M.G.L. c. 94G and c. 94I and the associated regulations, including, but not limited to 935 CMR 500.820 and 935 CMR 501.820: *Confidentiality*, and other applicable state laws.

5. A Delivery Licensee shall ensure minimum identifying information regarding the Delivery Licensee and its products, including but not limited to the Delivery Licensee's business name and license number, and as specified by the Commission, is on its menu and any receipt provided to Consumers placing an order for Marijuana and Marijuana Products through the technology platform.

(h) The maximum retail value of Marijuana or Marijuana Products allowed in a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement's vehicle at any one time shall not exceed $5,000; provided, however, that a vehicle with two Agents shall be allowed to have the maximum retail value up to $10,000. All Marijuana and Marijuana Products shall be associated with a specific Individual Order. For purposes of this provision, "maximum retail value" shall mean the aggregate value of Marijuana and Marijuana Products as priced on the day of the order for delivery.

500.145: continued

(i) The maximum wholesale value of Marijuana or Marijuana Products allowed in a Marijuana Delivery Operator Licensee's vehicle at any one time shall not exceed $5,000 when conducting Wholesale activities with one Marijuana Establishment Agent present; provided, however, that a vehicle with two Agents shall be allowed to have a total Wholesale value in excess of $5,000. All Marijuana or Marijuana Products shall be associated with a specific Individual Order. For purposes of this provision, "maximum wholesale value" shall mean the aggregate value of Marijuana and Marijuana Products as priced on the day of the order for wholesale.

(j) All Marijuana and Marijuana Product deliveries shall be tracked using the Seed-to-sale SOR as designated by the Commission.

(k) Records of sales of Marijuana Accessories and Marijuana Establishment Branded Goods shall be maintained by the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement, but may not be tracked in the Seed-to-sale SOR.

(l) For non-Marijuana or non-Marijuana Product sales, a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement shall comply with Massachusetts tax laws, and DOR rules and regulations including, but not limited to, 830 CMR 62C.25.1: *Record Retention* and DOR Directive 16-1 regarding recordkeeping requirements.

(m) Deliveries by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be geographically limited to:

1. The municipality identified as the Marijuana Establishment License's place of business;
2. Any municipality which allows for retail within its borders whether or not one is operational; or
3. Any municipality which after receiving notice from the Commission, has notified the Commission that delivery may operate within its borders.

(n) All deliveries shall be completed between 7:00 A.M. to 11:00 P.M. local time. A Host Community may set alternative delivery hours by municipal ordinance or by-law; provided, however, that a municipality shall not set an earlier time to begin deliveries nor set a later time to complete deliveries.

(o) Every effort shall be made to minimize the amount of cash carried in a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement vehicle at any one time. Marijuana Retailers utilizing a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement for Consumer transactions shall use best efforts to implement platforms for the electronic payment of funds. Where cash is carried by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicle, cash shall be stored in a locked compartment.

(p) Delivery Licensees and Marijuana Establishments with a Delivery Endorsement shall comply with the requirements of 935 CMR 500.110(7) for purposes of cash transport to financial institutions.

(q) In addition to complying with 935 CMR 500.105(4), a Delivery Licensee shall include on any website it operates or that operates on its behalf the license number(s) issued by the Commission.

(r) In addition to complying with 935 CMR 500.105(4), a Marijuana Establishment with a Delivery Endorsement shall include on any website it operates or that operates on its behalf the endorsement number(s) issued by the Commission.

(2) Orders Fulfilled by Marijuana Couriers. All orders for deliveries made by a Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement shall comply 935 CMR 500.145(1)(e) and the following requirements:

(a) Orders for Consumer delivery shall be received by a Marijuana Retailer and transmitted to a Marijuana Courier for delivery to a Residence.

(b) Only Marijuana Products that are Shelf-stable may be delivered. Products that are perishable or time and temperature controlled to prevent deterioration may not be allowed to be delivered by a Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement.

500.145: continued

(c) A Marijuana Courier or Marijuana Establishment with a Delivery Endorsement shall deliver only to the Residence address provided. A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement shall be prohibited from delivering to college- or university-designated dormitories or housing; and federal public housing identified at https://resources.hud.gov/.

(d) A Marijuana Courier shall only acquire from a Marijuana Retailer and deliver Marijuana or Marijuana Products for which a specific order has been received by a licensed Marijuana Retailer with which the Marijuana Courier has a Delivery Agreement. A Marijuana Courier is 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)(g).

(e) A Marijuana Establishments with a Delivery Endorsement shall only acquire from its inventory at the Marijuana Establishment premises and deliver Marijuana or Marijuana Products for which a specific order has been received. Marijuana Establishments with a Delivery Endorsement 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 Establishments with a Delivery Endorsement or through a Third-party Technology Platform identified to the Commission under 935 CMR 500.145(1)(g).

(f) Delivery Licensees or a Marijuana Establishments with a Delivery Endorsements 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 may 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 500.140(2)(d) and 500.145(4). A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsements shall only deliver one Individual Order, per Consumer, during each delivery.

(g) A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement may not deliver to the same Consumer at the same Residence more than once each calendar day and only during authorized delivery hours.

(h) For Consumer delivery, each order shall be packaged and labeled in accordance with 935 CMR 500.105(5) and (6) originating the order prior to transportation by the Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement to the Consumer.

(i) Any Delivery Item 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. A Marijuana Courier or Marijuana Establishment with a Delivery Endorsement is prohibited from maintaining custody overnight of Marijuana or Marijuana Products intended for delivery. It shall be the responsibility of the Marijuana Courier or Marijuana Establishment with a Delivery Endorsement, in conjunction with the Marijuana Retailer with which there is a Delivery Agreement, to ensure that any undelivered product is returned to the appropriate Marijuana Retailer and not retained by the Marijuana Courier or Marijuana Establishment with a Delivery Endorsement. A process for ensuring that undelivered Marijuana and Marijuana Products can be returned to the Marijuana Retailer by the Marijuana Courier shall be a term of the Delivery Agreement.

(3) Orders Fulfilled by Delivery Operators. All orders for deliveries made by a Delivery Operator shall comply with 935 CMR 500.145(1)(f) and the following requirements:

(a) Orders for Consumer delivery by a Delivery Operator shall be received by the Delivery Operator.

(b) Only Finished Marijuana Products that are Shelf-stable may be delivered. Products that are perishable or time and temperature controlled to prevent deterioration may not be allowed to be delivered by a Delivery Operator.

(c) A Delivery Operator shall deliver only to the Residence address provided. A Delivery Operator shall be prohibited from delivering to college- or university-designated dormitories or housing; and federal public housing identified at https://resources.hud.gov/.

500.145: continued

(d) A Delivery Operator shall only acquire from its inventory at its Warehouse and deliver Finished Marijuana Products for which a specific order has been received by the Licensee. Delivery Operators are prohibited from loading a delivery vehicle for deliveries and delivering Finished Marijuana Products without a specific order destined for an identified Residence. An order may be generated directly through a Delivery Operator or through a Third-party Technology Platform identified to the Commission under 935 CMR 500.145(1)(g).

(e) Delivery Operators are prohibited from delivery of more Finished Marijuana Products to an individual Consumer than the individual possession amounts authorized by M.G.L. c. 94G, § 7(a)(1). An Individual Order may 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(5). A Delivery Operator shall only deliver one Individual Order, per Consumer, during each delivery.

(f) A Delivery Operator may not deliver to the same Consumer at the same Residence more than once each calendar day and only during authorized delivery hours.

(g) Prior to fulfilling an Individual Order for delivery to a Consumer, each Finished Marijuana Product shall be packaged and labeled in accordance with 935 CMR 500.105(5) and (6) before transportation by the Delivery Operator.

(h) Any Delivery Item that is undeliverable or is refused by the Consumer shall be transported back to the originating Delivery Operator's Warehouse that provided the product once all other deliveries included on a delivery manifest have been made.

(4) Marijuana Courier Consumer Age Verification.

(a) A Marijuana Retailer shall require any Consumer making a purchase for delivery by a Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement to have the valid government-issued identification card 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.

(b) Pre-verification of the Consumer's identification shall be performed prior to the initial delivery, by using one of the following Pre-verification methods:

1. In-person at the Marijuana Retailer's physical location or through a Commission approved electronic means, which may include a Commission-approved Third-party Technology Platform, and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth in accordance with 935 CMR 500.140(2)(d). A Marijuana Courier or Marijuana Establishment with a Delivery Endorsement is prohibited from performing a delivery to any Consumer who has not established an account for delivery through Pre-verification of the Consumer's government-issued identification card by the Marijuana Retailer; or

2. Through a Commission-approved electronic means and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth. A Marijuana Establishment with a Delivery Endorsement is prohibited from performing a delivery to any Consumer who has not established an account for delivery through Pre-verification of the Consumer's government-issued identification card.

(c) A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement may not deliver Delivery Items to any Person other than the Consumer who ordered the Delivery Items.

(d) A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement shall verify the age and identity of the Consumer at the time at which the Delivery Items are delivered to the Consumer at a Residence to ensure that Marijuana and Marijuana Products are not delivered to individuals younger than 21 years old. Prior to relinquishing custody of the Marijuana or Marijuana Products to the Consumer, the Marijuana Establishment Agent conducting the delivery shall verify that the government-issued identification card of the Consumer receiving the Marijuana or Marijuana Products matches the pre-verified government-issued identification card of the Consumer who placed the order for delivery by:

1. Viewing the government-issued identification as provided for Pre- verification under 935 CMR 500.145(4)(a);

500.145: continued

2. Viewing proof of order generated at the time of order; and
3. Receiving the signature of the Consumer who ordered the Delivery Items and verifying that the signature matches the government-issued photo identification card presented.

(5) Delivery Operator Consumer Age Verification.
(a) A Delivery Operator shall require any Consumer making a purchase for delivery to have the valid government-issued identification card a Consumer intends to use to verify her or his age at the time of delivery examined and authenticated by the Delivery Operator prior to the first Individual Order.
(b) Pre-verification of the Consumer's identification shall be performed prior to the initial delivery through a Commission approved electronic means, which may include a Commission-approved Third-party Technology Platform, and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth.
(c) A Delivery Operator may not deliver Finished Marijuana Products to any Person other than the Consumer who ordered the Finished Marijuana Product.
(d) A Delivery Operator shall verify the age and identity of the Consumer at the time at which the Finished Marijuana Products are delivered to the Consumer at a Residence to ensure that Finished Marijuana Products are not delivered to individuals younger than 21 years old. Prior to relinquishing custody of the Finished Marijuana Products to the Consumer, the Marijuana Establishment Agent conducting the delivery shall verify that the government-issued identification card of the Consumer receiving the Finished Marijuana Products matches the pre-verified government-issued identification card of the Consumer who placed the order for delivery by:
1. Viewing the government-issued identification as provided for Pre-verification under 935 CMR 500.145(5)(a);
2. Viewing proof of order generated at the time of order; and
3. Receiving the signature of the Consumer who ordered the Delivery Items and verifying that the signature matches the government-issued photo identification card presented.

(6) Vehicle and Transport Requirements for Consumer Delivery.
(a) Vehicles used for Consumer delivery by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be owned or leased by the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, shall be properly registered as commercial vehicles, and inspected and insured in the Commonwealth of Massachusetts.
(b) Vehicles used for Consumer delivery by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement 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 Consumer delivery by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall carry liability insurance in an amount not less than $1,000,000 combined single limit.
(d) Any vehicle used to transport or deliver Marijuana or Marijuana Products shall comply with applicable Massachusetts Registry of Motor Vehicles (RMV) requirements, but may not include any additional external marking that indicate the vehicle is being used to transport or deliver Marijuana or Marijuana Products.
(e) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement transporting Marijuana and Marijuana Products for Consumer delivery shall ensure that all vehicles used for deliveries are staffed with a minimum of one Marijuana Establishment Agent. The Agent or Agents shall remain inside the vehicle at all times that the vehicle contains Marijuana or Marijuana Products, unless completing a Consumer delivery.
(f) Marijuana Establishment Agent or Agents shall take all necessary steps to secure the vehicle at all times when Marijuana or Marijuana Products are in the vehicle.
(g) Marijuana and Marijuana Products must not be visible from outside the vehicle.

500.145: continued

(h) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement 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).
(i) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain, in each vehicle used for deliveries, 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(5)(g) for the transport of Marijuana and Marijuana Products.
(j) In the case of an emergency stop during the transportation of Delivery Items, a log shall 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 Licensee or a Marijuana Establishment with a Delivery Endorsement.
(k) The Marijuana Establishment Agent or Agents transporting Delivery Items for Consumer delivery shall contact the Delivery Licensee's or a Marijuana Establishment with a Delivery Endorsement's fixed location when completing any delivery or when making any unscheduled stops.
(l) The Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain a separate log for each vehicle in use for Consumer deliveries. For each delivery, the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall record:

1. The location of the originating Marijuana Establishment and date and time the vehicle leaves the location;
2. The mileage of the transporting vehicle at departure from the Marijuana Establishment 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.

(m) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall ensure that all delivery routes remain within the Commonwealth of Massachusetts at all times.
(n) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall make every effort to randomize its delivery routes.
(o) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements may not transport products other than Delivery Items during times when the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements are performing Consumer deliveries.
(p) Firearms are strictly prohibited from Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicles and from Marijuana Establishment Agents performing Consumer deliveries.

(7) Manifests.
(a) Every Consumer delivery shall have a manifest produced by the originating Marijuana Establishment. A Marijuana Retailer shall provide the manifest to the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement. A Delivery Operator shall produce its manifests. A manifest shall be completed in duplicate, with the original manifest remaining at the premises of the originating Marijuana Establishment, whether it is a Marijuana Retailer or a Delivery Operator, and a copy to be kept with the Delivery Licensee agent or a Marijuana Establishment with a Delivery Endorsement agent during the delivery. The manifest shall be signed by the Consumer, and as applicable Patient or Caregiver receiving the Marijuana or Marijuana Products and the Marijuana Establishment Agent acting on behalf of the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement. A signed manifest shall serve as the written record of the completion of the delivery. A manifest does not need to include Marijuana Accessories or Marijuana Establishment Branded Goods, however, the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement shall maintain a record of the sale of all Delivery Items.

500.145: continued

(b) The manifest shall, at a minimum, include:
1. The originating Marijuana Retailer's or Delivery Operator's name, address, and License number;
2. The name and License number of the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement performing the Consumer delivery;
3. The names and Marijuana Establishment Agent numbers of the Marijuana Establishment Agents performing the delivery;
4. The Consumer's, Patient's or Caregiver's name and address;
5. A description of the Marijuana or Marijuana Products being transported, including the weight or count, 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, Patient or Caregiver who receives the Marijuana or Marijuana Products; and
8. The Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement 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.

500.146: Additional Operational Requirements for Marijuana Delivery Operators

(1) Warehousing.

(a) A Delivery Operator shall operate a Warehouse for the storage of Finished Marijuana Products and preparation of Individual Orders for Delivery.

(b) Warehouses shall comply with all applicable requirements of 935 CMR 500.105, and 935 CMR 500.110.

(c) Warehouses shall incorporate a sally port or loading area immediately adjacent to the Warehouse that enables the transfer of Finished Marijuana Products into a vehicle for delivery.

(2) Limitation on Sales.

(a) In accordance with M.G.L. c. 94G, § 7, a Delivery Operator may not knowingly sell more than one ounce or its combined dry weight equivalent in Finished Marijuana Products to Consumers 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 Edibles.
3. Topicals and ointments shall not be subject to a limitation on daily sales.

(b) A Delivery Operator may not sell Finished Marijuana Products in excess of the potency levels established by 935 CMR 500.150(4); and

(c) A Delivery Operator shall demonstrate that it has a point-of-sale system that does not allow for a transaction in excess of the limit established in 935 CMR 500.140(3) or the potency levels established in 935 CMR 500.150(4).

(d) A Delivery Operator may sell non-infused food, water, and drink items that are pre-packaged prior to arrival on the Premises and are Shelf-stable. Such sales of Shelf-Stable Products shall be limited to products sold in a manner that does not cause the Delivery Operator to be considered a Food Establishment under 105 CMR 590.001. The Delivery Operator shall obtain all licenses and permits, as necessary, prior to the sale of Shelf-stable products.

(3) Unauthorized Sales and Right to Refuse Sales or Delivery.

(a) A Delivery Operator shall refuse to sell or deliver Finished Marijuana Products to any Consumer who is unable to produce valid proof of government-issued identification.

500.146: continued

(b) A Delivery Operator shall refuse to sell or deliver Finished 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 or other practices that may result in Inversion.

(c) A Delivery Operator may not sell or deliver to an individual more than one ounce or its dry weight equivalent in Finished Marijuana Products per transaction. A Delivery Operator may not knowingly sell or deliver to an individual more than one ounce or its dry weight equivalency in Finished Marijuana Products per day.

(d) A Delivery Operator is prohibited from selling or delivering Finished Marijuana Products containing nicotine, if sales of Tobacco or cigarettes would require licensure under state law.

(e) A Delivery Operator is prohibited from selling or delivering Finished Marijuana Products containing alcohol, if sales of such alcohol would require licensure pursuant to M.G.L. c. 138.

(4) Recording Sales.

(a) A Delivery Operator shall only utilize a point-of-sale system approved by the Commission, in consultation with the DOR.

(b) A Delivery Operator may utilize a sales recording module approved by the DOR.

(c) A Delivery Operator is prohibited from utilizing software or other methods to manipulate or alter sales data.

(d) A Delivery Operator 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 Delivery Operator shall maintain records that it has performed the monthly analysis and produce it on request to the Commission. If a Delivery Operator 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 and DOR;
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.

(e) A Delivery Operator shall comply with 830 CMR 62C.25.1: *Record Retention* and DOR Directive 16-1 regarding recordkeeping requirements.

(f) A Delivery Operator 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 Delivery Operator in order to ensure compliance with Massachusetts tax laws and 935 CMR 500.140(5).

(5) Consumer Education. A Delivery Operator shall make available educational materials about Finished Marijuana Products to Consumers. A Delivery Operator shall have an adequate supply of current educational material available for distribution. Educational materials shall 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. If there is a failure to provide these materials, a licensee may be subject to disciplinary action under 935 CMR 500.000. The educational material shall 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;

500.146: continued

(c) Information to assist in the selection of Finished Marijuana Products, 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 shall also be explained;
(f) A discussion of tolerance, dependence, and withdrawal;
(g) Facts regarding substance use disorder signs and symptoms, as well as referral information for substance use disorder treatment program, and the telephone number for the Massachusetts Substance Use Helpline;
(h) A statement that Consumers may not sell Finished Marijuana Products 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.

(6) Testing. No Finished Marijuana Product 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. The product shall be deemed to comply with the standards required under 935 CMR 500.160. Potency levels derived from the Cannabinoid Profile, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids, contained within Finished Marijuana or Marijuana Product to be sold or otherwise marketed shall be recorded in the Seed-to-sale SOR.

(7) White Labeling. The Licensee engaged in the White Labeling of Finished Marijuana Products shall comply with the labeling and packaging requirements under 935 CMR 500.105(5) and (6) prior to delivery to Consumers.
(a) The Wholesale Agreement between a Delivery Operator and the Marijuana Establishment from which they are wholesaling shall clearly indicate whether the Delivery Operator or the Marijuana Establishment licensee from which the Finished Marijuana Product(s) are being wholesaled shall be responsible for White Labeling on behalf of the Delivery Operator.
(b) The Delivery Operator shall notify the Commission within 21 days of any Substantial Modification to a Wholesale Agreement that alters which Licensee has responsibility for White Labeling on behalf of the Delivery Operator. A Licensee shall obtain the written authorization of the Commission prior to commencing White Labeling.
(c) The Delivery Operator may submit the label to be used for White Labeling to the Commission in accordance with 935 CMR 500.105(7).

(8) Product Database. A Delivery Operator that purchases any Wholesale Finished Marijuana Products from a licensed Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative for the purpose of delivery to Consumers, whether White Labeled or not, shall provide the Commission with information to populate the Product Database. A Delivery Operator that purchases wholesale Finished Marijuana Products from a licensed Marijuana Product Manufacturer for the purpose of White Labeling and sale to Consumers shall provide the Commission with information to populate the Product Database. Product Database information for Finished Marijuana Products purchased at Wholesale from Product Manufacturers that are not White Labeled shall remain the responsibility of the Product Manufacturer under 935 CMR 500.130(6).
(a) The Delivery Operator shall provide the following:
1. A photograph of a Finished Marijuana Product outside of but next to the Marijuana Product's packaging; provided however that where single servings of a multi-serving product are unable to be easily identified because of its form, a description of what constitutes a single serving shall be provided (*e.g.* a single serving is a 1" x 1" square);
2. A photograph of the Marijuana Product inside packaging; and

500.146: continued

3. The name of the Product Manufacturer that produced the Marijuana Product.

(b) Photographs submitted shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

(c) A Delivery Operator shall provide the information required under 935 CMR 500.146(7)(a) for each Finished Marijuana Product it offers for sale and delivery prior to the product being made available for sale and shall update the information whenever a substantial change to packaging or label of the Finished Marijuana Product occurs. For purposes of 500.146(8)(c), a substantial change shall be a change to the physical attributes or content of the package or label.

(9) In addition to the written operating policies required under 935 CMR 500.105(1), a Delivery Operator shall maintain written policies and procedures which shall include:

(a) Policies and procedures for adequately tracking, recording, and documenting all Vendor Samples that the Delivery Operator receives from a Marijuana Cultivator, a Marijuana Product Manufacturer, a Microbusiness or a Craft Marijuana Cooperative; and

(b) Policies and procedures for adequately tracking, recording, and documenting all Vendor Samples that the Delivery Operator provides to employees for the purpose of assessing product quality and determining whether to make the product available to sell.

(10) Vendor Samples.

(a) A Delivery Operator may receive a Vendor Sample of Marijuana flower from a Marijuana Cultivator pursuant to 935 CMR 500.120(13). A Delivery Operator may also receive a Vendor Sample of Marijuana Product from a Marijuana Product Manufacturer pursuant to 935 CMR 500.130(8). Receipt of a Vendor Sample under 935 CMR 500.146(10) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.

(b) Vendor Samples may not be sold to another licensee or Consumer.

(c) A Delivery Operator may provide the Vendor Samples it receives from a Marijuana Cultivator or a Marijuana Product Manufacturer to its Employees for the purpose of assessing product quality and determining whether to make the product available to sell the product. Vendor Samples may not be consumed on any licensed Premises.

(d) Vendor Sample limits. A Marijuana Delivery Operator is limited to providing the following aggregate amounts of Vendor Samples to all Employees in a calendar month period:

1. Four grams per strain of Marijuana flower and no more than seven strains of Marijuana flower;

2. Five grams of Marijuana concentrate or extract including, but not limited to, Tinctures;

3. Five hundred milligrams of Edibles whereby the serving size of each individual sample does not exceed five milligrams and otherwise satisfies the potency levels set forth in 935 CMR 500.150(4); and

4. Five units of sale per Cannabis product line and no more than six individual Cannabis product lines. For purposes of 935 CMR 500.146(10), a Cannabis product line shall mean items bearing the same Stock Keeping Unit Number.

(e) Upon providing a Vendor Sample to an employee, the Delivery Operator shall record:

1. The reduction in quantity of the total weight or item count under the unique alphanumeric identifier associated with the Vendor Sample;

2. The date and time the Vendor Sample was provided to the Employee;

3. The agent registration number of the employee receiving the Vendor Sample; and

4. The name of the Employee as it appears on their agent registration card.

(f) All Vendor Samples provided by a Delivery Operator to its employees shall also be entered into the point-of-sale system and shall count against the individual employee's daily purchase limit, if applicable, consistent with 935 CMR 500.146(2).

(11) Sale of Marijuana Vaporizer Devices.

(a) A Marijuana Delivery Operator offering Marijuana Vaporizer Devices for sale to Consumers shall include a conspicuous and prominently displayed statement on its website, that is legible and enlarged and contains the following statements:

500.146: continued

1. "Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled."
2. "Consumers shall have access to the test results of Marijuana Vaporizer Devices including copies of any Certificates of Analysis provided by the device's manufacturer."

(b) A Delivery Operator shall provide a physical insert to Consumers that accompanies all purchased and delivered Marijuana Vaporizer Devices that states, including capitalization and emphasis, the following: "Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled."

(c) The sale of disposable and reusable vaporizer pens and devices shall be accompanied by a product insert identifying the materials used in the vaporizer device's atomizer coil (*e.g.*, titanium, titanium alloy, quartz, copper, nichrome, kanthal, or other specified material), and manufacturer identification of the device hardware, cartridge, battery and other components;

(d) A Delivery Operator shall make available the information contained in 935 CMR 500.105(5)(c)6 in the product description as part of any product list posted on the Delivery Operator's website or Third-party Technology Platforms or applications employed for delivery.

(e) A Delivery Operator shall retain all records of purchases from any Product Manufacturer or supplier of any ingredient, additive, device, component part or other materials provided to the Delivery Operator about Marijuana Vaporizer Devices sold by licensees. Such records shall be made available to the Commission upon request.

(12) Prohibition on Monopolies.

(a) It shall be a violation of 935 CMR 500.000 for any Delivery Operator to monopolize or attempt to monopolize, or combine or conspire with any other person or entity including, but not limited to, a Third-party Technology Platform Provider, to monopolize any part of licensed activities authorized under 935 CMR 500.000.

(b) It shall be a violation of, 935 CMR 500.000, for any Delivery Operator engaged in activities authorized under 935 CMR 500.000 to make a contract for services with a Third-party Technology Platform Provider for the listing of a Delivery Operator or a Delivery Operator's Finished Marijuana Products on the condition, agreement or understanding that the parties to the contract shall not deal in Marijuana or Marijuana Products, either generally or specific brands or categories of Finished Marijuana Products, of a competitor or competitors of the parties where the effect of such contract or such condition, agreement or understanding may be to lessen substantially competition or tend to create a monopoly in any activity engaged in under 935 CMR. 500.000.

500.147: Operational Requirements for Marijuana Research Facility Licensees and Research Permits.

(1) In addition to the security requirements provided in 935 CMR 500.110, Marijuana Research Facility Licensees shall comply with the operational requirements required under 935 CMR 500.147.

(2) General Requirements

(a) For each research project to be conducted on the Premises, a Marijuana Research Facility Licensee shall have a valid Research Permit issued by the Commission pursuant to 935 CMR 500.147(4) prior to beginning a research project. The Research Permit shall be renewed at least annually, or sooner depending on the nature and duration of the approved research project.

(b) All individuals engaging in research at the Marijuana Research Facility shall be registered with the Commission as Marijuana Establishment Agents under 935 CMR 500.030.

(c) A Marijuana Research Facility Licensee may submit an application for a Research Permit to conduct research in areas including, but not limited to, the following:

1. Chemical potency and composition levels of Marijuana and Marijuana Products;
2. Clinical investigations of Marijuana Products, including dosage forms;

500.147: continued

3. Efficacy and safety of administering Marijuana or Marijuana Products as a component of medical treatment under the supervision of a Certifying Healthcare Provider;
4. Genomic research on Marijuana;
5. Horticultural research on Marijuana;
6. Agricultural research on Marijuana; and
7. Other research topics upon the approval of the Commission, provided however that research conducted under the Marijuana Research Facility License may not be a substitute for processes for drug approval established by the U.S. Food and Drug Administration (FDA) pursuant to 21 CFR 312; and the Commission may impose additional standards necessary to ensure the safety and efficacy of Marijuana and Marijuana-derived compounds for their intended research application.

(d) Marijuana or Marijuana Products used in research conducted under a Marijuana Research Facility License shall be cultivated by, produced by or acquired from a licensed MTC or Marijuana Establishment authorized to cultivate, produce or sell Marijuana or Marijuana Products, which includes a Marijuana Cultivator, Marijuana Product Manufacturer, Marijuana Retailer, a Microbusiness or a Craft Marijuana Cooperative. A Marijuana Research Facility Licensee not authorized to cultivate its own Marijuana may enter into an agreement with a licensed MTC or Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative to grow Marijuana specifically for research.

(e) Any Marijuana or Marijuana Product cultivated, produced or acquired for use in a Commission-approved research project shall be entered by the Marijuana Establishment providing it to the Marijuana Research Facility Licensee into the Seed-to-sale SOR in a form and manner to be determined by the Commission.

(f) All Marijuana or Marijuana Products used in research and consumed by human or animal subjects shall comply with the following

1. Be adequately described in the Informed Consent Form.
2. Tested in accordance with 935 CMR 500.160 prior to consumption by human or animal subjects.

(g) Any research project where human research subjects are participants shall include one or more licensed physicians in good standing to monitor the participants.

(h) For any research project other than a survey-only research project, human participants in research conducted by a Marijuana Research Facility Licensee where consumption of Marijuana or Marijuana Products is a component of the research project design shall reside in the Commonwealth.

(i) Any research project where animal research subjects are participants shall include one or more licensed veterinary doctors in good standing to monitor the participants.

(j) For any research project other than a survey-only research project, research conducted pursuant to a license granted by the Commission shall be conducted solely within the boundaries of the Commonwealth.

(k) A Marijuana Research Facility Licensee shall supply the Commission with copies of all final reports, findings or documentation regarding the outcomes of approved research projects receiving a Research Permit. Any records received by the Commission 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, or other compulsory legal process, or at the Commission's discretion.

(3) Marijuana Research Facility Licensee Activities and Premises.

(a) A Marijuana Research Facility Licensee may conduct research at one or more than one Marijuana Research Facility so long as the facility is approved by the Commission.

(b) A Marijuana Research Facility may be colocated with another Marijuana Establishment provided that the Marijuana Research Facility and other, colocated Marijuana Establishment(s) are commonly owned and physically separated. Physical separation shall include, but may not be limited to, separation by a permanent wall with a secure, locked entrance.

(c) A Marijuana Research Facility Licensee shall only possess for research the amount of Marijuana or Marijuana Products approved by the Commission to be used in each research project receiving a Research Permit.

500.147: continued

(d) A Marijuana Research Facility Licensee with more than one Research Permit shall physically separate all Marijuana or Marijuana Products used in the Licensee's approved research projects according to Research Permit and in such a way that it is objectively clear what Marijuana or Marijuana Products are being used for each approved project.

(e) One or more Marijuana Research Facility Licensees may enter into agreements to conduct research jointly on an identified research project, provided that research activities authorized under the Research Permit shall be conducted at one identified, licensed Marijuana Research Facility. The Marijuana Research Facility Licensee shall disclose to the Commission all contracts or agreements entered into with other Marijuana Research Facility Licensees in furtherance of a research project.

(f) A Marijuana Research Facility Licensee may not permit the consumption of Marijuana or Marijuana Products on its licensed Premises, unless consumption of Marijuana is part of an approved research project holding a valid Research Permit and the Marijuana Research Facility is not co-located with another Marijuana Establishment.

(4) Research Permits

(a) To qualify for a Research Permit to conduct human based research, the research project shall have an Institutional Review Board ("IRB") which shall approve the proposed research project.

(b) Applicants for a Research Permit to conduct research at a Marijuana Research Facility Licensee shall submit for each project the following information to the Commission in a form and manner determined by the Commission:

1. The name and curriculum vitae (CV) of each investigator, including the Principal Investigator who leads the research project and each sub-investigator;
2. The name of each licensed physician in good standing that will lead the project as Principal Investigator, be a sub-investigator, or monitor the participation by human subjects, if any, in the research project;
3. The name of each licensed veterinary doctor in good standing that will lead the project as Principal Investigator, be a sub-investigator, or monitor the participation by animal subjects, if any, in the research project;
4. The IRB Institution, if applicable;
5. A publication-ready summary of the research project to be conducted;
6. A detailed research protocol, including safety protocols;
7. Articulated goals of the research project;
8. Start and end dates of the research project;
9. A description of the project funding or resources, an attestation that the project is adequately funded or resourced, and the sources of funding or resources;
10. Information about the human subject participants, if any, which shall include but not be limited to:
    a. The number of participants;
    b. The number of Registered Qualifying Patients, if any;
    c. Demographic information about the participants;
    d. The ages of the participants;
    e. Any cohort deemed "vulnerable" and applicable safety precautions (*e.g.* pregnant/breastfeeding women, minors, disable veterans, *etc.*);
    f. A copy of the Informed Consent Form or Waiver of Consent, if applicable; and
    g. Documentation that the process of obtaining Informed Consent complied with the Research Licensee's other IRB, institutional, industry, or professional standards.
11. The quantity of Marijuana or Marijuana Products anticipated to be needed over the duration of the research project;
12. The Independent Testing Laboratory where the Marijuana or Marijuana Products will be tested;
13. The name and license number of the Marijuana Research Facility Licensee or facilities where the research project will take place, provided that if a license has not yet been granted to the Marijuana Research Facility, the Research Permit applicant will still identify the facility and provide its application number;

500.147: continued

14. The disposal protocol for Marijuana or Marijuana Products that are unused;
15. Disclosures of any actual or apparent conflicts of interest between any Marijuana Research Facility Licensee or Agent and any member of the IRB required by 935 CMR 500.147(4)(b)iv; and
16. Application Fee.

(c) The information required in 935 CMR 500.147(4)(b) to qualify for a Research Permit may, but is not required to, be submitted with an application for licensure as a Marijuana Research Facility.

(d) Prior to receiving a Research Permit for a research project that includes human or animal participants as subjects, the applicant shall submit evidence of approval of the project by the identified IRB. Evidence of IRB approval or exemption may be submitted separately from the information required in 935 CMR 500.147(4)(b), but shall be submitted to receive a Research Permit.

(e) Materials submitted in support of an application for a permit that are received by the Commission 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, or other compulsory legal process, or at the Commission's discretion.

(5) Research Permit Approval.

(a) When evaluating an application for a Research Permit to conduct a research project at a licensed Marijuana Research Facility the Commission or its delegee(s) shall consider:

1. Whether the research project is allowed under 935 CMR 500.147(2)(c);
2. The adequacy of safety protocols detailed in 935 CMR 500.147(4)(b)6.
3. The research project design;
4. Whether the research project is adequately funded or resourced and the sources of the funding or resources;
5. Whether the amount of Marijuana or Marijuana Products anticipated to for growth or use during the duration of the research project is consistent with the proposed research project's scope, goals, aims and the protocols for tracking the amount used;
6. Disclosures of agreements between Marijuana Research Facility Licensees and the nature of those agreements; and
7. Whether a required IRB is affiliated with an accredited academic institution, licensed healthcare institution or other licensed research institution and, if not, may require additional information regarding the sufficiency of the IRB as it relates to the proposed research project.
8. Whether sufficient evidence of approval of the research project by the identified IRB has been provided.

(b) Research Permits shall be approved by the Executive Director and shall not require a vote of the Commission prior to issuance.

(c) As set forth in 935 CMR 500.840, the issuance of a Research Permit may not give immunity under federal law or poses an obstacle to federal enforcement of federal law.

(6) Denial of Research Permits.

(a) The Commission or its delegee may deny an application for a Research Permit for any of the following reasons, provided that a written denial including the reason for the denial shall be issued to the applicant(s):

1. No IRB approval;
2. Failure to provide adequate information regarding the IRB;
3. Proposed research poses a danger to public health or safety;
4. Proposed research lacks scientific value or validity;
5. The applicant for the Research Permit is not qualified to do the research;
6. The Research Permit applicant's protocols or funding or other resources are insufficient to perform the research; or
7. Proposed research is otherwise in consistent with the Commission's governing laws.

(b) The applicant shall not be entitled to an administrative hearing under 935 CMR 500.500 for the denial of a research permit.

500.147: continued

(7) Inspections and Audits.
(a) The Commission or its delegee(s) may at its discretion inspect a Marijuana Research Facility.
(b) The Commission or its delegee may at its discretion require an audit of a research project granted a Research Permit. Reasons for an audit shall include, but are not limited to:
1. The Commission has reasonable grounds to believe that the Marijuana Research Facility Licensee is in violation of one or more of the requirements set forth in these regulations or present a danger to the public health, safety or welfare;
2. The Commission has reasonable grounds to believe that the activities of the Marijuana Research Facility Licensee or a Marijuana Establishment Agent present a danger to the public health, safety or welfare; or
3. The Commission has reasonable grounds to believe that the Marijuana Research Facility Licensee has been or is engaged in research activities that have not been approved or permitted by the Commission.

500.150: Edibles

(1) Production of Edibles. Edibles shall be produced in compliance with the following:
(a) Any Edible that is made to resemble a typical food or drink product shall be packaged and labeled as required by M.G.L. c. 94G, § 4(a½)(xxiv) and (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, fruit, or sporting-equipment item; or
2. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, fruit, or sporting-equipment item including artistic, caricature, or cartoon renderings.
(c) Edibles that are geometric shapes and simply fruit flavored are not considered fruit and are permissible.

(2) Sanitary Requirements. All Edibles shall be prepared, handled, and stored in compliance with the requirements in 935 CMR 500.105(3) and 500.105(11).

(3) Additional Labeling and Packaging Requirements for Edibles.
(a) In addition to the requirements set forth in M.G.L. c. 94G, § 4(a½)(xxiv) and (xxvi), and 935 CMR 500.105(5) and (6), every Marijuana Retailer shall ensure that the following information or statement is Affixed to every container holding an Edible:
1. If the retail Edible is perishable or time and temperature controlled, a statement that the Edible shall be refrigerated.
2. The date on which the Edible was produced.
3. A nutritional fact panel that shall 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 (mg). For example: "The serving size of active THC in this product is X mg, this product contains Y servings of Marijuana, and the total amount of active THC in this product is (X*Y) mg."
5. A warning that the impairment effects of Edibles 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, a Licensee may not alter that date or affix a new label with a later use-by date.
(c) Each serving of an Edible within a multi-serving package of Edibles shall 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.
(d) Each single serving of an Edible contained in a multi-serving package of Edibles shall be marked, stamped, or otherwise imprinted with the symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana consistent with

500.150: continued

935 CMR 500.105(5)(b)15. Alternatively, a Licensee may ensure that each single serving of an Edible is individually wrapped and shall mark, stamp, or otherwise imprint each individual wrapper with the symbol or easily recognizable mark issued by the Commission that indicates the serving contains Marijuana consistent with 935 CMR 500.105(5)(b)15.

(e) Each single serving of an Edible contained in a packaged unit of multiple Edible may be marked, stamped, or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana.

(4) Dosing Limitations. A Marijuana Product Manufacturer may not prepare, and a Marijuana Retailer, Social Consumption Establishment, or Delivery Operator may not deliver, sell, serve or otherwise distribute an Edible with potency levels exceeding the following limits, which includes the 10% variance allowed by 935 CMR 500.160(12), 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, 5.5 milligrams (5.50 mg) of active tetrahydrocannabinol (THC);

(b) In a single package of multiple Edible to be eaten, swallowed, or otherwise ingested, not more than 20 servings or 110 milligrams (110.00mg) of active THC; and

(c) The THC content shall be homogenous, or evenly distributed throughout the Edible. 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. 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 Marijuana and Marijuana Products for Marijuana Establishments, Medical Marijuana Treatment Centers and Colocated Marijuana Operations. 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. In addition to these contaminant tests, final ready-to-sell Marijuana Vaporizer Products shall be screened for heavy metals and Vitamin E Acetate (VEA) in accordance with the relevant provisions of the Protocol for Sampling and Analysis of Finished Marijuana and Marijuana Products for Marijuana Establishments, Medical Marijuana Treatment Centers and Colocated Marijuana Operations.

(3) The Commission may, at its discretion, require additional testing where necessitated to safeguard the public health or public safety and so identified by the Commission.

(4) 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 shall be from both the Marijuana Establishment and the Independent Testing Laboratory, separately and directly.

500.160: continued

(c) The notification from the Marijuana Establishment shall describe a proposed plan of action for both the destruction of the contaminated product and the assessment of the source of contamination.

(5) 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.

(6) The sale of seeds is not subject to these testing provisions.

(7) Clones are subject to these testing provisions, but are exempt from testing for metals.

(8) All transportation of Marijuana to and from Independent Testing Laboratories providing Marijuana testing services shall comply with 935 CMR 500.105(13).

(9) All storage of Marijuana at a laboratory providing Marijuana testing services shall comply with 935 CMR 500.105(11).

(10) All excess Marijuana shall 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.

(11) 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.

(12) 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 +/- 10%.

(13) A Licensee that receives notice that Marijuana or a Marijuana Product it has submitted for testing has failed any test for contaminants shall either reanalyze the Marijuana or Marijuana Product without remediation, take steps to remediate the identified contaminants, or dispose of the Marijuana or Marijuana Product.

(a) Reanalysis by a Second ITL. If the Licensee chooses to reanalyze the sample, a sample from the same batch shall be submitted for reanalysis at the ITL that provided the original failed result. If the sample passes all previously failed tests at the initial ITL, a sample from the same batch previously tested shall be submitted to a second ITL other than the initial ITL for a Second Confirmatory Test. To be considered passing and therefore safe for sale, the sample shall have passed the Second Confirmatory Test at a second ITL. Any Marijuana or Marijuana Product that fails the Second Confirmatory Test may not be sold, transferred or otherwise dispensed to Consumers, Patients or Licensees without first being remediated. Otherwise, the Marijuana Establishment shall dispose of any such product.

(b) Remediation. If the Licensee chooses to remediate, a new test sample shall be submitted to a licensed ITL, which may include the initial ITL, for a full-panel test. Any failing Marijuana or Marijuana Product may be remediated a maximum of two times. Any Marijuana or Marijuana Product that fails any test after the second remediation attempt may not be sold, transferred or otherwise dispensed to Consumers, Patients or Licensees. The Marijuana Establishment shall dispose of any such product.

(c) If the Licensee chooses to dispose of the Marijuana or Marijuana Products, it shall do so in compliance with 935 CMR 500.105(12).

500.170: Municipal Requirements

(1) Marijuana Establishments and Marijuana Establishment Agents shall comply with all local rules, regulations, ordinances, and bylaws.

500.170: continued

(2) Nothing in 935 CMR 500.000 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.

500.180: Host Community Agreement Requirements for License Applicants, Marijuana Establishments, and Host Communities

(1) 935 CMR 500.180 is governed by M.G.L. c. 94G § 3 (d)(1)-(5), as amended by St. 2022, c. 180 which went into effect on November 9, 2022. Pursuant to M.G.L. c. 94G § 4(a), the Commission is authorized to review, regulate, enforce, and approve HCAs and to develop a Model Host Community Agreement.

(2) General Requirements for Host Community Agreements. The Commission shall review and approve each HCA as part of a completed License application and at each License renewal. The parties to an HCA relative to an application for licensure are a License Applicant and a Host Community. The parties to an HCA relative to an application for renewal of licensure are a Host Community and a Marijuana Establishment.

(a) A License Applicant seeking a new License to operate a Marijuana Establishment or MTC shall negotiate and execute a compliant HCA with a Host Community, unless a compliant HCA Waiver has been submitted pursuant to 935 CMR 500.180(5). A compliant HCA or compliant HCA Waiver must be submitted in order for a License application to be deemed complete pursuant to 935 CMR 500.102.

(b) A Marijuana Establishment seeking renewal of a License to continue to operate in a Host Community shall have an HCA that complies with 935 CMR 500.180 unless a compliant HCA Waiver has been submitted pursuant to 935 CMR 500.180(5).

(c) An HCA submitted by a License Applicant or Marijuana Establishment which is determined to conform with the Model Host Community Agreement will be presumed compliant for purposes of this section.

(d) A Host Community shall negotiate the terms of an HCA in good faith.

(e) Each of the parties shall ensure that HCAs satisfy the following minimum acceptable requirements:

1. The parties shall ensure that references in an HCA to a License Applicant or Marijuana Establishment are consistent with both the business entity name certified and recorded with the Secretary of the Commonwealth and the business entity name stated either in a License Applicant's license application or on a Marijuana Establishment's license record as maintained by the Commission.

2. The parties shall ensure that HCAs set forth all of a Host Community's conditions for allowing a Marijuana Establishment or a License Applicant to operate in the community. A Host Community may not contract for any purpose, on any terms, or under any conditions inconsistent with any applicable provision of Massachusetts General Laws. No Host Community may impose an unreasonable condition or a term that is Unreasonably Impracticable in an HCA. A condition may be presumed reasonable if:

a. The condition is required under a Host Community's local rules, regulations, ordinances, or bylaws;

b. The condition has been deemed necessary to ensure public safety and proposed by the chief law enforcement authority and/or fire protection chief in a Host Community with explanation and detail why the condition is necessary for public safety.

c. The condition has been deemed necessary to ensure public health and proposed by the chief public health authority in a Host Community with explanation and detail why the condition is necessary for public health.

d. The condition is a local requirement customarily imposed by a Host Community on other, non-cannabis businesses operating in the community;

e. The condition is required by law;

f. The condition does not conflict with other laws; or

g. The condition is otherwise deemed reasonable by the Commission based on particular circumstances presented by an HCA or contracting parties.

500.180: continued

3. The parties shall ensure that HCAs include a statement of all stipulated responsibilities between a Host Community and a License Applicant or between a Host Community and a Marijuana Establishment including, but not limited to, the following:

a. A provision requiring a Host Community to annually transmit its invoice of claimed impact fees to a Marijuana Establishment within one month of the anniversary of the date a Marijuana Establishment received final licensure;

b. A provision explicitly identifying any generally occurring fees to be charged by a Host Community. Generally occurring fees are customarily imposed on other non-cannabis businesses operating in a Host Community and shall not be considered a CIF (*e.g.*, routine water, property tax, sewer, trash pickup *etc*.).

4. The parties shall ensure that HCAs include the following information:

a. The specific Marijuana Establishment license operations permitted under the terms of the HCA;

b. The name, signature, and title of the individual(s) authorized to enter into HCAs on behalf of a Host Community as a contracting authority;

c. The name, signature, and title of the individual(s) authorized to enter into HCAs on behalf of a License Applicant or a Marijuana Establishment as an authorized representative;

d. The date(s) of execution by both parties;

e. The effective date of an HCA; and

f. The duration of an HCA.

5. The parties shall ensure that HCAs provide clear, specific terms regarding a Host Community's assessment of a CIF if applicable, including, but not limited to, a provision requiring a Host Community to transmit its invoice of claimed impact fees to a Marijuana Establishment within one month of the anniversary of a Marijuana Establishment's final license date.

(f) The parties may include a clause in an HCA whereby the parties voluntarily agree to bring HCA disputes before a private mediator retained by the parties. Neither party may unilaterally compel private mediation.

(g) Approval of HCAs may be conditioned on a Host Community being in good compliance standing with the Commission relative to any HCA to which the Host Community is a contracting party.

(h) The Commission may deem a provision of an HCA invalid, and therefore unenforceable, based on a finding that the provision violates M.G.L. c. 94G, 935 CMR 500.000 or 935 CMR 501.000: *Medical Use of Marijuana*. The Commission may also declare an HCA or a provision of an HCA voidable upon deeming the HCA as a contract of adhesion.

(i) The Commission may decline to approve an HCA on the basis of any other ground that serves the purposes of M.G.L. c. 94G, 935 CMR 500.000, or 935 CMR 501.000: *Medical Use of Marijuana*.

(j) A Marijuana Establishment that seeks a name change pursuant to 935 CMR 500.104(1) after execution of an HCA must provide notice of the change to the Host Community in a form and manner determined by the Commission. A Marijuana Establishment that seeks a location change to another Host Community shall submit a new HCA to the Commission. A Marijuana Establishment that seeks a location change within the same Host Community after execution of an HCA may be required to provide an amended HCA to the Commission. A Marijuana Establishment that submits a Change of Ownership request for the transfer of a license may be required to submit a new or amended HCA to the Commission.

(k) Prohibitions.

1. No License Applicant, Marijuana Establishment, or Host Community shall enter into an HCA that includes a promise to make a future monetary payment, in-kind contribution, or charitable contribution. A License Applicant or Marijuana Establishment may voluntarily provide organizations with monetary payments, in-kind contributions and charitable contributions after executing an HCA, as long as a License Applicant or Marijuana Establishment's actions are not performed because of a condition imposed by a Host Community, whether explicitly or implicitly.

500.180: continued

2. A contractual financial obligation, other than a CIF, that is explicitly or implicitly a factor considered in or included as a condition of an HCA is unenforceable, subject to the following exceptions:

a. References in an HCA to a Marijuana Establishment's obligations to pay any fees associated with sales tax, excise tax on Marijuana and Marijuana Products, optional local tax, or as otherwise provided in M.G.L. c. 94G, M.G.L. c. 64H, and M.G.L. c. 64N.

b. References in an HCA to a Marijuana Establishment's obligations to pay a Host Community for generally occurring fees associated with operating in a Host Community (*e.g.*, water, sewer, property tax, *etc.*).

3. No Host Community may mandate or otherwise require that the CIF be a certain percentage of a Marijuana Establishment's total or gross sales as a term or condition of an HCA.

4. A Host Community shall not demand a CIF exceeding 3% of the gross sales of a Marijuana Establishment as a term or condition of an HCA.

5. No License Applicant, Marijuana Establishment, or Host Community will use Inducements to negotiate or execute an HCA. No municipality or Host Community shall negotiate or renegotiate an HCA through the use of undue influence, duress, coercion, intimidation, threats, or any strong-arm tactics including by threat of dissolution of the HCA.

6. No Host Community may rely on other written instruments, contracts, or agreements to impose terms or conditions on a License Applicant, Marijuana Establishment, or Medical Marijuana Treatment Center outside of an HCA.

(l) The following terms, conditions, or clauses are prohibited in an HCA:

1. A provision that discourages any party from bringing a civil cause of action or other legal challenge relative to an HCA or to an individual term or provision of an HCA;

2. A provision that requires a License Applicant or Marijuana Establishment to make upfront payments as a condition for operating in the Host Community;

3. A provision that affords a Host Community sole and absolute discretion on how a Host Community will spend a CIF;

4. A provision waiving a Marijuana Establishment's ability to dispute whether impact fees claimed by a Host Community are Reasonably Related and properly due and payable as a CIF;

5. A provision that categorically deems a Host Community's claimed impact fees to be reasonably related or that otherwise excuse a Host Community from calculating impact fees based on the actual operations of a Marijuana Establishment;

6. A provision that imposes legal, overtime, or administrative costs or any costs other than a CIF on a Marijuana Establishment with the exception of a Marijuana Establishment's tax obligations or its responsibility for paying routine, generally occurring municipal fees;

7. A provision that obligates a Marijuana Establishment to set aside money in an escrow, bond, or other similar account for a Host Community's use or purposes;

8. A provision that requires a Marijuana Establishment to make any additional payments or obligations including but not limited to monetary payments, in-kind contributions, providing staffing, advance payments, or charitable contributions by a Marijuana Establishment to a Host Community or any other organization.

9. A provision including or otherwise deeming good faith estimates, unquantifiable costs, generalized expenses, or pro-rated expenses as a CIF.

(3) Review and Certification of Host Community Agreements. The Commission, through its Executive Director or the director's delegee, shall review an HCA submitted by a License Applicant or a Marijuana Establishment and make a determination certifying whether the HCA, in whole or in part, satisfies Commission requirements.

(a) The Commission shall complete its review of an HCA within 90 days of receiving an HCA from a Marijuana Establishment. The Commission may request additional information or send a determination notice identifying deficiencies in an HCA. Submission of an amended HCA resets the 90-day period of Commission review.

500.180: continued

(b) Review of HCAs Submitted by License Applicants.

1. All applications for initial licensure submitted on or after March 1, 2024, must include an HCA that complies with 935 CMR 500.000 or a compliant HCA Waiver.

2. The Commission may request additional information from a License Applicant or a Host Community in connection with its review.

3. The Commission shall send a notice of its HCA determination to both a License Applicant and a Host Community within 90 days of receipt of an HCA.

4. If the Commission determines that a License Applicant's HCA does not comply with 935 CMR 500.180, then the HCA determination notice shall state the following:

a. The factual basis for the Commission's finding of noncompliance, including identification of the noncompliant term(s), condition(s), or provision(s) of the HCA, if applicable;

b. The parties' option to correct the noncompliance and submit an amended HCA; and

c. The parties' option to submit an HCA Waiver that complies with 935 CMR 500.180(5); and

5. Failure to submit a compliant HCA or a compliant HCA Waiver with an application for licensure may result in an application remaining incomplete pursuant to 935 CMR 500.102.

(c) Review of HCAs submitted by a Marijuana Establishment

1. All renewal applications submitted on or after March 1, 2024, must include an HCA that complies with 935 CMR 500.000 or a compliant HCA Waiver.

2. The Commission may request additional information from a Marijuana Establishment or a Host Community in connection with its review.

3. The Commission shall send a notice of its HCA determination to both a Marijuana Establishment and a Host Community within 90 days of receipt of the HCA. The determination notice shall identify whether the HCA, in whole or in part, complies with 935 CMR 500.180.

4. If the Commission determines that a Marijuana Establishment's HCA does not comply with 935 CMR 500.180, then the HCA determination notice shall provide the following:

a. The factual basis for the Commission's finding of noncompliance, including identification of the noncompliant term(s), condition(s), or provision(s) of the HCA, if applicable;

b. The parties' option to correct the noncompliance and submit an amended HCA;

c. The parties' option to submit an HCA Waiver that complies with 935 CMR 500.180(5); and

d. The parties' option to proceed under an executed HCA that conforms with the Commission's Model Host Community Agreement, to be relied on in the interim until the parties come to an agreement;

5. A Host Community shall notify a Marijuana Establishment if it no longer intends to continue as a Host Community for a Marijuana Establishment. A Host Community shall not discontinue relations with a Marijuana Establishment in bad faith. On receipt of a notice of discontinuance from a Host Community, the Marijuana Establishment shall notify the Commission. On receipt of a notice of discontinuance, an ME may submit a request for equitable relief to the Commission consistent with 935 CMR 500.180(3)(c)6.

6. If a Host Community discontinues relations with an ME, or on submission of a mutual abrogation agreement executed by both a Host Community and an ME, an ME may submit a request for equitable relief to the Commission.

a. A Marijuana Establishment's request for equitable relief must identify facts, information, and any documentation to support why a Marijuana Establishment should be considered for equitable remedies. A Marijuana Establishment shall ensure that the request for equitable relief includes a Host Community's notice under 935 CMR 500.180(3)(c)5.

b. Commission Staff will conduct a paper review of the petition and make a recommendation to the Commission.

c. The Commission may exercise its discretion whether to grant one or more of the following equitable remedies to a Marijuana Establishment:

500.180: continued

i. Extension of a License expiration date without incurring additional prorated fees;
ii. Waiver of a Change of Location fee;
iii. Institution of procedures for winding down an ME's operations at the licensed Premises;
iv. Other equitable relief as determined by the Commission.

d. If the Commission grants or denies equitable relief to a Marijuana Establishment, the agency will provide notice of its decision to a Marijuana Establishment and a Host Community. A Host Community or a Marijuana Establishment may seek relief from a court of competent jurisdiction.

7. Failure to submit a compliant HCA or compliant HCA Waiver may constitute grounds for denial of a renewal application.

8. Any action subsequently taken to deny a Marijuana Establishment's renewal application due to failure to produce a compliant HCA or a compliant HCA Waiver shall afford Marijuana Establishments a right to hearing pursuant to 935 CMR 500.500.

a. If a Marijuana Establishment elects a hearing pursuant to 935 CMR 500.500, the administrative proceeding must be conducted pursuant to 801 CMR 1.01, Formal Rules.

b. A Host Community may seek intervention as a party to the hearing.

(d) Complaints Alleging Noncompliance with 935 CMR 500.180.

1. Consistent with its power to enforce HCAs, the Commission may, at its discretion, investigate any complaint alleging noncompliance with the requirements in 935 CMR 500.180(3)(d) and take enforcement action as provided in 935 CMR 500.000.

2. An interested person may file a complaint with the Commission alleging noncompliance with an HCA requirement under 935 CMR 500.180. Nothing in 935 CMR 500.180(3)(d)2. shall be construed to prevent a Marijuana Establishment or a Host Community from bringing a private breach of contract action in a court of competent jurisdiction regarding an alleged breach of specific promises mutually agreed to in the parties' HCA.

3. If the Commission substantiates an allegation of noncompliance with HCA regulatory requirements, then the Commission may take administrative or enforcement action against a Licensee or a Host Community including sending a notice of deficiency, requesting additional information, or otherwise taking action as provided under 935 CMR 500.000.

4. Failure by a Host Community to correct the noncompliant conduct may result in one or more of the following:

a. Issuance of sanctions pursuant to 935 CMR 500.360;

b. Loss of a Host Community's good compliance standing for purposes of 935 CMR 500.180(2)(e);

c. Identification of a Host Community lack of good compliance standing in a form and manner determined by the Commission; or

d. Abstaining from consideration of any new license applications affiliated with a Host Community until a Host Community's good compliance standing is restored.

(4) Community Impact Fees.

(a) General Requirements. Pursuant to M.G.L. c. 94G, § 4(a½), the Commission is charged with establishing criteria for reviewing, certifying, and approving CIFs.

1. To qualify as a CIF, an impact fee claimed by a Host Community must be Reasonably Related.

2. On certification by the Commission, a CIF becomes properly due and payable unless disputed by a Marijuana Establishment consistent with 935 CMR 500.180(4)(c)4.a.

3. A Host Community may assess a CIF as a condition of allowing a License Applicant or a Marijuana Establishment to operate or continue to operate in its community. A Host Community may also opt not to assess a CIF.

4. A Host Community may also opt not to assess a CIF.

500.180: continued

5. A Host Community shall ensure that the initial invoice period of claimed impact fees covers a one-year period that starts from the date the Commission grants a Marijuana Establishment a final license. A Host Community shall further ensure that all subsequent, one-year invoice periods are consistent with the anniversary of a Marijuana Establishment's final license date. The Commission will not certify any impact fees attributable to dates outside of the applicable invoice period.

6. A Host Community seeking to assess a CIF shall transmit an itemized invoice to a Marijuana Establishment in a form and manner determined by the Commission documenting claimed impact fees arising from the preceding year of a Marijuana Establishment's operations.

a. Sunshine Requirement: A Host Community shall ensure that impact fee invoices include a specific description of how the claimed impact fees were spent, including each line item for each good or service charged stating its cost, purpose, and relation to a Marijuana Establishment's operations.

b. A Host Community shall transmit its impact fee invoice to a Marijuana Establishment no later than one month after the anniversary of the date the Marijuana Establishment received a final license from the Commission. A Host Community's failure to transmit the impact fee invoice to a Marijuana Establishment within the prescribed time shall result in a forfeiture of any CIF for the applicable year of operations.

c. A Host Community shall ensure that the impact fee invoice is restricted to the license number(s) operating from the licensed Premises alleged to have impacted the community. For CMOs, a Host Community shall transmit an impact fee invoice to a Marijuana Establishment and an MTC.

7. Within 30 calendar days of receiving a Host Community's invoice of claimed impact fees, a Marijuana Establishment shall submit the invoice and any supporting documentation, if applicable, to the Commission in a form and manner determined by the Commission.

8. A Marijuana Establishment that has agreed to pay a CIF under its HCA shall annually pay any undisputed CIF no later than the end of the current fiscal year or within 90 days of the date of the Commission's CIF certification, whichever is later. This subdivision shall not be construed to require a Marijuana Establishment to pay a CIF if a Marijuana Establishment's payment obligation is the subject of a nonfrivolous legal dispute either through the Commission's administrative hearing process or before a court of competent jurisdiction.

(b) Prohibited Practices.

1. A Host Community shall not attempt to collect impact fees relating to any operations occurring prior to the date a Marijuana Establishment is granted a final license by the Commission.

2. A Host Community shall not attempt to collect impact fees from any Marijuana Establishment that has held a final license for more than nine years.

3. In circumstances where the licensed Premises is the site of multiple final licenses, no Host Community may amplify its assessment of claimed impact fee(s) by assigning the same impact fee(s) to each final license operating from the licensed Premises without regard to the distinct operations of each licensed entity.

4. No Host Community may rely on other written instruments, contracts, or agreements to assess Community Impact Fees. No Host Community may include additional payments or obligations in its invoice of claimed impact fees, including but not limited to monetary payments, in-kind contributions and charitable contributions by a Marijuana Establishment to a Host Community or any other organization.

5. A Host Community shall not include any legal costs incurred by a Host Community to defend against a lawsuit brought by a Marijuana Establishment in its invoice of claimed impact fees.

6. No Host Community may modify the effective date of a preexisting CIF for any final license that becomes subject to an ownership or control change under 935 CMR 500.104(1).

500.180: continued

(c) Commission Review and Certification of CIFs. The Commission, through its Executive Director or Executive Director's delegee(s) shall review a Host Community's invoice of claimed impact fees and make a determination certifying, in whole or in part, the CIF that may be assessed for the preceding year of a Marijuana Establishment's operations based on a finding that an impact fee(s) is Reasonably Related to a Marijuana Establishment's operations.

1. A Marijuana Establishment shall provide verification of its Gross Annual Sales, including wholesale revenue generated by Marijuana Cultivators and Marijuana Product Manufacturers, to the Commission with its transmission of a Host Community's invoice of claimed impact fees.

a. A Marijuana Establishment shall submit a summary of all sales of Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods for that license to consumers and other Licensees, as applicable.

b. If product was wholesaled or otherwise sold or transferred to other Licensees at no cost or reduced cost, a Marijuana Establishment shall apply the average cost per gram or milligram to the amount sold or transferred to establish and report the fair market value of the product, and include that amount in its summary submission.

2. The Commission may make a final determination on Gross Annual Sales relying on the factors in 935 CMR 500.180(4)(c)3., and any additional information gathered. The Gross Annual Sales determined by the Commission, pursuant to 935 CMR 500.180(4)(c)3., shall be used for purposes of the CIF in circumstances where product was wholesaled or otherwise sold or transferred to other Licensees at no cost or reduced cost, and shall not be used for any other purposes related to other obligations, including tax filings, for a Marijuana Establishment.

3. The Commission may determine the Gross Annual Sales of a Marijuana Establishment using the following factors:

a. Consumer Sales as represented by a Marijuana Establishment;

b. Consumer Sales as represented by the Commission Seed-to-sale System of Record;

c. Fair Market Value of wholesaled or transferred Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods;

d. Any wholesaled or transferred Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods that has been refunded or is otherwise the subject of a voided sale;

e. Value of services rendered, wholesaled or transferred Marijuana, Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods as represented by the Commission Seed-to-sale System of Record; and

f. Other factors as determined necessary by the Commission to calculate the Gross Annual Sales by the licensee in the absence of available information as listed in 935 CMR 500.180(4)(c).

4. The Commission shall provide notice of its CIF determination to a Marijuana Establishment and a Host Community. The Commission's notice will provide a Marijuana Establishment with the following options:

a. A Marijuana Establishment may request an administrative hearing before an independent Hearing Officer of the Commission pursuant to 935 CMR 500.500 to challenge the findings of fact and conclusions of law. Any administrative proceeding elected by a Marijuana Establishment must be conducted pursuant to 801 CMR 1.01: *Formal Rules*. The Host Community may seek intervention as a party to the hearing; or

b. A Licensee may seek court intervention to independently review a Host Community's claimed impact fees by bringing a breach of contract action against a Host Community in a court of competent jurisdiction.

5. The parties may elect to bring a dispute between the parties before a private mediator retained by the parties at any time if such mediation is a term of the HCA or is voluntarily elected by the parties. Neither party may unilaterally compel private mediation.

500.180: continued

6. After a CIF dispute has resolved, a Marijuana Establishment must provide proof of payment of the certified CIF with its renewal application. If an ME prevails in a CIF dispute, an ME must also provide proof that its CIF payment obligation has been eliminated.

(5) Waiver of Host Community Agreements.

(a) A Host Community may waive the regulatory requirement to have a compliant HCA by submitting an HCA Waiver to the Commission that complies with 935 CMR 500.180(5).

(b) An HCA Waiver constitutes a total relinquishment of the requirement that an applicant or Marijuana Establishment enter into an HCA with a Host Community. No party to an HCA may use an HCA Waiver to waive individual provisions of an HCA.

(c) An HCA Waiver may be submitted relative to an application for licensure or an application for renewal of licensure. A Host Community and an applicant or Marijuana Establishment may also submit an HCA Waiver after both parties have executed an HCA.

(d) Acceptance of an HCA Waiver is limited to the specific application or license number(s) stated in the HCA Waiver request.

(e) The Commission shall determine whether an HCA Waiver complies with 935 CMR 500.180(5).

(f) An HCA Waiver that sets an expiration date or any conditions is deemed noncompliant.

(g) An HCA Waiver determined to be the result of an Inducement is deemed noncompliant.

(h) If a Host Community elects to submit an HCA Waiver, a Host Community's submission shall be in a form and manner determined by the Commission and include, at minimum, the following information:

1. Identification of the specific application or license number intended to be exempt from the requirement to have a compliant HCA;
2. Identification of a License Applicant or Marijuana Establishment in a manner consistent with both the business entity name certified and recorded with the Secretary of the Commonwealth of Massachusetts and the business entity name stated either in a License Applicant's license application or on a Marijuana Establishment's license record as maintained by the Commission.
3. Printed name and signature of the individual(s) authorized to represent and act on behalf of a Host Community;
4. Printed name and signature of the individual(s) authorized to represent and act on behalf of an applicant or Marijuana Establishment;
5. The date of each parties' signature; and
6. An attestation that the HCA Waiver was mutually agreed upon by both parties and executed in good faith.

(i) An HCA Waiver that is executed and recorded with the Commission remains in full force and effect until such time as it is rescinded. An HCA Waiver may only be rescinded on Commission approval of an HCA subsequently executed and submitted by the parties.

(j) An HCA waiver is not subject to review under the criteria in 935 CMR 500.850 regarding general waivers.

500.181: Minimum Acceptable Equity Standards Governing Municipalities and Host Communities

(1) 935 CMR 500.181 is governed by M.G.L. c. 94G §§ 3 and 4, as amended by St. 2022, c. 180. Pursuant to M.G.L. c. 94G § 3, the Commission must establish minimum acceptable standards for Host Communities to promote and encourage full participation in the regulated Marijuana industry by people from communities that were disproportionately harmed by Marijuana prohibition and enforcement and to positively impact those communities.

(2) M.G.L. c. 94G, § 4(a)(xxxi) and (xxxii) empowers the Commission to establish procedures for municipalities to promote and encourage full participation in the regulated Marijuana industry during negotiations of HCAs with Social Equity Businesses and to develop minimum acceptable standards governing HCA negotiations with Social Equity Businesses. The Commission is further authorized to develop best practices for HCA negotiations between municipalities and License Applicants that have been designated as Social Equity Program Participants or Economic Empowerment Priority Applicants.

500.181: continued

(3) Equity Standards for Host Communities to Promote and Encourage Full Participation in the Regulated Marijuana Industry.

(a) Municipalities are presumed to have met the Commission's minimum acceptable equity standards for promoting and encouraging full participation in the regulated Marijuana industry by taking one of the following actions:

1. Adopting an ordinance or bylaw to exclusively permit Social Equity Businesses for three years or until the goals of the exclusivity period have been met;

2. Adopting the Model Ordinance or Bylaw created by the Commission to permit Social Equity Businesses; or

3. Creating a Local Approval Process for equity applicants that is administered on a 1:1 basis, where a General Applicant may be approved only after a Social Equity Business has commenced operations. Host Communities may choose to administer a 1:1 Local Approval Process until such time as 50% of the Licensees operating in the Host Community are Social Equity Businesses.

(b) Notwithstanding 935 CMR 500.181(3)(a), a Host Community shall adopt, but not be limited to, the following transparent practices to promote and encourage full equity participation:

1. A Host Community shall publicize certain information in a conspicuous location at its offices and on its website which shall, at minimum, include:

a. All required steps of a Host Community's Local Approval Process including, but not limited to, all associated fees, deadlines, and meeting schedules for local bodies involved in the Local Approval Process;

b. Identification of key individuals involved in a Host Community's Local Approval Process, including, but not limited to, their name, title, business address, and business contact information such as email address or phone number;

c. A list of all documentation required by a Host Community's Local Approval Process, in downloadable form and paper form;

d. Identification of application criteria for local approval to operate a Marijuana Establishment and scoring methodologies relied on by a Host Community;

e. General scoring information for all applicants and a Host Community's scoring of each individual applicant;

f. A Host Community's explanation, in narrative form, of its reasoning for the approval or denial of an application; and

g. Any other information required by the Commission.

2. A Host Community shall develop an equity plan to promote and encourage full participation in the regulated cannabis industry by individuals from communities disproportionately harmed by cannabis prohibition and enforcement and shall publicize its equity plan in a conspicuous location at its offices and on its website. A Host Community's equity plan shall:

a. Encourage applications from business and individuals that would meet the definition of Social Equity Businesses, Social Equity Program Participants, and Economic Empowerment Priority Applicants as determined by the Commission; and

b. Include goals, programs, and measurements a Host Community will utilize to promote and encourage equity participation.

3. A Host Community shall publish data regarding its total applicant pool, which shall identify each Social Equity Business and License Applicant that has been designated as a Social Equity Program Participant or Economic Empowerment Priority Applicant, or who have been pre-verified pursuant to 935 CMR 500.101(7).

4. The Commission may require the Host Community to report data to the Commission.

(c) A municipality or Host Community shall adhere to best practices for HCA negotiations with individuals or entities pre-verified or verified pursuant to 935 CMR 500.101(7), Social Equity Businesses, and License Applicants that have been designated as Social Equity Program Participants or Economic Empowerment Priority Applicants including, but not limited to, the following:

1. A Host Community shall develop a standard evaluation form, or use a form developed by the Commission, that scores components of an application. The evaluation form shall include consideration of equity in the overall evaluation score, which must comprise not less than 25% of the total evaluation score. This equity component shall include:

500.181: continued

a. whether an individual, entity, or License Applicant is pre-verified or verified pursuant to 935 CMR 500.101(7);
b. whether the License Applicant is a Social Equity Program Participant;
c. whether the License Applicant is an Economic Empowerment Priority Applicant;
d. whether a License Applicant or pre-verified individual or entity has a prior Marijuana-related criminal offense or conviction;
e. whether a License Applicant or pre-verified individual or entity is part of an Area of Disproportionate Impact, as identified by the Commission; or
f. whether a pre-verified individual is of Black, African American, Hispanic, Latino, Native American or indigenous descent, or a majority of a pre-verified entity or License Applicant entity is comprised of individuals that are of Black, African American, Hispanic, Latino, Native American or indigenous descent.

2. In circumstances where a Host Community imposes a cap on the number of Marijuana Establishments or MTCs that may obtain local approval to operate, if a Host Community later decides to allow additional Marijuana Establishments or MTCs, at least 50% of those licenses, but no less than one license, above the previously-established cap shall be reserved for: License Applicants that are Social Equity Businesses; License Applicants that have been designated as Social Equity Program Participants, Economic Empowerment Priority Applicants, or both; or individuals or entities verified or pre-verified pursuant to 935 CMR 500.101(7), including pre-verified individuals or entities that have already been designated as Social Equity Businesses, Economic Empowerment Applicants, or both. A Host Community seeking exemption from this regulatory requirement may submit a waiver request pursuant to 935 CMR 500.850. Such request must include identification of proposed compensating features, as provided under 935 CMR 500.850(2)(b).

(d) Host Communities must adopt local rules or bylaws to comply with 935 CMR 500.181(3) on or before May 1, 2024. A Host Community shall submit an attestation in a form and manner determined by the Commission affirming that it has adopted local laws to effectuate compliance with 935 CMR 500.181(3) and identifying the specific laws passed. In addition, a Host Community shall submit its equity plan and any other documentation of its compliance with 935 CMR 500.181(3).

(e) Any interested person may file a complaint with the Commission alleging noncompliance with an equity requirement under 935 CMR 500.181. If the Commission substantiates an allegation of noncompliance with 935 CMR 500.181, a Host Community shall be fined after first receiving notice and opportunity for corrective action pursuant to 935 CMR 500.310 and 935 CMR 500.320. A Host Community shall be fined in an amount equal to the annual total of CIFs received from all Marijuana Establishments and MTCs operating in the Host Community during the prior calendar year.

1. The Commission shall afford a Host Community a right to a hearing pursuant to 935 CMR 500.500.
2. All fines collected shall be deposited into the Cannabis Social Equity Trust Fund established in section 14A of chapter 94G.
3. The Commission may identify on its website any municipality or Host Community that has been assessed a fine for equity noncompliance.
4. Fine assessments pursuant to this section shall take effect no sooner than May 1st, 2025.

(4) Equity Standards for Host Communities during HCA Negotiations with Equity Parties.

(a) A Host Community shall prioritize negotiations of HCAs with equity parties. The equity party to negotiations of an HCA for an application for licensure is: a License Applicant that is a Social Equity Business; a License Applicant that has been designated as Social Equity Program Participants, Economic Empowerment Priority Applicants or both; or an individual or entity verified or pre-verified pursuant to 935 CMR 500.101(7), including pre-verified individuals or entities that are not yet a License Applicant but have already been designated as Social Equity Businesses, Economic Empowerment Applicants, or both.

(b) A Host Community may waive or reduce fees for an equity party to an HCA negotiation, including, but not limited to CIFs, zoning and occupancy fees.

500.181: continued

(c) Required Practices. At minimum, a municipality or Host Community shall take the following actions during HCA negotiations with an equity party to promote and encourage their full participation:

1. Engage in an ongoing dialogue by providing multiple opportunities for discussion and negotiation of HCA terms including, at minimum, two conferences with an equity party;
2. Include any attorney, authorized representative, or other advocate, if elected by an equity party, in all negotiation discussions and conferences;
3. Promote language access by providing a certified interpreter or translator to assist an equity party who is a Non-English speaker during all negotiation discussions and conferences;
4. Provide reasonable opportunities for an equity party to review a proposed HCA, HCA term or condition outside of a negotiation conference, or to seek review or input by a third party of their choice.
5. Negotiate the terms of an HCA in good faith, including consideration of flexible terms that may mitigate particular challenges affecting an equity party, such as access to capital, with all terms and clauses conspicuously identified and openly discussed; and
6. Allow an equity party to propose an amendment to, or seek cancellation of, an HCA within thirty days from the date of execution of the HCA.

(d) Prohibited practices.

1. No municipality or Host Community shall negotiate an HCA with an equity party through the use of undue influence, duress, coercion, intimidation, threats, or any strong-arm tactics.
2. No municipality or Host Community shall threaten loss of an equity party's position in its local application queue or delay to the processing of an equity party's application.
3. No municipality or Host Community shall compel an equity party to sign an HCA in any manner that conflicts with the practices required in 935 CMR 500.181(4)(c).
4. No municipality or Host Community shall negotiate or discontinue negotiations with an equity party in bad faith.

(5) Equity Standards for Host Communities to Positively Impact Communities That Were Disproportionately Harmed by Marijuana Prohibition and Enforcement.

(a) A Host Community must develop a plan to positively impact one or more of the following communities:

1. Past or present residents of the geographic "areas of disproportionate impact," which have been defined by the Commission and identified in its Guidance for Identifying Areas of Disproportionate Impact. The designation of these areas will be re-evaluated periodically.
2. State-designated Economic Empowerment Priority Applicants.
3. State-designated Social Equity Program participants.
4. Massachusetts residents who have past drug convictions.
5. Massachusetts residents with parents or spouses who have drug convictions.

(b) A Host Community shall publicize said plan in a conspicuous location at its offices and on its website. The plan shall outline the goals, programs, and measurements the Host Community will pursue.

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.

(2) If Marijuana Establishments operating from locations in the island counties are prevented from operating in full compliance with 935 CMR 500.00 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.

500.200: continued

(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 Licensee or a Marijuana Establishment with a Delivery Endorsement 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 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, Marijuana Establishment Agents, or Host Communities.

(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) through (xx), the Commission or a Commission 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. 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 a Commission Delegee's affiliation with a state agency with lawful jurisdiction over the operations of a Marijuana Establishment.

(3) A Marijuana Establishment or Host Community shall immediately on request make available to the Commission or a Commission Delegee all information that may be relevant to an inspection or investigation of an incident or a complaint.

(4) A Marijuana Establishment or Host Community 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.

(5) During an inspection, the Commission or a Commission 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).

500.301: continued

(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 a Commission Delegee deems it necessary for the enforcement of M.G.L. c. 94G, and 935 CMR 500.000.

(7) The failure to cooperate with an inspection or investigation or otherwise comply with 935 CMR 500.301 may result in administrative or disciplinary action against the Licensee or Host Community.

500.302: Compliance Examination

(1) After a Marijuana Establishment has been licensed, the Commission or a Commission 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 Close Associates whom the Commission has determined is involved in the financing, management or operation of an establishment.

(2) Administrative Subpoenas. The Commission or a Commission Delegee may, during a preliminary investigation prior to a hearing, issue, modify, amend or rescind subpoenas. Material witnesses, registered agents, or other Persons whom the Commission has determined are 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 a Commission 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 a Commission Delegee, the Commission or a Commission 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 935 CMR 500.302 may result in administrative or disciplinary action against the Licensee.

500.303: Unannounced Investigative Activities (Secret Shopper Program)

(1) Secret Shopper Program Authorization. The Commission may, at any time and without prior notice, authorize an employee, Commission Delegee, or third-party acting as an agent of the Commission or a Commission Delegee, to act as a Secret Shopper for any investigative purposes consistent with M.G.L. c. 94G, M.G.L. c. 94I, St. 2016, c. 334, as amended by St. 2017, c. 55, St. 2022, c. 180, 935 CMR 500.000 or 935 CMR 501.000: *Medical Use of Marijuana* including, but not limited to, investigative testing for compliance with laboratory testing standards and identification check requirements.

(2) Documentation of Secret Shopper Activities.

(a) A Secret Shopper shall document each Secret Shopper activity conducted pursuant to 935 CMR 500.303, including at minimum:

1. Date, time and location of the activity;
2. Type and amount of Marijuana or Marijuana Products purchased or otherwise obtained, if any;

500.303: continued

3. Suspected violations of 935 CMR 500.000 or 935 CMR 501.000: *Medical Use of Marijuana*; and
4. Any other information required by the Commission.

(b) The Commission shall prescribe standardized forms or electronic systems for documentation of Secret Shopper activities.

(3) Custody, Preservation and Transport of Marijuana or Marijuana Products Purchased or Otherwise Obtained through the Secret Shopper Program.

(a) The Commission shall maintain records documenting the chain of custody and handling of Marijuana or Marijuana Products purchased or otherwise obtained through the Secret Shopper Program, including but not limited to records relating to the acquisition, storage, transfer, transport, testing, and disposition of such products, if applicable.

(b) The Commission may authorize use of Marijuana Transporters, including Third-party Transporters, to transport Marijuana or Marijuana Products purchased or otherwise obtained through the Secret Shopper Program to an Independent Testing Laboratory or other secure facility, provided that such transport is conducted in compliance with all applicable requirements of 935 CMR 500.000 and 935 CMR 501.000: *Medical Use of Marijuana*.

(c) Marijuana or Marijuana Products purchased or otherwise obtained through the Secret Shopper Program shall be securely stored and transported in a manner that maintains sample integrity, prevents Diversion, and avoids contamination or spoilage.

(d) Any contamination, suspected tampering, loss, theft, or spoilage of Marijuana or Marijuana Products purchased or otherwise obtained through the Secret Shopper Program shall be promptly documented and reported in writing to the Commission. The Commission or a Commission Delegee may authorize disposal pursuant to 935 CMR 500.105(12).

(4) Use of Secret Shopper Investigative Results.

(a) Results of investigations conducted under Secret Shopper Program, including but not limited to investigative testing for compliance with laboratory testing standards, identification check requirements, and investigative reports, shall be promptly submitted to the Commission in the form and manner specified by the Commission.

(b) The Commission shall retain all investigative results as part of the records for the Marijuana Establishment subject to the Secret Shopper activity and may be used to determine compliance with M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500.000 and 935 CMR 501.000: *Medical Use of Marijuana* by the Marijuana Establishment and any other Licensee whose conduct, products, or testing results are implicated by the investigative findings.

(c) Upon notice to the Marijuana Establishment, the investigative results indicating non-compliance may be used by the Commission to take administrative or disciplinary action on the License of the Marijuana Establishment pursuant to applicable enforcement and disciplinary provisions of 935 CMR 500.000.

(d) Without notice to the Marijuana Establishment, the Commission may share such investigative results with any other law enforcement, regulatory, or public health authorities with jurisdiction, subject to applicable laws governing confidentiality and public records.

(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) Conditions for Secret Shopper Authorization and Participation.

(a) The Commission shall establish minimum standards for Secret Shoppers, which may include, but are not limited to:

1. Training requirements regarding applicable laws, regulations, investigative protocols, and confidentiality;
2. Prohibitions on financial interests or other conflicts that could undermine the integrity or impartiality of the program; and
3. Requirements to promptly disclose any potential conflict of interest.

(b) Secret Shoppers shall execute confidentiality agreements approved by the Commission, as applicable, and shall be subject to all applicable laws and policies regarding the protection of confidential, personally identifiable, or law enforcement sensitive information.

(c) The Commission may revoke or suspend the authorization of any Secret Shopper for failure to comply with 935 CMR 500.303, any applicable agreement, or any directive of the Commission or a Commission Delegee.

500.303: continued

(6) Prohibition on Interference and Retaliation.
(a) A Licensee, Marijuana Establishment Agent, or any person or entity acting directly or indirectly on their behalf shall not interfere with, attempt to improperly identify, intimidate, or retaliate against any individual reasonably believed to be participating in the Secret Shopper Program.
(b) Interference with or retaliation against participants in the Secret Shopper Program by a Licensee, Marijuana Establishment Agent, or any person or entity acting directly or indirectly on their behalf may constitute grounds for administrative or disciplinary action, up to and including license suspension or revocation and assessment of civil penalties, or any other applicable enforcement or disciplinary provisions of 935 CMR 500.000.

(7) Obligation to Cooperate. The failure of the Licensee to cooperate with the Secret Shopper Program, including but not limited to refusal to complete a transaction that is otherwise lawful and offered in compliance with applicable law, refusal to permit the exit of purchased products, or failure to provide receipts or other documentation customarily provided to Consumers, may result in administrative or disciplinary action against the Licensee pursuant to applicable enforcement and disciplinary provisions of 935 CMR 500.000.

500.310: Deficiency Statements

After an inspection in which a violation of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500.000, or 935 CMR 501.000: *Medical 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 or Host Community.

500.320: Plans of Correction

(1) A Marijuana Establishment or Host Community 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, within ten business days after receipt of the statement.

(2) A 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 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 and shall notify the Marijuana Establishment or Host Community of either the acceptance or rejection of the plan or any component of the plan.

(4) An unacceptable plan shall be amended and resubmitted within five business days after receipt of such notice.

(5) The approval of a plan of correction shall not preclude the Commission from issuing an order for further corrective action fixing a reasonable time for correction of the violation, assessing an administrative fine, or taking any other administrative action authorized under the Commission's regulations.

(6) A Marijuana Establishment or Host Community shall notify the Commission once the plan of correction has been fully implemented and completed.

500.321: Administrative Hold

(1) Pursuant to M.G.L. c. 94G, § 4(a)(xix), the Commission or a Commission 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, prevent the destruction of evidence, prevent the Diversion or Inversion of Marijuana or Marijuana Products, or as otherwise necessary to protect the public health, safety or welfare.

500.321: continued

(2) A Marijuana Establishment subject to an Administrative Hold shall retain its inventory pending further investigation by the Commission or a Commission 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 are noncompliant under 935 CMR 500.000, 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 Product. The notice shall identify the Marijuana or Marijuana Product 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 Product subject to the Administrative Hold in a Limited Access Area, where it shall be safeguarded by the Marijuana 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 Product subject to the Administrative Hold, except as otherwise authorized by the Commission.

(e) While the Administrative Hold is in effect, the Marijuana Establishment shall safeguard the Marijuana or Marijuana Product subject to the Administrative Hold and shall fully comply with all security requirements including, but not limited to, 935 CMR 500.110.

(f) An Administrative Hold may not prevent a Marijuana Establishment from the continued possession, cultivation or harvesting of the Marijuana or Marijuana Product subject to the Administrative Hold, unless otherwise provided by an order of the Commission. All Marijuana or Marijuana Products subject to an Administrative Hold shall be put into separately tracked Production Batches.

(g) An Administrative Hold may not prevent a Marijuana Establishment from voluntarily surrendering Marijuana or Marijuana Products subject to an Administrative Hold, except that the Marijuana 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 a Commission Delegee may modify, amend or rescind the Administrative Hold.

(i) The failure to cooperate with provisions of 935 CMR 500.321 may result in administrative or disciplinary action against the Licensee.

500.330: Limitation of Sales

(1) If the Commission or a Commission 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, or 935 CMR 500.000, the Commission or a Commission Delegee may order that the Marijuana Establishment dispose of and may not sell Marijuana or Marijuana Products, after a date specified.

(2) The Commission or a Commission Delegee may 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, M.G.L. c. 94G, or 935 CMR 500.000, that an order to dispose of or limit sales is contemplated, and that the establishment has a reasonable opportunity to correct the deficiencies.

(3) An order that a Marijuana Establishment dispose of and may not sell Marijuana or Marijuana Products pursuant to 935 CMR 500.330(1) may be rescinded when the Commission or a Commission Delegee finds that the establishment is in substantial compliance with the applicable provisions of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000.

500.335: Removal and Prohibition of Marijuana and Marijuana Products

(1) Pursuant to M.G.L. c. 94G, § 4(a½)(xxxi), the Commission or a Commission Delegee may order the removal or prohibition of sales by more than one Licensee of categories of product types, of specific product types or of specific brands of products after notice and a determination that Marijuana, Marijuana Products, and Marijuana Accessories (for the purposes of 935 CMR 500.335 "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 younger than 21 years old.

(a) The Commission 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 seeds, Marijuana Clones, Marijuana Edibles, Beverages, topical products, ointments, oils, Tinctures, oral dosage forms or any other product identified by the Commission or a Commission 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 of 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 purpose 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.

500.335: continued

(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 vote by the Commission.

(c) The Commission or a Commission 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 shall be destroyed in accordance with 935 CMR 500.105(12).

(d) The Commission or a Commission 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) The order may be posted on the Commission's website.

(9) It shall be a violation of 935 CMR 500.000 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 935 CMR 500.335 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 (a½)(xxxi), a Quarantine Order may be imposed by the Commission or a Commission 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 a Commission 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 a Commission 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.

500.340: continued

(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 a Commission Delegee.

(4) The Commission or a Commission 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 may 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 a Commission Delegee.

(6) The failure to cooperate with provisions of 935 CMR 500.340 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 (a½), a Cease and Desist Order or a Summary Suspension Order may be imposed by the Commission or a Commission 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 a Commission 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 a Commission 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 a Commission 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 a Commission 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 a Commission Delegee.

500.350: continued

(5) Hearings. Pursuant to its authority under M.G.L. c. 94G, § 4(a)(xxiv) and (g), 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.

(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 a Commission 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 shall 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, 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.

500.360: Fines and Sanctions

The Commission or a Commission Delegee may issue an order to a Licensee or a Host Community to show cause as to why a fine or other financial penalty against a Licensee, Registrant, or Host Community 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.

(1) Notice of Fines or Sanctions. The Commission or a Commission Delegee shall send written notice of the action taken against a Licensee, Registrant, or Host Community 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, registration, or HCA;

(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

500.360: continued

(e) Notice to the Licensee, Registrant, or Host Community that they may request a hearing in accordance with 935 CMR 500.500.

(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 a Commission 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, that is violated may constitute a separate violation.

(3) The Commission or a Commission 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, Registrant, or Host Community has previously been subject to an administrative or enforcement action including, but not limited to, a notice of deficiency;
3. Whether the Licensee, Registrant, or Host Community 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, Registrant, or Host Community;
c. Involved any compensating features associated with a valid waiver issued pursuant to 935 CMR 500.850;
d. Involved a Person younger than 21 years old or a Registered Qualifying Patient or Caregiver;
e. Involved or affected multiple Consumers;
f. Involved or exposed the public to risk of Diversion or Inversion; 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, Registrant, or Host Community prior to investigation;
2. The financial impact of corrective measures, if any, which provide safeguards exceeding the minimum requirements of 935 CMR 500.000. However, financial impact may not include any cost associated with loss of economic opportunity due to noncompliance or costs of corrective action necessary to achieve compliance with minimum requirements of 935 CMR 500.000;
3. The Licensee's, Registrant's, or Host Community's good faith efforts to avoid a violation;
4. The Licensee's, Registrant's, or Host Community's degree of cooperation in the investigation;
5. The Licensee's, Registrant's, or Host Community'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.
8. Other particular mitigating circumstances presented by the Licensee, Registrant, or Host Community.

(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, the date of the final agency action.

500.360: continued

(5) Failure to timely pay the fine or financial penalty may result in further action being taken by the Commission or a Commission Delegee including, but not limited to, suspension or revocation of a License or registration, or loss of a Host Community's good compliance standing with the Commission, as declared and identified pursuant to the procedures set forth in 935 CMR 500.180(3)(d).

(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 may 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 935 CMR 500.360, shall be made payable to the Commission and deposited into the Marijuana Regulation Fund. The failure to cooperate with provisions of 935 CMR 500.360, may result in administrative or enforcement action against the Licensees, Registrants, or Host Communities.

500.370: Order to Show Cause

(1) If, after investigation, the Commission or a Commission 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 a Commission 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 a Commission Delegee may modify, amend or rescind an order issued pursuant to 935 CMR 500.370 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, including lack of disclosure or insufficient disclosure.

(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, and 935 CMR 500.00 including, but not limited to, 935 CMR 500.105 and 935 CMR 500.110, 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 and 935 CMR 500.801.

(5) The applicant failed to comply with the control limitations listed in 935CMR 500.050(1)(b) or would likely fail to comply with such limitations if a License were granted.

500.400: continued

(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.

500.415: Void Marijuana Establishment License

A Marijuana Establishment License is void if the Marijuana 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, including lack of disclosure or insufficient disclosure.

(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, 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.

(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.

(6) The Licensee failed to comply with the control limitations listed in 935 CMR 500.050(1)(b) 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) Failure to make substantial progress toward the Marijuana Establishment's submitted diversity plan or positive impact plan;
(d) 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-issued identification card in compliance with M.G.L. c. 94G, § 9(b);
(e) 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
(f) Other incompetent or negligent operation.

(8) The financial management of the Marijuana Establishment has resulted in the filing of a petition for a Court Appointee related to the financial solvency of the Marijuana Establishment.

(9) A Licensee fails to satisfy the requirements of 935 CMR 500.104(3) or (4), as applicable.

500.450: continued

(10) A person 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.

(11) The conduct or practices of the Marijuana Establishment demonstrate a lack of suitability as specified in 935 CMR 500.800 and 500.801.

(12) 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.

(13) An individual or entity listed 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 or Inversion of Marijuana or Marijuana Products.

(14) 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.

(15) The conduct or practices of the Marijuana Establishment have been detrimental to the safety, health, or welfare of the public.

(16) The conduct or practices of the Marijuana Establishment violate 935 CMR 500.145(1)(g)(3) or 500.146(12).

(17) Any other ground that serves the purposes of St. 2016, c. 334, as amended by St. 2017, c. 55, or 935 CMR 500.000.

500.500: Hearings and Appeals of Commission 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 or Host Community shall be afforded a hearing on any adverse action taken pursuant to:
(a) 935 CMR 500.360;
(b) 935 CMR 500.370;
(c) 935 CMR 500.450; or
(d) Any other notice of the Commission that specifies that the Licensee, Registrant, or Host Community 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.

(3) Notice(s).
(a) Notice of Violation(s) includes a notice issued in accordance with 935 CMR 500.360 and 500.370.
(b) Notice of Other Action(s). The Commission or a Commission Delegee shall send written notice of the action including, but not limited to, a denial of a renewal License, taken against a Licensee, Registrant, or Host Community 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, registration, or HCA;
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;

500.500: continued

5. The potential for further disciplinary action(s), sanction(s) or fine(s); and
6. The Licensee, Registrant, or Host Community's right to a hearing, if any.

(c) The Commission or a Commission Delegee may modify, amend or rescind a notice issued under 935 CMR 500.500(3).

(4) Hearing Request. The hearing request shall be submitted in a form and a manner determined by the Commission or a Commission 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.

(a) A timely request for a hearing shall specifically identify each issue and fact in dispute and state the position of the Licensee, Registrant, or Host Community, the pertinent facts to be adduced at the hearing, and the reasons supporting that position.

(b) 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).

(c) If a timely request for an hearing is made, the Licensee, Registrant, or Host Community 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.

(d) Nothing in 935 CMR 500.500 shall preclude the Commission or a Commission 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, Registrant, or Host Community 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, Registrant, or Host Community defaults, the Hearing Officer or other Commission 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 935 CMR 500.500(6)(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 a Commission 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).

500.500: continued

(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, §§ 10, 11 and 12.

(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).

(10) 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.

(11) Hearing Officer's Recommended Decision.

(a) Burden of Proof.

1. For a notice of violation(s), the Commission or a Commission Delegee bears the burden of proving the 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.

(b) 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 party or their attorney(s) of record and on request, mail a copy of the recommended decision to each party or their attorney(s) of record.

(c) 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.

(12) Commission's Final Decision.

(a) The Commission may affirm, adopt, modify, amend, or reverse the recommended decision of the Hearing Officer or remand the matter for further consideration.

(b) 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 500.500(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.

(c) 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.

500.500: continued

(d) The Commission's Final Decision is a final agency action reviewable under M.G.L. c. 30A, § 14.
(e) The Commission or a Commission Delegee shall electronically mail a copy of the recommended decision to each Licensee, Registrant, Host Community or their attorney(s) of record and on request, mail a copy of the recommended decision to each Licensee, Registrant, Host Community or their attorney(s) of record.

(13) 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: Suitability Standard for Licensure and Registration

(1) Pursuant to M.G.L. c. 94G, §§ 4(a)(xii), (xiv), and 21(a), the Commission may make, in an exercise of its discretion, a suitability or cure determination based on a factual basis.

(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.

(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 and, as appropriate, a cure. 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 can propose a cure, for example, by removing a subject from an application, the cure shall 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 shall 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.

500.800: continued

(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 935 CMR 500.801: *Table A* and 935 CMR 500.802: *Tables B through D* and 935 CMR 500.803: *Table E*, 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 935 CMR 500.801: *Table A* and 935 CMR 500.802: *Tables B through D* and 935 CMR 500.803: *Table 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 a Commission 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;
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:

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 935 CMR 500.801: *Table A*, or to have overcome any suitability issue, the agent shall not be subject to a subsequent suitability review under 935 CMR 500.802: *Tables B through D* and 935 CMR 500.803: *Table E*.

500.800: continued

(a) Nothing in 935 CMR 500.800(9) 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 935 CMR 500.801: *Table A*, or on other grounds for a Negative Suitability Determination only.
(c) Nothing in 935 CMR 500.800(9) 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 935 CMR 500.801: *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 935 CMR 500.801: *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 935 CMR 500.801 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 935 CMR 500.801: *Table A*, 935 CMR 500.802: *Tables B through D* and 935 CMR 500.803: *Table 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.

500.801: continued

Table A: Marijuana Establishment Licensees. Shall apply to applicants, Licensees and Persons or Entities Having Direct or Indirect Control in accordance with 935 CMR 500.101(1): *New Applicants* and 935 CMR 500.103(4): *Expiration and Renewal of Licensure*.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal).	**Open/Unresolved Criminal Proceedings:** 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.	Mandatory Disqualification
Present	**Outstanding or Unresolved Criminal Warrants**	Presumptive Negative Suitability Determination
Present	**Submission of Untruthful Information to the Commission Including, but Not Limited to**: 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; including lack of disclosure or insufficient disclosure; or 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, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination
Present	**Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)**	Presumptive Negative Suitability Determination
Present	**Open Professional or Occupational License Cases**	Presumptive Negative Suitability Determination
Indefinite	**Sex Offender Registration:** Required to register as a sex offender in Massachusetts or an Other Jurisdiction.	Mandatory Disqualification
Indefinite	**Felony Convictions in Massachusetts or an Other Jurisdiction** **Including, but Not Limited to:** Felony weapons violation involving narcotics; Felony involving violence against a person; Felony involving theft or fraud; and Felony drug, excluding conviction solely for a Marijuana-related offense or solely for a violation of M.G.L. c. 94C, § 34.	Mandatory Disqualification

500.801: continued

Time Period	Precipitating Issue	Result
Indefinite	**Conviction or Continuance without a Finding (CWOF) for Any Distribution of a Controlled Substance to a Minor**	Mandatory Disqualification
Indefinite	**Non-felony Weapons Violations, Including Firearms, Involving Narcotics**	Presumptive Negative Suitability Determination
Indefinite	**Firearms-related Crimes**	Presumptive Negative Suitability Determination
Indefinite	**Multiple Crimes of Operating under the Influence** Two offenses within a ten-year period; or Three or more offenses within any period of time.	Presumptive Negative Suitability Determination
Preceding Five Years	**Multiple Crimes** 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	**Crimes of Domestic Violence Including, but Not Limited to:** 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
Preceding Five Years	**Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)** 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.	Mandatory Disqualification

500.801: continued

Time Period	Precipitating Issue	Result
More than Five and Less than Ten Years	**Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)** 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.	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)

500.802: 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 alcohol 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 and 500.101:

(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 935 CMR 500.802: *Tables B through 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 935 CMR 500.802: *Tables B through 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. In addition to the requirements established in 935 CMR 500.800 shall:

1. Consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under 935 CMR 500.802: *Tables B through 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 803 CMR 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS.*

500.802: continued

(3) Registered Agents shall remain suitable at all times a License or registration remains in effect. An individual subject to 935 CMR 500.802, 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 935 CMR 500.802: *Tables B through 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 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 B: *Retail, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, Social Consumption Establishment, and Transporter Marijuana Establishment Agents*. Applies solely to applicants for registration as a Marijuana Establishment Agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100, as a Marijuana Retailer, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, Social Consumption Establishment, or as a Marijuana Transporter, under 935 CMR 500.050.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal).	**Open/Unresolved Criminal Proceedings:** Any outstanding or unresolved criminal proceeding for an offense involving the distribution of a controlled substance, including Marijuana, to a minor.	Presumptive Negative Suitability Determination
Present	**Open Professional or Occupational License Cases**	Presumptive Negative Suitability Determination
Present	**Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):** An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 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.	Presumptive Negative Suitability Determination
Present	**Submission of Untruthful Information to the Commission Including, but Not Limited to:** 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 including lack of disclosure or insufficient disclosure; or 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, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination
Indefinite	**Conviction or Continuance without a Finding (CWOF) for Any Distribution of a Controlled Substance to a Minor**	Mandatory Disqualification

Time Period	Precipitating Issue	Result
Indefinite	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 C: *Marijuana Product Manufacturer Marijuana Establishment Agents*. Applies solely to applicants for registration as an agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100 as a Marijuana Product Manufacturer under 935 CMR 500.050.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal).	**Open/Unresolved Criminal Proceedings:** Any outstanding or unresolved criminal proceeding for an offense involving the distribution of a controlled substance, including Marijuana, to a minor.	Presumptive Negative Suitability Determination
Present	**Open Professional or Occupational License Cases**	Presumptive Negative Suitability Determination
Present	**Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):** An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 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.	Presumptive Negative Suitability Determination
Present	**Submission of Untruthful Information to the Commission Including, but Not Limited to:** 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, including lack of disclosure or insufficient disclosure; or 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, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination

500.802: continued

Time Period	Precipitating Issue	Result

Indefinite	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)
Indefinite	**Conviction or Continuance without a Finding (CWOF) for Any Distribution of a Controlled Substance to a Minor**	Mandatory Disqualification

Table D*: Cultivation Marijuana Establishment Agents*. Applies solely to applicants for registration as an Agent at a Marijuana Establishment licensed as a Marijuana Cultivator or Craft Marijuana Cooperative.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal).	**Open/Unresolved Criminal Proceedings**: Any outstanding or unresolved criminal proceeding for an offense involving the distribution of a controlled substance, including Marijuana, to a minor.	Presumptive Negative Suitability Determination
Present	**Open Professional or Occupational License Cases**	Presumptive Negative Suitability Determination
Present	**Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)**: An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 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	Presumptive Negative Suitability Determination
Present	**Submission of Untruthful Information to the Commission Including, but Not Limited to**: 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, including lack of disclosure or insufficient disclosure; or 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, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination

500.802: continued

Time Period	Precipitating Issue	Result

Indefinite	**Conviction or Continuance without a Finding (CWOF) for Any Distribution of a Controlled Substance to a Minor**	Mandatory Disqualification
Indefinite	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 shall apply to Laboratory Agents in their capacity as employees or volunteers for an Independent Testing Laboratory licensed pursuant to 935 CMR 500.029 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) For purposes of determining suitability based on background checks performed in accordance with 935 CMR 500.803:

(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 935 CMR 500.803: *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 935 CMR 500.803: *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. In addition to the requirements established in 935 CMR 500.800: shall:

1. Consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under 935 CMR 500.803: *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 803 CMR 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS.*

(3) Laboratory 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 935 CMR 500.803: *Table 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.

500.803: continued

(4) 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.

Table E: *Registration as a Laboratory Agent*. Applies solely to applicants for registration as a Laboratory Agent in accordance with 935 CMR 500.803 at Marijuana Establishment licensed pursuant to 935 CMR 500.050.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal).	**Open/Unresolved Criminal Proceedings**: 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.	Mandatory Disqualification
Present	**Open/Unresolved Marijuana Business-Related License Violations (Massachusetts or Other Jurisdictions)**: An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 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.	
Present	**Submission of Untruthful Information to the Commission Including, but Not Limited to**: 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, including lack of disclosure or insufficient disclosure; or 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, including lack of disclosure or insufficient disclosure; or	Presumptive Negative Suitability Determination
Present	**Open Professional or Occupational License Cases**	Mandatory Disqualification
Indefinite	**Felony Convictions in Massachusetts or Other Jurisdictions**: For drug offenses or trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in Other Jurisdictions.	Mandatory Disqualification

500.803: continued

Time Period	Precipitating Issue	Result
Preceding Five Years	**Felony Convictions or CWOF in Massachusetts or Other Jurisdictions**: 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.	Presumptive Negative Suitability Determination
Preceding Seven Years	**Felony Convictions or CWOF in Massachusetts or Other Jurisdictions**: 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, § 10;
(c) All records to the extent that they contain "personal information" pursuant to 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*; and
(f) All Confidential Records as defined in 935 CMR 500.002.

(2) All records protected from disclosure under 935 CMR 500.820(1) or pursuant to the laws of any Other Jurisdiction 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 which includes, but is not limited to, law enforcement personnel;
(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 935 CMR 500.820 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; and

(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 935 CMR 500.830, 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 a Commission 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, State 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 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.

(2) Nothing in 935 CMR 500.000.

(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 and M.G.L. c. 94I, § 7. 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 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 Registered Qualifying 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 935 CMR 500.850, shall be requested under 935 CMR 500.110(2)(b).

500.850: continued

(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 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: M.G.L. c. 10, § 76, M.G.L. c. 94G, M.G.L. c. 94I, St. 2012, c. 369, St. 2016, c. 334, St. 2017, c. 55, and St. 2022, c. 180.