

935 CMR: CANNABIS CONTROL COMMISSION

935 CMR 500.000: ADULT USE OF MARIJUANA

Section

- 500.001: Purpose
- 500.002: Definitions
- 500.005: Fees
- 500.029: Registration and Conduct of Laboratory Agents
- 500.030: Registration of Marijuana Establishment Agents
- 500.031: Denial of a 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 Operating Requirements for Indoor and Outdoor Marijuana Cultivators
- 500.130: Additional Operating Requirements for Marijuana Product Manufacturers
- 500.140: Additional Operating Requirements for Retail Sale
- 500.150: Edible Marijuana Products
- 500.160: Testing of Marijuana and Marijuana Products
- 500.170: Municipal Requirements
- 500.200: Regulations for Dukes County and Nantucket
- 500.300: Inspections and Compliance
- 500.301: Unannounced Purchase for Purpose of Investigative Testing (Secret Shopper Program)
- 500.302: Complaints Process
- 500.310: Deficiency Statements
- 500.320: Plans of Correction
- 500.330: Marijuana Establishment: Limitation of Sales
- 500.340: Summary Cease and Desist Order and Quarantine Order
- 500.350: Summary Suspension Order
- 500.400: Marijuana Establishments: Grounds for Denial of Initial Application for License
- 500.415: Void Marijuana Establishment License
- 500.450: Marijuana Establishment License: Grounds for Denial of Renewal Applications, Suspension and Revocation
- 500.500: Hearings and Appeals of Actions on License
- 500.550: Fines
- 500.650: Non-conflict with Other Laws
- 500.700: Waivers
- 500.750: Notice
- 500.800: Background Check Suitability Standard for Licensure and Registration
- 500.801: Suitability Standard for Licensure
- 500.802: Suitability Standard for Registration as a Marijuana Establishment Agent
- 500.803: Suitability Standard for Registration as a Laboratory Agent
- 500.900: Severability

500.001: Purpose

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

500.002: Definitions

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

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

Area of Disproportionate Impact means a geographic area identified by the Commission for the purposes identified in 935 CMR 500.040 and 500.100, which has had historically high rates of arrest, conviction, and incarceration related to marijuana crimes.

Beverage means a liquid intended for drinking.

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

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

Cannabis or Marijuana or Marihuana, means all parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana(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.

Cannabis or Marijuana Accessories means equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing cannabis or marijuana into the human body.

Cannabis or Marijuana Products means cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

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

Card Holder means a registered qualifying patient, personal caregiver, laboratory agent, or marijuana establishment agent who holds a valid registration card.

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

500.002: continued

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

Clone means a clipping from a cannabis or marijuana plant which can be rooted and grown.

Close Associate means a person who holds a relevant managerial, operational or financial interest in the business of an applicant or licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management, operations or finances of a Marijuana Establishment licensed under 935 CMR 500.000.

Commission means the Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St. 2016, c. 334 as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000.

Community Reinvestment Funds means funds subject to appropriation by the legislature and available after the implementation, administration, and enforcement of state marijuana laws and any other purpose identified under M.G.L. c. 94G, § 14(b), which are deposited in the fund.

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

Controlling Person means an officer, board member or other individual who has a financial or voting interest of 10% or greater in a Marijuana Establishment.

Commercially Available Candy means any product that is manufactured and packaged in the form of bars, drops, or pieces and that includes a sweetened mixture of chocolate, caramel, nougat, nuts, fruit, cream, honey, marshmallow or any similar combination to create a dessert-like confection.

Community Reinvestment Funds means tax revenue funds subject to appropriation by the legislature and available after implementation, administration, and enforcement of state marijuana law have been covered in accordance with M.G.L. c. 94G, § 14(b). The Citizen Review Committee will make recommendations for the administration of funds for the following purposes: programming for restorative justice, jail diversion, workforce development, industry specific technical assistance, and mentoring services for economically-disadvantaged persons in communities disproportionately impacted by high rates of arrest and incarceration for marijuana offenses pursuant to M.G.L. c. 94C.

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

Controlling Person means an officer, board member or other individual who has a financial or voting interest of 10% or greater in a Marijuana Establishment.

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 and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.

500.002: continued

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

Department of Public Health or DPH means the Massachusetts Department of Public Health, unless otherwise specified.

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

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

Economic Empowerment Applicant means an applicant who demonstrates experience in or business practices that promote economic empowerment in areas of disproportionate impact.

Edible Cannabis Products or Edibles means a cannabis or marijuana product that is to be consumed by humans by eating or drinking. These products, when created or sold by a Registered Marijuana Dispensary (RMD), shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.

Enclosed Area means an indoor or outdoor area equipped with locks or other security devices, which is accessible only to consumers 21 years of age or older, marijuana establishment agents, registered qualifying patients, or caregivers.

Executive means the chair of a board of directors, chief executive officer, executive director, president, senior director, other officer, and any other executive leader of a Marijuana Establishment.

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

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

Finished Marijuana means usable marijuana, cannabis resin or cannabis concentrate.

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

Food and Drug Administration or FDA means the United States Food and Drug Administration.

Healthcare Provider means a certifying physician, certifying certified Nurse Practitioner or certifying physician's assistant qualified under 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*, to issue written certifications for the medical use of marijuana.

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

500.002: continued

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

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

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

- (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) 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;
- (b) independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
- (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

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

Laboratory Agent means an employee of an Independent Testing Laboratory who transports, possesses or tests cannabis or marijuana in compliance with 935 CMR 500.000.

Law Enforcement Authorities means local law enforcement unless otherwise indicated.

License means the certificate issued by the Commission that confirms that a Marijuana Establishment has met all applicable requirements pursuant to St. 2012, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000. A Marijuana Establishment may be eligible for a provisional or final license.

Licensee means a person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.

Limited Access Area means an indoor or outdoor area on the registered premises of a Marijuana Establishment where cannabis 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 agents designated by the establishment.

Local Authorities means local municipal authorities unless otherwise indicated.

Manufacture means to compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.

Marijuana Cultivator means an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment means a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center.

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

Marijuana Product Manufacturer means an entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

500.002: continued

Marijuana Regulation Fund means the fund established under M.G.L. c. 94G, § 14, in which fees, fines, and other monies collected by the Commission are deposited, except for fees collected by the Commission on behalf of other state agencies.

Marijuana Retailer means an entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.

Marijuana Transporter means an entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter.

Massachusetts Resident means a person whose primary residence is Massachusetts.

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD), means a not-for-profit entity registered under 105 CMR 725.100: *Registration of Registered Marijuana Dispensaries*, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Medical Registration Card means an identification card issued by the Medical Use of Marijuana Program within the DPH, to a registered qualifying patient, personal caregiver, institutional caregiver, RMD agent or laboratory agent. The medical registration card allows access into Commission-supported databases. The medical registration card facilitates verification of an individual registrant's status, including, but not limited to, the identification by the Commission and law enforcement authorities, of those individuals who are exempt from Massachusetts criminal and civil penalties under St. 2012, c. 369, 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana*, St. 2016, c. 334 as amended by St. 2017, c. 55. and 935 CMR 500.000

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

Microbusiness means a colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

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

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.

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

500.002: continued

Personal Caregiver means a person, registered by the Commission, who is 21 years of age or older, who has agreed to assist with a registered qualifying patient's medical use of marijuana, and is not the registered qualifying patient's certifying healthcare provider. A visiting nurse, personal care attendant, or home health aide providing care to a registered qualifying patient may serve as a personal caregiver, including to patients younger than 18 years old as a second caregiver.

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

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

Production Area means a limited access area within the Marijuana Establishment where cannabis or marijuana is handled or produced in preparation for sale.

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

Propagation means the reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.

Provisional Marijuana Establishment License means a certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.

Qualifying Patient means a Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed healthcare provider as having a debilitating medical condition, or a Massachusetts resident younger than 18 years old who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J): *Written Certification of a Debilitating Medical Condition for a Qualifying Patient*.

Real-time Inventory or Seed-to-sale Tracking means an electronic system that provides the electronic tracking of an individual cannabis or marijuana plant, including its cultivation, growth, harvest and preparation of cannabis or marijuana products, if any, and final sale. This system shall utilize a unique-plant identification and unique-batch identification. It will also be able to track agents' and licensees' involvement with the marijuana product.

Registered Qualifying Patient means a qualifying patient who has applied for and received a medical registration card from the Commission.

Registrant means the holder of a registration card or a license.

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

935 CMR: CANNABIS CONTROL COMMISSION

500.002: continued

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

Residual Solvent means a volatile organic chemical used in the manufacture of a cannabis or marijuana product and that is not completely removed by practical manufacturing techniques.

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

Responsible Vendor Training Program means a program operated by an education provider accredited by the Commission to provide the annual minimum two hour of responsible vendor training to marijuana establishment agents

RMD Applicant means a previously Registered Marijuana Dispensary with a final or provisional certificate of registration in good standing with the DPH.

Social Equity Training and Technical Assistance Fund means a fund established and administered by the Commission for the purposes of training and technical assistance to residents interested in participating in the cannabis industry and technical assistance for existing Social Equity Program licensees.

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 or 935 CMR 500.000 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 cannabis or marijuana products, but does not include the seedlings, seeds, stalks, roots of the plant, or marijuana rendered unusable in accordance with 935 CMR 500.105(12)(c).

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

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

United States or US means the United States of America.

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 and an annual license fee, and a monthly seed-to-sale licensing fee. These fees do not include the costs associated with the seed-to-sale licensing system, which includes a monthly program fee and fees for plant and package tags. These fees do not include the costs associated with criminal background checks as required under 935 CMR 500.101(1)(b); 935 CMR 500.101(2)(c); or 935 CMR 500.030.

(b) Application fees are waived for Social Equity Program participants. Seed-to-sale monthly program fees are waived for Economic Empowerment Applicants, Craft Marijuana Cooperatives, and Microbusinesses. This waiver does not include other costs associated with the seed-to-sale licensing system, specifically the fees for plant and package tags. This waiver does not include the costs associated with background checks. All other applicants are responsible for the payment of fees in accordance with 935 CMR 500.005(a).

(c) Each application 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) |
|------------------------------------|---|--|
| Indoor or Outdoor Cultivator | | |
| 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. | \$600 (I)/\$300 (O) | \$7,500 (I)/\$3,750 (O) |
| Tier 5: 30,001 to 40,000 sq. ft. | \$600 (I)/\$300 (O) | \$10,000 (I)/\$5,000 (O) |
| Tier 6: 40,001 to 50,000 sq. ft. | \$600 (I)/\$300 (O) | \$12,500 (I)/\$6,250 (O) |
| Tier 7: 50,001 to 60,000 sq. ft. | \$600 (I)/\$300 (O) | \$15,000 (I)/\$7,500 (O) |
| Tier 8: 60,001 to 70,000 sq. ft. | \$600 (I)/\$300 (O) | \$17,500 (I)/\$8,750 (O) |
| Tier 9: 70,001 to 80,000 sq. ft. | \$600 (I)/\$300 (O) | \$20,000 (I)/\$10,000 (O) |
| Tier 10: 80,001 to 90,000 sq. ft. | \$600 (I)/\$300 (O) | \$22,500 (I)/\$11,250 (O) |
| Tier 11: 90,001 to 100,000 sq. ft. | \$600 (I)/\$300 (O) | \$25,000 (I)/\$12,500 (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. |
| Microbusiness | \$300 | 50% of all applicable fees |
| Manufacturing | \$300 | \$5,000 |
| Independent Testing Laboratory | \$300 | \$5,000 |
| Retail (brick and mortar) | \$300 | \$5,000 |
| Third-party Transporter | \$300 | \$5,000 |
| Existing Licensee Transporter | \$300 | \$5,000 |
| Research Laboratory | \$300 | \$1,000 |

(e) The application fee for a RMD conversion pursuant to 935 CMR 500.101(2) shall be \$450, and the annual license fee shall be the sum of the applicable cultivation, retail, and manufacturing license fees.

(f) Other fees:

| | |
|------------------------------------|-------------------------------|
| Name Change Fee | \$100 |
| Location Change Fee | 50% of applicable License Fee |
| Change in Building Structure Fee | \$500 |
| Change in Ownership or Control Fee | \$500 |

(2) Registration Card Holder Fees.

(a) An applicant for a registration card as a marijuana establishment agent, an independent testing laboratory agent, or any other position designated as an agent by the Commission shall pay a nonrefundable application fee of \$50 with any such application.

(b) An applicant for a renewal of a registration card as a marijuana establishment agent, an independent testing laboratory agent, or any other position designated as an agent by the Commission shall pay a fee of \$50.

(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 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, § 2HHH.

500.029: Registration and Conduct of Laboratory Agents

(1) The Commission shall issue a Laboratory Agent registration card to each applicant associated as an employee or volunteer with an Independent Testing Laboratory licensed pursuant to 935 CMR 500.050(7), 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 another state, the United States or foreign jurisdiction, or a military, territorial or Native American tribal authority;
- (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 another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority; and
- (d) Be determined to be suitable for registration consistent the provisions of 935 CMR 500.800 and 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;
- (c) A copy of the applicant's driver's license, government-issued identification card, liquor purchase identification card issued pursuant to M.G.L. c. 138 § 34B, or other verifiable identity document acceptable to the Commission;
- (d) An attestation signed by the applicant that the applicant will not engage in the diversion of marijuana products;
- (e) Written acknowledgment signed by the applicant of any limitations on his or her authorization to possess, test or transport marijuana products in the Commonwealth;
- (f) Authorization to obtain a full set of fingerprints, in accordance with M.G.L. c. 94G, § 21, submitted in a form and manner as determined by the Commission;
- (g) Background information, including, as applicable:
 1. a description and the relevant dates of any criminal action under the laws of the Commonwealth, or another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority, 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, another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority 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 a like action or complaint by another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority with regard to any professional license or registration held by the applicant;
 5. a nonrefundable application fee paid by the Marijuana Establishment with which the marijuana establishment agent will be associated; and
 6. any other information required by the Commission.

(3) An Independent Testing Laboratory executive registered with the Massachusetts Department of Criminal Justice Information Systems pursuant to 803 CMR 2.04: *iCORI Registration* shall submit to the Commission a Criminal Offender Record Information (CORI) report and any other background check information required by the Commission for each individual for whom the Independent Testing Laboratory seeks a laboratory agent registration, obtained within 30 days prior to submission.

500.029: continued

(4) The Commission shall conduct fingerprint-based checks of state and national criminal history databases, as authorized by Public Law 92-544, to determine the suitability of Laboratory Agents. The Independent Testing Laboratory shall pay a non-refundable fee to the Commission for the purpose of administering the fingerprint-based background check.

(5) An Independent Testing Laboratory shall notify the Commission no more than one business day after a laboratory agent ceases to be associated with the Independent Testing Laboratory. The laboratory agent's registration shall be immediately void when the agent is no longer associated with the Independent Testing Laboratory.

(6) A registration card shall be valid for one year from the date of issue, and may be renewed on an annual basis upon a determination by the Commission that the applicant for renewal continues to be suitable for registration based upon satisfaction of the requirements included in 935 CMR 500.800 and 500.803.

(7) After obtaining a registration card for a laboratory agent, an Independent Testing Laboratory is responsible for notifying the Commission, in a form and manner determined by the Commission, as soon as possible, but in any event, within five business days of any changes to the information that the Independent Testing Laboratory was previously required to submit to the Commission or after discovery that a registration card has been lost or stolen.

(8) A laboratory agent shall carry the registration card associated with the appropriate Independent Testing Laboratory at all times while in possession of marijuana products, including at all times while at an Independent Testing Laboratory or while transporting marijuana products.

(9) A laboratory agent affiliated with multiple Independent Testing Laboratories shall be registered as a laboratory agent by each Independent Testing Laboratory and shall be issued a registration card for each lab.

(10) Laboratory agents are strictly prohibited from receiving direct or indirect financial compensation from any Marijuana Establishment for which the laboratory agent is conducting testing, other than reasonable contract fees paid for conducting the testing in the due course of work.

(11) Laboratory agents shall not be employed by other types of Marijuana Establishments while employed as a laboratory agent at one or more Independent Testing Laboratories.

500.030: Registration of Marijuana Establishment Agents

(1) A Marijuana Establishment shall apply for registration for all of its board members, directors, employees, executives, managers, and volunteers who are associated with that Marijuana Establishment. The Commission shall issue a registration card to each individual determined to be suitable for registration. All such individuals shall:

- (a) be 21 years of age or older;
- (b) 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 another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority; and
- (c) be determined suitable for registration consistent with the provisions of 935 CMR 500.800 and 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 of marijuana products;

500.030: continued

- (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 another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority, 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, another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority 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 a like action or complaint by another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority with regard to any professional license or registration held by the applicant; and
- (g) a nonrefundable application fee paid by the Marijuana Establishment with which the marijuana establishment agent will be associated; and
- (h) any other information required by the Commission.

(3) A Marijuana Establishment executive registered with the Department of Criminal Justice Information Systems pursuant to 803 CMR 2.04: *iCORI Registration*, shall submit to the Commission a Criminal Offender Record Information (CORI) report and any other background check information required by the Commission for each individual for whom the Marijuana Establishment seeks a marijuana establishment agent registration, obtained within 30 days prior to submission.

(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) A registration card shall be valid for one year from the date of issue, and may be renewed on an annual basis upon 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 carry the registration card associated with the appropriate Marijuana Establishment at all times while in possession of marijuana products, including at all times while at the establishment or while transporting marijuana products.

(8) A marijuana establishment agent affiliated with multiple Marijuana Establishments shall be registered as a marijuana establishment agent by each Marijuana Establishment and shall be issued a registration card for each establishment.

500.031: Denial of a Registration Card

Each of the following, in and of itself, constitutes full and adequate grounds for denial of a registration card for marijuana establishment agent, including laboratory agents:

- (1) Failure to provide the information required in 935 CMR 500.029 or 935 CMR 500.030 for a registration card;
- (2) Provision of misleading, incorrect, false, or fraudulent information on the application;
- (3) Failure to meet the requirements set forth in 935 CMR 500.029 or 935 CMR 500.030 for a registration card;
- (4) Revocation or suspension of a registration card in the previous six months;
- (5) Failure by the Marijuana Establishment to pay all applicable fees; or
- (6) Other grounds, as the Commission may determine in the exercise of its discretion, that are directly related to the applicant's ability to serve as a marijuana establishment agent, or that make the applicant unsuitable for registration, however, the Commission will provide notice to the applicant of the grounds prior to the denial of the 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 Commission will provide notice to the registrant of the grounds prior to the denial of a registration card and a reasonable opportunity to correct these grounds. Upon recommendation by the committee, the Executive Director may determine that an individual suitability determination warrants the Commission's consideration and make a recommendation to the Commission with regards to this determination.

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 a registration card issued to a marijuana establishment agent, including laboratory agents:
 - (a) Submission of misleading, incorrect, false, or fraudulent information in the application or renewal application;
 - (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;
 - (d) Selling, distributing, or giving marijuana to any unauthorized person;
 - (e) Tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate a marijuana establishment agent registration card;
 - (f) Failure to notify the Commission within five business days after becoming aware that the registration card has been lost, stolen, or destroyed;
 - (g) 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 for a marijuana establishment 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;
 - (h) Conviction, guilty plea, plea of *nolo contendere*, or admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority; or
 - (i) Conviction, guilty plea, plea of *nolo contendere* or admission to sufficient facts in the Commonwealth, or a like violation of the laws of another state, to an offense as delineated in 935 CMR 500.802 or 935 CMR 500.803, as applicable, that may otherwise affect the status of the suitability for registration of the marijuana establishment agent.

500.032: continued

(2) Other grounds as the Commission may determine in the exercise of its discretion, that are directly related to the applicant's ability to serve as a marijuana establishment agent, that make the registrant unsuitable for registration.

(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 Commission will provide notice to the registrant of the grounds prior to the revocation of a registration card and a reasonable opportunity to correct these grounds.

(c) Upon recommendation by the committee, the Executive Director may determine that an individual suitability determination warrants the Commission's consideration and make a recommendation to the Commission with regards to this determination.

500.033: Void Registration Cards

(1) A 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 upon the issuance of a new registration card based on new information; or

(c) the agent is deceased.

(2) A void registration card is inactive.

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

(1) Leadership Rating Categories. In a time and manner to be determined by the Commission, licensees will be eligible to earn leadership ratings in the following categories:

(a) Social Justice Leader

(b) Local Employment Leader

(c) Energy and Environmental Leader

(d) Compliance Leader

(2) Leadership Rating Application.

(a) Marijuana Establishments annually submit information, in a time and manner determined by the Commission, demonstrating their eligibility for the applicable leadership rating.

(b) All information submitted is subject to verification and audit by the Commission prior to the award of a leadership rating.

(c) Award of a leadership rating in one year does not entitle the applicant to a leadership rating for any other year.

(3) Leadership Rating Criteria.

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

1. One percent of the Marijuana Establishment's gross revenue is donated to the Social Equity Training and Technical Assistance Fund; and

2. The licensee has conducted 50 hours of educational seminars targeted to residents of areas of disproportionate impact in one or more of the following: marijuana cultivation, marijuana product manufacturing, marijuana retailing, or marijuana business training.

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

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

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

2. 51% or more of the licensee's executives have been a Massachusetts resident for 12 months or more, as determined by the Commission.

500.040: continued

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

1. The licensee has met or exceeded its energy and environmental impact goals for its registration period;
2. The licensee has consistently documented and complied with best management practices for energy use, waste disposal and environmental impact;
3. The licensee has documented that renewable energy credits representing 100% of the licensee's energy usage have been retired; and
4. The licensee has labeled all their products as being produced using 100% renewable energy.

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

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

(4) Leadership ratings will be taken into consideration by the Commission in assessing fines pursuant to 935 CMR 500.550 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 in good standing with the Secretary of the Commonwealth and DOR.

(b) No licensee shall be granted more than three licenses in a particular class, except as otherwise specified in 935 CMR 500.000. An Independent Testing Laboratory or Standards Laboratory may not have a license in any other class. No individual or entity shall be a controlling person over more than three licenses in a particular class of license. No individual, corporation or other entity shall be in a position to control the decision-making of more than three licenses in a particular class of license. 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 or entity possesses:

1. actual control of more than 50% of the voting equity or has the power to appoint more than 50% of the directors;
2. contract rights to control; or
3. right to veto significant events.

The Commission shall receive notice of any such interests as part of the application pursuant to 935 CMR 500.100.

(c) An individual licensee shall be limited to 100,000, square feet of canopy per licensee, for a total of three licenses. A Craft Marijuana Cooperative is subject to this same limit.

(d) License Classes are as follows:

1. Marijuana Cultivator:
 - 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;

500.050: continued

4. Marijuana Retailer;
 5. Marijuana Research Facility;
 6. Independent Testing Laboratory and Standards Laboratory.
 7. Marijuana Transporter:
 - a. Existing Licensing Transporter;
 - b. Third Party Transporter; and
 8. Marijuana Microbusiness.
- (e) A Marijuana Establishment shall operate all activities authorized by the license only at the address(es) registered with the Commission for that license.
- (f) All marijuana establishment agents of the Marijuana Establishment must be registered with the Commission pursuant to 935 CMR 500.030.
- (2) Marijuana Cultivator.
- (a) A Marijuana Cultivator may cultivate, process and package marijuana, to transport marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers.
- (b) Marijuana Cultivators shall select a cultivation tier. Cultivation tiers are based on the square footage of canopy:
1. Tier 1: up to 5,000;
 2. Tier 2: 5,001 to 10,000;
 3. Tier 3: 10,001 to 20,000;
 4. Tier 4: 20,001 to 30,000;
 5. Tier 5: 30,001 to 40,000;
 6. Tier 6: 40,001 to 50,000;
 7. Tier 7: 50,001 to 60,000;
 8. Tier 8: 60,001 to 70,000;
 9. Tier 9: 70,001 to 80,000;
 10. Tier 10: 80,001 to 90,000; or
 11. Tier 11: 90,001 to 100,000.
- (c) Tier Expansion. A Marijuana Cultivator may submit an application, in a time and manner determined by the Commission, to change the tier in which it is classified. A Marijuana Cultivator may change tiers to either expand or reduce production. If a Marijuana Cultivator is applying to expand production, it must demonstrate that while cultivating at the top of its production tier, it has sold 85% of its product consistently over the six months preceding the application for expanded production.
- (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. 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. When determining whether to relegate a licensee to a lower tier, the Commission may consider the following factors, including but not limited to:
1. Cultivation and production history including whether the plants/inventory suffered a catastrophic event during the licensing period;
 2. Transfer, sales, and excise tax payment history;
 3. Existing inventory and inventory history;
 4. Sales contracts; and
 5. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.
- (3) Craft Marijuana Cooperative.
- (a) A Craft Marijuana Cooperative may be organized as a limited liability company, limited liability partnership, or a cooperative corporation under the laws of the Commonwealth.
- (b) The members or shareholders of the cooperative must be residents of the Commonwealth for the 12 months immediately preceding the filing of an application for a license.
- (c) One member of the Craft Marijuana Cooperative shall have filed a Schedule F tax income form within the five years prior to application for licensure.

500.050: continued

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

(e) The cooperative license authorizes it to cultivate, obtain, manufacture, process, package and brand marijuana products to deliver marijuana to Marijuana Establishments, but not to consumers.

(d) The Craft Marijuana Cooperative is limited to one license, under which it may cultivate marijuana, subject to the limitations of 935 CMR 500.050(2). 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 935 CMR 500.050(3)(d). The cooperative may also conduct activities authorized for Marijuana Product Manufacturers at up to three locations.

(e) For the electronic seed-to-sale tracking system, a cooperative that designates a system administrator will pay one licensing program fee on a monthly basis for seed-to-sale tracking software.

(f) Members of a cooperative shall not have a controlling interest in any other Marijuana Establishment.

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

(h) 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. 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. When determining whether to relegate a licensee to a lower tier, the Commission may consider the following factors including but not limited to:

1. Cultivation and production history including whether the plants/inventory suffered a catastrophic event during the licensing period;
2. Transfer, sales, and excise tax payment history;
3. Existing inventory and inventory history;
4. Sales contracts; and
5. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

(4) Marijuana Product Manufacturer. A Marijuana Product manufacturer may obtain, manufacture, process and package marijuana products, to transport marijuana products to Marijuana Establishments and to transfer marijuana products to other Marijuana Establishments, but not to consumers.

(5) Marijuana Retailer.

(a) General Requirements.

1. A Marijuana Retailer may purchase and transport marijuana products from Marijuana Establishments and to transport, sell or otherwise transfer marijuana products to Marijuana Establishments and to consumers. A retailer cannot deliver marijuana products to consumers or allow on-site social consumption by consumers on the premises of the Marijuana Establishment.
2. A retailer shall operate all marijuana-related activities solely at the address identified in the license.

(b) Marijuana Retailer. A Marijuana Retailer providing a retail location accessible to consumers 21 years of age or older or in possession of a medical registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program.

500.050: continued

(6) Marijuana Research Facility.

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

(7) Independent Testing Laboratory.

- (a) An Independent Testing Laboratory shall be:
 - 1. Accredited to International Organization for Standardization (ISO) 17025 (ISO/IEC 17025: 2017) 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 having any financial or other interest in an Independent Testing Laboratory providing testing services for any Marijuana Establishment;
- (c) No individual employee of a laboratory providing testing services for Marijuana Establishments may receive direct or indirect financial compensation from any Marijuana Establishment;
- (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. Upon 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 Transporter.

- (a) An entity may only transport marijuana products when such transportation is not already authorized under a Marijuana Establishment license if it is licensed as a Marijuana Transporter:
 - 1. Third-party Transporter. An entity registered to do business in Massachusetts that does not hold another Marijuana Establishment license pursuant to 935 CMR 500.050 and is not registered as a RMD pursuant to 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana.*
 - 2. Existing Licensee Transporter. A Marijuana Establishment that wishes to contract with other Marijuana Establishments to transport their marijuana products to other Marijuana Establishments.
- (b) All Marijuana Transporter, their agents and employees, who contract with a Marijuana Establishment to transport marijuana products must comply with St. 2016, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000.
- (c) Marijuana Transporters will be allowed to warehouse marijuana products in a form and manner determined by the Commission.

(9) Marijuana Microbusiness.

- (a) A Microbusiness is a colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

500.050: continued

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

(c) A Microbusiness licensee shall not have an ownership stake in any other Marijuana Establishment and a majority of its executives or members must have been residents of Massachusetts for no less than 12 months prior to application is eligible to apply for a Microbusiness license.

(d) Application fees and license fees for Microbusinesses shall be set at 50% of the combined sum of the application fees and license fees for all of the cultivation or manufacturing activities in which the licensee engages.

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 packets: an Application of Intent packet; a Background Check packet; and a Management and Operations Profile packet. The applicant may file individual packets separately or as a whole. The application will not be considered to be complete until the Commission determines each individual packet is complete and notifies the applicant that each packet is complete.

(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 executives, managers, persons or entities having direct or indirect authority over the management, policies, security operations or cultivation operations of the Marijuana Establishment; close associates and members of the applicant, if any; and a list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment including capital that is in the form of land or buildings;
2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment application for licensure or licensee;
3. Documentation disclosing whether the Marijuana Establishments and its owners have past or present business interests in other states.
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. Information submitted shall be subject to review and verification by the Commission as a component of the application process. Required documentation shall:
 - a. The proper name of any individual or registered business name of any entity;
 - b. The street address, provided, however that the address shall not be a post office box;
 - c. The primary telephone number;
 - d. Electronic mail;
 - e. The amount and source of capital provided or promised;
 - f. A bank record dated within 30 days of the application verifying the existence of capital; and
 - g. Certification that funds used to invest in or finance the Marijuana Establishment were lawfully earned or obtained.
5. Documentation of a bond or other resources held in an escrow account in an amount sufficient to adequately support the dismantling and winding down of the Marijuana Establishment;
6. Identification of the proposed address for the license;
7. Documentation of a property interest in the proposed address. 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;

500.101: continued

- d. A legally enforceable agreement to give such title; or
 - e. Binding permission to use the premises.
8. Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and applicant evidencing that the applicant for licensure and host municipality in which the address of the Marijuana Establishment is located have executed a host community agreement;
 9. Documentation that the applicant has conducted a community outreach meeting consistent with the Commission's *Guidance for License Applicants on Community Outreach* within the six months prior to the application. Documentation must include:
 - a. Copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least seven 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 licensing authority for the adult use of marijuana, if applicable;
 - c. 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;
 - d. 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 any 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;
 12. The requisite non-refundable application fee pursuant to 935 CMR 500.005; and
 13. Any other information required by the Commission.
- (b) Background Check. Prior to an application being considered complete, each applicant for licensure must submit the following information:
1. The list of individuals and entities in 935 CMR 500.101(1)(a)1.;
 2. Information for each individual identified in 935 CMR 500.101(1)(a)1., which shall include:
 - a. The individual's full legal name and any aliases;
 - b. The individual's address;
 - c. The individual's date of birth;
 - d. A photocopy of the individual's driver's license or other government-issued identification card;
 - e. A CORI Acknowledgment Form, pursuant to 803 CMR 2.09: *Requirements for Requestors to Request CORI*, provided by the Commission, signed by the individual and notarized;
 - f. Authorization to obtain a full set of fingerprints, in accordance with M.G.L. c. 94G, § 21, submitted in a form and manner as determined by the Commission;

500.101: continued

3. Relevant Background Check Information. Applicants for licensure will also be required to information detailing involvement in any criminal or civil or administrative matters:

- a. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority, 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 recreational 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, another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority, including, but not limited to a complaint relating to any professional or occupational or fraudulent practices;
- c. A description and relevant dates of any past or pending legal or enforcement actions in any other state against any board member, executive, officer, director or member, or against any entity owned or controlled in whole or in part by them, related to the cultivation, processing, distribution, or sale of marijuana for medical or recreational purposes;
- d. A description and the relevant dates of any administrative action, including any complaint, order or disciplinary action, by the Commonwealth, or like action by another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority, 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 another state, the United States or foreign jurisdiction, or a military, territorial, Native American tribal authority or foreign jurisdiction, with regard to any professional license, registration, or certification, held by any board member, executive, officer, director, or member that is part of the applicant's application, 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 board member, executive, officer, director or member 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;
2. A certificate of good standing from the Corporations Division of the Secretary of the Commonwealth;
3. A certificate of good standing or certificate of tax compliance from the DOR;
4. 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;
5. 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);
6. A detailed summary of the business plan for the Marijuana Establishment;
7. A detailed summary of operating policies and procedures for the Marijuana Establishment which shall include, but not be limited to provisions for:
 - a. security;
 - b. prevention of diversion;
 - c. storage of marijuana;
 - d. transportation of marijuana, if applicable to license type;
 - e. inventory procedures;

500.101: continued

- f. procedures for quality control and testing of product for potential contaminants, if applicable to license type;
 - g. personnel policies;
 - h. dispensing procedures;
 - i. record-keeping procedures;
 - j. maintenance of financial records; and
 - k. diversity plans to promote equity among minorities, women, veterans, people with disabilities, and people of all gender identities and sexual orientation, in the operation of the Marijuana Establishment.
8. A detailed description of qualifications and intended training(s) for marijuana establishment agents who will be employees; and
 9. 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 935 CMR 500.140, as applicable.
 10. Any other information required by the Commission.
- (d) Additional Specific Requirements.
1. In addition to the requirements set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment for retail shall also provide, as part of the Management and Operation Profile packet, a detailed description of the Marijuana Establishment's proposed plan for obtaining marijuana products from a licensed Marijuana Establishment(s).
 2. In addition to the requirements set forth in 935 CMR 500.101(1)(c), applicants for a license to operate Marijuana Establishment for cultivation shall also provide as part of the Management and Operation Profile packet an operational plan for the cultivation of marijuana, including a detailed summary of the policies and procedures for cultivation.
 3. In addition to the requirements set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment for product manufacturing shall also provide, as part of the Management and Operation Profile packet:
 - a. a description of the types and forms of marijuana products that the Marijuana Establishment intends to produce;
 - b. the methods of production; and
 - c. a sample of any unique identifying mark that will appear on any product produced by the applicant as a branding device.
 4. In addition to the requirements set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment as a Microbusiness shall also provide, 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.
 5. In addition to the requirements set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment as a Craft Marijuana Cooperative shall also provide, 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 tax income form 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.
- (e) Eligibility as an Economic Empowerment Applicant.
1. An applicant who intends to file an application for licensure as an Economic Empowerment Applicant shall file, in a form and manner specified by the Commission, a request for certification as an Economic Empowerment Applicant. The request for certification shall be in addition to the requirements included in 935 CMR 500.101(1)(a) through (d).
 2. The request for certification as an Economic Empowerment Applicant shall be evaluated by the Commission pursuant to 935 CMR 500.102(1)(b), where an applicant has demonstrated three or more of the following criteria:

500.101: continued

- a. A majority of ownership belongs to people who have lived for five of the preceding ten years in an area of disproportionate impact, as determined by the Commission;
- b. A majority of ownership has held one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities;
- c. 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%;
- d. At least 51% of employees or subcontractors have drug-related CORI and are otherwise legally employable in cannabis enterprises;
- e. A majority of the ownership is made up of individuals from Black, African American, Hispanic or Latino descent;
- f. Other significant articulable demonstration of past experience in or business practices that promote economic empowerment in areas of disproportionate impact.

(2) RMD Applicants.

(a) The application for an RMD priority applicant intending to operate an adult-use Marijuana Establishment shall consist of three packets: An Application of Intent packet; a Background Check packet; and a Management and Operations Profile packet. Applicants for licensure under 935 CMR 500.102(2) shall be required to provide the information required, to the extent that the required information does not qualify as specific information previously required, analyzed, approved and recognized by the DPH. An applicant may file individual packets separately or as a whole. An application will not be considered complete by the Commission until each individual packet is determined by the Commission to be complete and the applicant has been notified. Applicants shall be determined to have achieved accreditation status if, according to the records of the certifying agency, the applicant:

1. is a RMD that has received a Final Certificate of Registration and is selling marijuana or marijuana-infused products as of the date of application;
2. is a RMD that has received a Final Certificate of Registration, but is not selling marijuana or marijuana-infused products as of the date of application; or
3. is a RMD that has received a Provisional Certificate of Registration, but not a Final Certificate of Registration.

(b) Application of Intent Packet. An RMD Applicant for licensure as an adult-use Marijuana Establishment shall submit the following as part of the application of intent:

1. A list of all executives, managers, persons or entities having direct or indirect authority over the management, policies, security operations or cultivation operations of the adult-use Marijuana Establishment not currently included on the RMD license; close associates and members of the applicant, if any; and a list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment including capital that is in the form of land or buildings;
2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment application for licensure or licensee;
3. Documentation disclosing whether the Marijuana Establishments and its owners have past or present business interests in the other states;
4. Identification of the proposed address for the license;
5. Documentation of a property interest in the proposed address, if different than the location identified in the existing RMD license. 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 lease;
 - d. A legally enforceable agreement to give such title; or
 - e. Binding permission to use the premises.

500.101: continued

6. Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and applicant evidencing that the applicant for licensure and host municipality in which the address of the adult-use Marijuana Establishment is located have executed a host-community agreement specific to the adult-use Marijuana Establishment;
 7. Documentation that the applicant has conducted a community outreach meeting consistent with the Commission's *Guidance for License Applicants on Community Outreach* within the six months prior to the application. Documentation must include:
 - a. Copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the adult-use Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least seven calendar days prior to the meeting;
 - b. Copy of the meeting notice filed with the city or town clerk, the planning board, the contracting authority for the municipality, and local licensing authority for the adult use of marijuana, if applicable;
 - c. 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, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred 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;
 - d. Information presented at the community outreach meeting, which must include, but not be limited to:
 - i. The type(s) of adult-use Marijuana Establishment to be located at the proposed address;
 - ii. If physically separate from the RMD location, information adequate to demonstrate that the adult-use Marijuana Establishment location will be maintained securely;
 - iii. Steps to be taken by the adult-use Marijuana Establishment to prevent diversion to minors;
 - iv. Information adequate to demonstrate that the location will not constitute a will not constitute a nuisance as defined by law; and
 - v. Attestation that community members were permitted to ask questions and receive answers from representatives of the adult-use Marijuana Establishment.
 8. The requisite nonrefundable application fee;
 9. If physically separate from the RMD location, 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 the adult use of marijuana;
 10. A plan by the Marijuana Establishment to positively impact areas of disproportionate impact, as defined by the Commission; and
 11. Any other information required by the Commission.
- (c) Background Check Packet. Prior to an application being considered complete, each RMD Applicant for licensure to operate an adult-use Marijuana Establishment shall submit the following information:
1. The list of individuals in 935 CMR 500.101(2)(b)1.;
 2. Information for each individual identified in 935 CMR 500.101(2)(b)1. which shall include:
 - a. The individual's full legal name and any aliases;
 - b. The individual's address;
 - c. The individual's date of birth;
 - d. An indication of whether the individual is or has been associated with the existing RMD and in what capacity;
 - e. A photocopy of the individual's driver's license or other government-issued identification card;

500.101: continued

- f. 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; and
 - g. 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.
- (d) Existing RMD licensees shall also submit the following information for individuals listed in 935 CMR 500.101(2)(b)1. who were not previously associated with the existing RMD license:
- 1. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority, 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 recreational 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;
 - 2. A description and the relevant dates of any civil action under the laws of the Commonwealth, another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority, including, but not limited to a complaint relating to any professional or occupational or fraudulent practices;
 - 3. A description and relevant dates of any past or pending legal or enforcement actions in any other state against any board member, executive, officer, director or member, or against any entity owned or controlled in whole or in part by them, related to the cultivation, processing, distribution, or sale of marijuana for medical or recreational purposes;
 - 4. A description and the relevant dates of any administrative action, including any complaint, order or disciplinary action, by the Commonwealth, or like action by another state, the United States or foreign jurisdiction, or a military, territorial, or Native American tribal authority, 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;
 - 5. A description and relevant dates of any administrative action, including any complaint, order or disciplinary action, by the Commonwealth, or a like action by another state, the United States or foreign jurisdiction, or a military, territorial, Native American tribal authority or foreign jurisdiction, with regard to any professional license, registration, or certification, held by any board member, executive, officer, director, or member that is part of the applicant's application, if any;
 - 6. A description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any board member, executive, officer, director or member that is part of the applicant's application, if any; and
 - 7. Any other information required by the Commission.
- (e) Management and Operations Profile Packet. To be considered for licensure as an adult-use Marijuana Establishment, each existing RMD Applicant shall submit the following information:
- 1. Detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws;
 - 2. A certificate of good standing from the Corporations Division of the Secretary of the Commonwealth;
 - 3. A certificate of good standing or certificate of tax compliance from the DOR;
 - 4. The applicant's plan for separating medical and recreational operations, including:
 - a. Where operations are colocated, the applicant's plan shall include a component detailing the manner in which the applicant will ensure that operations remain separate at the point of sale; and
 - b. Where operations are colocated, the applicant's plan shall include a component detailing the manner in which Medical and Adult Use operations will be kept separate, including a plan to ensure that access to the Adult Use operation is restricted to those individuals 21 years of age or older;

500.101: continued

5. A proposed timeline for achieving operation of the Marijuana Establishment and evidence that the 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 adult-use Marijuana Establishment;
 8. A detailed summary describing or, where colocated with the existing RMD, updating or modifying operating policies and procedures for an adult-use Marijuana Establishment which shall include, but not be limited to:
 - a. Security;
 - b. Prevention of diversion;
 - c. Storage of marijuana;
 - d. Transportation of marijuana;
 - e. Inventory procedures;
 - f. Procedures for quality control and testing of product for potential contaminants;
 - g. Dispensing procedures;
 - h. Personnel policies, including background check policies;
 - i. Record-keeping procedures;
 - j. Procedures for the maintenance of financial records; and
 - k. Diversity plans to promote equity among minorities, women, veterans, people with disabilities, and people of all gender identities and sexual orientations in the operation of the Marijuana Establishment.
 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 this subsection shall demonstrate compliance with the operational requirements set forth in 935 CMR 500.105 to 500.140, as applicable;
 11. Any other information required by the Commission.
- (f) Additional License Requirements.
1. In addition to the requirements set forth in 935 CMR 500.101(2)(e), 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 Cultivator;
 2. In addition to the requirements set forth in 935 CMR 500.101(2)(e), 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.
 3. In addition to the requirements set forth in 935 CMR 500.101(2)(e), applicants for a license to operate Marijuana Establishment for product manufacturing shall also provide as part of the Management and Operation Profile packet:
 - a. A description of the types and forms of marijuana products that the Marijuana Establishment intends to produce;
 - b. The methods of production; and
 - c. A sample of any unique identifying mark that will appear on any product.
 4. In addition to the requirements set forth in 935 CMR 500.101(2)(e), applicants for a license to operate a Marijuana Establishment as a microbusiness shall also provide 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.
 5. In addition to the requirements set forth in 935 CMR 500.101(2)(e), applicants for a license to operate a Marijuana Establishment as a Craft Marijuana Cooperative shall also provide 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;

935 CMR: CANNABIS CONTROL COMMISSION

500.101: continued

- c. Evidence that one member has filed a Schedule F tax income form 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.

500.102: Action on Applications

- (1) Action on Each Packet. The Commission shall grant licenses with the goal of ensuring that the needs of the Commonwealth are met with regard to access, quality, and community safety.
 - (a) Packets comprising the license application shall be evaluated based on the Applicant's:
 - 1. demonstrated compliance with the laws and regulations of the Commonwealth;
 - 2. suitability for licensure based on the provisions of 935 CMR 500.101(1), 935 CMR 500.800 and 935 CMR 500.801;
 - 3. evaluation of the thoroughness of the applicants' responses to the required criteria.The Commission shall consider each packet submitted by an applicant on a rolling basis.
 - (b) The Commission shall notify each applicant in writing that:
 - 1. the applicant qualifies as an Economic Empowerment Applicant pursuant to the criteria set forth in 935 CMR 500.101(1)(e), where applicable, and may be eligible for assistance through the Social Equity Program established in 935 CMR 500.105(17);
 - 2. the applicant has completed a packet; 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 by the Commission will result in evaluation of the application as submitted. Nothing in 935 CMR 500.100 is intended to confer a property or other right or interest entitling an applicant to a meeting before an application may be denied.
 - (d) Upon determination that the application is complete, a copy of the completed application, to the extent permitted by law, will be forwarded to the municipality in which the Marijuana Establishment will be located. The Commission shall request that the municipality respond within 60 days of the date of the correspondence that the applicant's proposed Marijuana Establishment is in compliance with municipal bylaws or ordinances.
- (2) Action on Completed Applications.
 - (a) Priority application review will be granted to:
 - 1. Applicants who are certified as eligible for the Economic Empowerment Program, as defined in 935 CMR 500.101(1)(e); and
 - 2. Existing RMD Applicants as defined in 935 CMR 500.101(2)(a).
 - (b) The Commission shall review applications from priority applicants on an alternating basis, beginning with the first-in-time-application received from either an RMD Applicant or Economic Empowerment 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. Upon 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.

500.103: continued

(a) The Commission shall review architectural plans for the building or renovation of a Marijuana Establishment. Construction or renovation related to such plans shall not begin until the Commission has granted approval. Submission of such plans shall occur in a manner and form established by the Commission including, but not limited to, a detailed floor plan of the premises of the proposed Marijuana Establishment that identifies the square footage available and describes the functional areas of the Marijuana Establishment, including areas for any preparation of marijuana products, and, if applicable, such information for the single allowable off-premises location in Massachusetts where marijuana will be cultivated or marijuana products will be prepared; and a description of plans to ensure that the Marijuana Establishment will be compliant with requirements of the *Americans with Disabilities Act (ADA) Accessibility Guidelines*;

(b) 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;

(c) The Commission may conduct inspections of the facilities, as well as review all written materials required in accordance with 935 CMR 500.000.

(2) Final License. Upon 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 must be provided to and approved by the Commission before Marijuana Establishment may receive a final license. Such final licenses shall be subject to reasonable conditions specified by the Commission, if any.

(a) No person 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 registration.

(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.

(3) The Marijuana Establishment must be operational within the time indicated in 935 CMR 500.101(1)(c)4. or 935 CMR 500.101(2)(e)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 Registration. 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 upon the grounds set forth in 935 CMR 500.450:

(a) No later than 60 calendar days prior to the expiration date, a Marijuana Establishment shall submit a completed renewal application to the Commission in a form and manner determined by the Commission, as well as the required fee. A licensee shall submit as a component of the renewal application a report or other information demonstrating the licensee's efforts to comply with the plans required under 935 CMR 500.101(1) and (2), including 935 CMR 500.101(1)(a)11. and (1)(c)7.k. or 935 CMR 500.101(2)(b)10. and (2)(e)7., as applicable.

(b) The Marijuana Establishments shall update as needed, and ensure the accuracy of, all information that it submitted on its initial application for a license.

(c) The Commission shall issue a renewal license within 30 days of receipt of a renewal application and renewal license fee from a Marijuana Establishment to a licensee in good standing that has filed any tax returns required pursuant to M.G.L. c. 64N.

500.103: continued

(d) At the time of renewal, licensees shall make available an accounting of the financial benefits accruing to the municipality as the result of the host community agreement with the licensee. The Commission will make this information available on its website. Municipalities are encouraged to share cost-benefit information with licensees and the Commission.

500.104: Notification and Approval of Changes

(1) Prior to making the following changes, the Marijuana Establishment shall submit a request for such change to the Commission and pay the appropriate fee. No such change shall be permitted until approved by the Commission. Failure to obtain approval of such changes may result in a license being suspended, revoked, or deemed void.

(a) Location Change. Prior to changing its location, the Marijuana Establishments shall submit a request for such change to the Commission.

(b) Ownership or Control Change.

1. Prior to any change in ownership, where an owner acquires or increases its ownership to 10% or more of the equity, the Marijuana Establishment shall submit a request for such change to the Commission.

2. Prior to any change in control, where an individual, corporation or entity shall be determined to be in a position to control the decision-making of a Marijuana Establishment, the Marijuana Establishment shall submit a request for such change to the Commission. This occurs if the individual, corporation or entity possesses:

- a. actual control of more than 50% of the voting equity or has the power to appoint more than 50% of the directors;
- b. contract rights to control; or
- c. right to veto significant events.

(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.

(2) 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 a second location, it shall develop and follow a set of such operating procedures for that facility. Operating procedures shall include, but need not be limited to the following:

- (a) Security measures in compliance with 935 CMR 500.110;
- (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 officials upon request, and updated pursuant to 935 CMR 500.000.
- (d) Storage of marijuana in compliance with 935 CMR 500.105(11);
- (e) Description of the various strains of marijuana to be cultivated, processed or sold, as applicable, and the form(s) in which marijuana will be sold;
- (f) Procedures to ensure accurate recordkeeping, including inventory protocols in compliance with 935 CMR 500.105(8) and (9);
- (g) Plans for quality control, including product testing for contaminants in compliance with 935 CMR 500.160;
- (h) A staffing plan and staffing records in compliance with 935 CMR 500.105(9);
- (i) Emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;

500.105: continued

- (j) Alcohol, smoke, and drug-free workplace policies;
- (k) A plan describing how confidential information will be maintained;
- (l) A policy for the immediate dismissal of any marijuana establishment agent who has:
 1. Diverted marijuana, which shall be reported to law enforcement officials and to the Commission;
 2. Engaged in unsafe practices with regard to operation of the Marijuana Establishment, which shall be reported to the Commission; or
 3. Been convicted or entered a guilty plea, plea of *nolo contendere*, or admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of another state, the United States or a foreign jurisdiction, or a military, territorial, or Native American tribal authority.
- (m) A list of all board members and executives of a Marijuana Establishment, and members, if any, of the licensee must be made available upon request by any individual. 935 CMR 500.105(1)(m) requirement may be fulfilled by placing this information on the Marijuana Establishment's website.
- (n) Policies and procedures for the handling of cash on Marijuana Establishment premises including but not limited to storage, collection frequency, and transport to financial institution(s).
- (o) Policies and procedures to prevent the diversion of marijuana to individuals younger than 21 years old.
- (p) 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.

(2) Marijuana Establishment Agent Training.

(a) Marijuana Establishments shall ensure that all marijuana establishment agents complete training prior to performing job functions. Training shall be tailored to the roles and responsibilities of the job function of each marijuana establishment agent, and at a minimum must include a Responsible Vendor Program under 935 CMR 500.105(2)(b). At a minimum, staff shall receive eight hours of on-going training annually.

(b) Responsible Vendor Training.

1. On or after July 1, 2019, all current owners, managers and employees of a Marijuana Establishment that are involved in the handling and sale of marijuana for adult use at the time of licensure or renewal of licensure, as applicable, shall have attended and successfully completed a responsible vendor program to be designated a "responsible vendor."
2. Once a licensee is designated a "responsible vendor," all new employees involved in the handling and sale of marijuana for adult use shall successfully complete a responsible vendor program within 90 days of hire.
3. After initial successful completion of a responsible vendor program, each owner, manager, and employee involved in the handling and sale of marijuana for adult use shall successfully complete the program once every year thereafter to maintain designation as a "responsible vendor."
4. Administrative employees who do not handle or sell marijuana may take the "responsible vendor" program on a voluntary basis.
5. Marijuana establishments must maintain records of responsible vendor training program compliance for four years and make them available to inspection by the Commission and any other applicable licensing authority upon request during normal business hours.

500.105: continued

6. Certification Training Program Standards.
 - a. No owner or employee of a responsible vendor program shall have an interest in a licensed Marijuana Establishment;
 - b. Program providers shall submit their programs to the Commission every two years for approval as a responsible vendor program;
 - c. The program shall include at least two hours of instruction time;
 - d. The program shall be taught in a real-time, interactive classroom setting where the instructor is able to verify the identification of each individual attending the program and certify completion of the program by the individual identified;
 - e. The program provider shall maintain its training records at its principal place of business during the applicable year and for the following three years;
 - f. The provider shall make the records available for inspection by the Commission and any other applicable licensing authority upon request during normal business hours;
 - g. The program shall provide written documentation of attendance and successful passage of a test on the knowledge of the required curriculum for each attendee;
 - h. Attendees who can speak and write English must successfully pass a written test with a score of 70% or better;
 - i. Attendees who cannot speak or write English may be offered a verbal test, provided that the same questions are given as are on the written test and the results of the verbal test are documented with a passing score of 70% or better; and
 - j. Program providers shall solicit effectiveness evaluations from individuals who have completed their program.
7. Certification Training Class Core Curriculum.
 - a. Discussion concerning marijuana's effect on the human body. Training shall include:
 - i. Marijuana's physical effects based on type of marijuana product;
 - ii. The amount of time to feel impairment;
 - iii. Visible signs of impairment; and
 - iv. Recognizing the signs of impairment.
 - b. Diversion prevention and prevention of sales to minors, including best practices;
 - c. Compliance with all tracking requirements; and
 - d. Acceptable forms of identification. Training shall include:
 - i. How to check identification;
 - ii. Spotting false identification;
 - iii. Medical registration cards issued by the DPH;
 - iv. Provisions for confiscating fraudulent identifications; and
 - v. Common mistakes made in verification.
 - e. Other key state laws and rules affecting owners, managers, and employees, which shall include:
 - i. Local and state licensing and enforcement;
 - ii. Incident and notification requirements;
 - iii. Administrative and criminal liability;
 - iv. License sanctions and court sanctions;
 - v. Waste disposal;
 - vi. Health and safety standards;
 - vii. Patrons prohibited from bringing marijuana onto licensed premises;
 - viii. Permitted hours of sale;
 - ix. Conduct of establishment;
 - x. Permitting inspections by state and local licensing and enforcement authorities;
 - xi. Licensee responsibilities for activities occurring within licensed premises;
 - xii. Maintenance of records;
 - xiii. Privacy issues; and
 - xix. Prohibited purchases and practices.
 - f. Such other areas of training determined by the Commission to be included in a responsible vendor training program.

500.105: continued

(3) Requirements for the Handling of Marijuana.

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

1. Well cured and generally free of seeds and stems;
2. Free of dirt, sand, debris, and other foreign matter;
3. Free of contamination by mold, rot, other fungus, and bacterial diseases;
4. Prepared and handled on food-grade stainless steel tables; and
5. Packaged in a secure area.

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

1. Any marijuana establishment agent whose job includes contact with marijuana or nonedible marijuana products, including cultivation, production, or packaging, is subject to the requirements for food handlers specified in 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements*;
2. Any marijuana establishment agent working in direct contact with preparation of marijuana or nonedible marijuana products shall conform to sanitary practices while on duty, including:
 - a. Maintaining adequate personal cleanliness; and
 - b. Washing hands thoroughly in an adequate hand-washing area before starting work, and at any other time when hands may have become soiled or contaminated.
3. Hand-washing facilities shall be adequate and convenient and shall be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Marijuana Establishment in production areas and where good sanitary practices require employees to wash and sanitize their hands, and shall provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;
4. There shall be sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations;
5. Litter and waste shall be properly removed, disposed of so as to minimize the development of odor and minimize the potential for the waste attracting and harboring pests. The operating systems for waste disposal shall be maintained in an adequate manner pursuant to 935 CMR 500.105(12);
6. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately kept clean and in good repair;
7. There shall be adequate safety lighting in all processing and storage areas, as well as areas where equipment or utensils are cleaned;
8. Buildings, fixtures, and other physical facilities shall be maintained in a sanitary condition;
9. All contact surfaces, including utensils and equipment, shall be maintained in a clean and sanitary condition. Such surfaces shall be cleaned and sanitized as frequently as necessary to protect against contamination, using a sanitizing agent registered by the US Environmental Protection Agency (EPA), in accordance with labeled instructions. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable;
10. All toxic items shall be identified, held, and stored in a manner that protects against contamination of marijuana products;
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 waste water 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; and

500.105: continued

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.

16. All vehicles and transportation equipment used in the transportation of marijuana products or edibles requiring temperature control for safety must be designed, maintained, and equipped as necessary to provide adequate temperature control to prevent the marijuana products or edibles from becoming unsafe during transportation, consistent with applicable requirements pursuant to 21 CFR 1.908(c).

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

(4) Marketing and Advertising Requirements.

(a) Permitted Practices.

1. A Marijuana Establishment may develop a logo to be used in labeling, signage, and other materials; provided, however, that use of medical symbols, images of marijuana, related paraphernalia, and colloquial references to cannabis and marijuana are prohibited from use in this logo.

2. Sponsorship of a charitable, sporting or similar event, except that advertising, marketing, and branding at or in connection with such an event is prohibited unless at least 85% of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data;

3. A Marijuana Establishment may display, in secure, locked cases, samples of each product offered for sale and subject to the requirements of 935 CMR 500.110. These display cases may be transparent. An authorized marijuana establishment agent may remove a sample of marijuana from the case and provide it to the consumer for inspection, provided the consumer may not consume or otherwise use the sample unless otherwise authorized herein.

4. The establishment may post prices in the store and may respond to questions about pricing on the phone.

5. A Marijuana Establishment may engage in reasonable marketing, advertising and branding practices that are not otherwise prohibited in 935 CMR 500.105(4)(b) that do not jeopardize the public health, welfare or safety of the general public or promote the diversion of marijuana or marijuana use in individuals younger than 21 years old. Any such marketing, advertising and branding created for viewing by the public shall include the statement "Please Consume Responsibly," in a conspicuous manner on the face of the advertisement and shall include a minimum of two of the following warnings in their entirety in a conspicuous manner on the face of the advertisement:

a. "This product may cause impairment and may be habit forming."

b. "Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug."

c. "There may be health risks associated with consumption of this product."

d. "For use only by adults 21 years of age or older. Keep out of the reach of children."

e. "Marijuana should not be used by women who are pregnant or breastfeeding."

6. All marketing, advertising and branding produced by or on behalf of a Marijuana Establishment shall include the following warning, including capitalization, in accordance with M.G.L. c. 94G, § 4(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 edible marijuana may be delayed by two hours or more. In case of accidental ingestion, contact poison control hotline 1-800-222-1222 or 9-1-1. This product may be illegal outside of MA."

500.105: continued

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

1. advertising, marketing, and branding in such a manner that is deemed to be deceptive, false, misleading, or untrue, or tends to deceive or create a misleading impression, whether directly, or by ambiguity or omission;
2. advertising, marketing and branding by means of television, radio, internet, mobile applications, social media, or other electronic communication, billboard or other outdoor advertising, or print publication, unless at least 85% of the audience is reasonably expected to be 21 years of age or older as determined by reliable and current audience composition data;
3. advertising, marketing, and branding that utilizes statements, designs, representations, pictures or illustrations that portray anyone younger than 21 years old;
4. advertising, marketing, and branding including, but not limited to, mascots, cartoons, brand sponsorships and celebrity endorsements, that is deemed to appeal to a person younger than 21 years old;
5. advertising, marketing, and branding, including statements by a licensee, that makes any false or misleading statements concerning other licensees and the conduct and products of such other licensees;
6. advertising, marketing, and branding through certain identified promotional items as determined by the Commission including, but not limited to, gifts, giveaways, coupons, or “free” or “donated” marijuana;
7. advertising, marketing, and branding by a licensee that asserts that its products are safe, or represent that its products have curative or therapeutic effects, other than labeling required pursuant to M.G.L. c. 94G, § 4(a^{1/2})(xxvi), unless supported by substantial evidence or substantial clinical data with reasonable scientific rigor as determined by the Commission;
8. installation of any neon signage or any illuminated external signage which fails to comply with all local ordinances and requirements;
9. installation of any external signage that is illuminated beyond the period of 30 minutes before sundown until closing;
10. the use of vehicles equipped with radio or loud speakers for the advertising of marijuana;
11. the use of radio or loud speaker equipment in any Marijuana Establishment for the purpose of attracting attention to the sale of marijuana;
12. advertising, marketing, and branding at, or in connection with, a charitable, sporting or similar event, unless at least 85% of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data;
13. operation of any website of a Marijuana Establishment that fails to verify that the entrant is 21 years of age or older;
14. use of unsolicited pop-up advertisements on the internet;
15. any advertising, marketing, and branding materials for marijuana products that fails to contain the standard health warning developed by the DPH;
16. any advertising of an improper or objectionable nature including, but not limited to, the use of recipe books or pamphlets for marijuana products which contain obscene or suggestive statements;
17. advertising, marketing or branding of marijuana products, on clothing, cups, drink holders, apparel accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items;
18. advertising, marketing or branding on or in public or private vehicles and at bus stops, taxi stands, transportation waiting areas, train stations, airports, or other similar transportation venues including, but not limited to, vinyl-wrapped vehicles or signs or logos on transportation vehicles or company cars;
19. signs or other printed matter advertising any brand or kind of marijuana product that are displayed on the exterior or interior of any licensed premises wherein marijuana products are not regularly and usually kept for sale;
20. advertising or marketing of the price of marijuana products, except that 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; and

500.105: continued

21. display of marijuana products so as to be clearly visible to a person from the exterior of a Marijuana Establishment.

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

(5) Labeling of Marijuana and Marijuana Products.

(a) Labeling of Marijuana Not Sold as a Marijuana Product. Prior to marijuana being sold or transferred a Marijuana Cultivator shall ensure the placement of a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each package of marijuana that it makes available for retail sale, containing at a minimum the following information:

1. The name and registration number of the Marijuana Cultivator that produced the marijuana, together with the retail licensee's business telephone number, electronic mail address, and website information, if any;
2. The quantity of usable marijuana contained within the package;
3. The date that the Marijuana Retailer or Marijuana Cultivator packaged the contents and a statement of which licensee performed the packaging;
4. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;
5. The full cannabinoid profile of the marijuana contained within the package, including THC and other cannabinoid level;
6. A statement and a seal certifying that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
7. This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";
8. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains marijuana product:



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



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

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

1. The name and registration number of the product manufacturer that produced the marijuana product, together with the product manufacturer's business telephone number, e-mail address, and website information, if any;

500.105: continued

2. The name of the marijuana product;
3. Refrigeration of the product is required, as applicable;
4. Net weight or volume in US customary and metric units;
5. The quantity of usable marijuana contained within the product as measured in ounces;
6. The type of marijuana used to produce the product, including what, if any, processing technique or solvents were used;
7. A list of ingredients, including the full cannabinoid profile of the marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol (Δ 9-THC) and other cannabinoids in the package and in each serving of a marijuana product as expressed in absolute terms and as a percentage of volume;
8. The serving size of the marijuana product in milligrams if the package is a multiple-serving package;
9. The number of serving sizes within the marijuana product based on the limits provided in 935 CMR 500.150;
10. The amount, in grams, of sodium, sugar, carbohydrates and total fat per serving;
11. The date of creation and the recommended “use by” or expiration date which shall not be altered or changed;
12. A batch number, sequential serial number and bar codes when used, to identify the batch associated with manufacturing and processing;
13. Directions for use of the marijuana product if relevant;
14. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
15. A warning if nuts or other known allergens are contained in the product;
16. This statement, including capitalization: “The impairment effects of edible products may be delayed by two hours or more. This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. **KEEP THIS PRODUCT AWAY FROM CHILDREN**”;
17. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains marijuana product:



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



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

- (c) Labeling of Marijuana Concentrates and Extracts. Prior to marijuana concentrates or extracts being sold or transferred, the Marijuana Product Manufacturer shall place a legible, firmly affixed label on which the wording is no less than $\frac{1}{16}$ inch in size on each marijuana concentrate container that it prepares for retail sale or wholesale, containing at a minimum the following information:

500.105: continued

1. The name and registration number of the product manufacturer that produced the marijuana product, together with the product manufacturer's business telephone number, e-mail address, and website information, if any;
2. The name of the marijuana product;
3. Product identity including the word "concentrate" or "extract" as applicable;
4. Net weight of volume expressed in US customary units and metric units;
5. The type of marijuana used to produce the product, including what, if any, processing technique or solvents were used;
6. A list of ingredients, including the full *Cannabinoid* profile of the marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol (Δ 9-THC) and other cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume;
7. A statement of the serving size and number of servings per container or amount suggested for use based on the limits provided in 935 CMR 500.150;
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 if relevant;
11. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
12. A warning if nuts or other known allergens are contained in the product;
13. This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";
14. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains marijuana product:



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



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

(d) Labeling of Marijuana Infused Tinctures and Topicals. Prior to marijuana infused tinctures or topicals being sold or transferred the Marijuana Product Manufacturer shall place a legible, firmly affixed label on which the wording is no less than $\frac{1}{16}$ inch in size on each container of marijuana infused tincture or topical that it prepares for retail sale or wholesale, containing at a minimum the following information:

1. The name and registration number of the product manufacturer that produced the marijuana product, together with the product manufacturer's business telephone number, e-mail address, and website information, if any;

500.105: continued

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 (Δ 9-THC) and other cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume;
5. Net weight or volume as expressed in US customary units or metric units;
6. The date of product creation;
7. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;
8. Directions for use of the marijuana product if relevant;
9. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
10. A warning if nuts or other known allergens are contained in the product;
11. This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";
12. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains marijuana product:



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



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

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

(6) Packaging of Marijuana and Marijuana Products.

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

1. That to the extent it is not unreasonably impracticable for the specific type of product, marijuana products are packaged in containers that are

500.105: continued

- a. opaque or plain in design;
 - b. resealable for any marijuana product intended for more than a single use or containing multiple servings; and
 - c. certified by a qualified third-party tamper or child-resistant packaging testing firm that the packaging is in compliance with the most recent poison prevention packaging regulations of the US Consumer Product Safety Commission as included at 16 CFR 1700; or
2. That where compliance with the requirements of tamper or child-resistant packaging is deemed to be unreasonably impracticable, marijuana products shall be placed in an exit package that is:
 - a. capable of being resealed and made tamper or 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 tamper or child-resistant packaging testing firm that the packaging is in compliance with the most recent poison prevention packaging regulations of the US Consumer Product Safety Commission as included at 16 CFR 1700.
- (b) Limits on Packaging Design. Packaging for marijuana products sold or displayed for consumers, including any label or imprint affixed to any packaging containing marijuana products or any exit packages, shall not be attractive minors. Packaging is explicitly prohibited from:
1. using bright colors, defined as colors that are “neon” in appearance;
 2. imitating or having a semblance to any existing branded consumer products, including foods and beverages, that do not contain marijuana;
 3. featuring cartoons;
 4. featuring a design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;
 5. featuring symbols or celebrities that are commonly used to market products to minors;
 6. featuring images of minors; or
 7. featuring words that refer to products that are commonly associated with minors or marketed to minors.
- (c) Packaging of Multiple Servings.
1. Packaging for marijuana products sold or displayed for consumers in multiple servings shall include the following statement on the exterior of the package in a printed font that is no smaller than ten-point Times New Roman, Helvetica or Arial, including capitalization: “INCLUDES MULTIPLE SERVINGS.”
 2. Packaging for marijuana products in solid form sold or displayed for consumers in multiple servings shall allow a consumer to easily perform the division into single servings.
 - a. Edible marijuana products in a solid form shall be easily and permanently scored to identify individual servings.
 - b. Notwithstanding 935 CMR 500.105(6)(c)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 is able to be easily and permanently scored shall be decided by the Commission consistent with sub-regulatory guidelines established by the Commission and provided to licensees.
 3. Packaging for marijuana product beverages shall be packages solely in a single serving size. Multiple serving beverages are strictly prohibited for sale.
- (d) Each single serving of an edible marijuana product contained in a multiple-serving package shall be marked, stamped or otherwise imprinted with the symbol issued by the Commission under 935 CMR 500.105(5) that indicates that the single serving is a marijuana product.
- (e) Serving size shall be determined by the processor but in no instance shall an individual serving size of any marijuana product contain more than five milligrams of delta-nine-tetrahydrocannabinol (Δ 9-THC).

500.105: continued

(7) Packaging and Labeling Pre-approval. Prior to a marijuana product being sold at a Marijuana Establishment, a licensee or license applicant may submit an application, in a form and manner determined by the Commission, for packaging and label approval to the Commission. The Commission may charge a fee for packaging and labeling pre-approval. The packaging and labeling pre-approval process shall in no way substitute for compliance with 935 CMR 500.105(4) through (6).

(8) Inventory.

(a) Subject to the DPH's approval, a Marijuana Establishment that is also a RMD may sell marijuana products in its possession at the time it receives approval from the Commission to commence sales, subject to the limitation in 935 CMR 500.140(10).

(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 tag and track all marijuana seeds, clones, plants, and marijuana products, using a seed-to-sale methodology in a form and manner to be approved by the Commission.

(f) No marijuana product, including marijuana, may be sold or otherwise marketed for adult use that is not capable of being tested by Independent Testing Laboratories, except as allowed under 935 CMR 500.000.

(g) A Marijuana Establishment that is cultivating, processing or selling marijuana products for medical use as well as marijuana products for adult use must create virtual separation of the products.

At the point of sale, a Marijuana Retailer that is also a RMD must designate whether marijuana products are intended for sale for adult use or medical use through tracking methodology approved by the Commission under 935 CMR 500.000.

(h) A Marijuana Retailer that is also a RMD is subject to the laws governing taxation in the Commonwealth, including, but not limited to, the laws regarding taxation, filing, audit and seizure.

(9) Record Keeping. Records of a Marijuana Establishment must be available for inspection by the Commission, upon request. The 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:

(a) Written operating procedures as required by 935 CMR 500.105(1);

(b) Inventory records as required by 935 CMR 500.105(8);

(c) Seed-to-sale tracking records for all marijuana products as required by 935 CMR 500.105(8)(e);

(d) The following personnel records:

1. Job descriptions for each employee and volunteer position, as well as organizational charts consistent with the job descriptions;

500.105: continued

2. A personnel record for each marijuana establishment agent. Such records shall be maintained for at least 12 months after termination of the individual's affiliation with the Marijuana Establishment and shall include, at a minimum, the following:
 - a. all materials submitted to the Commission pursuant to 935 CMR 500.030(2);
 - b. documentation of verification of references;
 - c. the job description or employment contract that includes duties, authority, responsibilities, qualifications, and supervision
 - d. documentation of all required training, including training regarding privacy and confidentiality requirements, and the signed statement of the individual indicating the date, time, and place he or she received said training and the topics discussed, including the name and title of presenters;
 - e. documentation of periodic performance evaluations;
 - f. a record of any disciplinary action taken; and
 - g. notice of completed responsible vendor and eight-hour related duty training.
 3. A staffing plan that will demonstrate accessible business hours and safe cultivation conditions;
 4. Personnel policies and procedures; and
 5. All background check reports obtained in accordance with 935 CMR 500.030.
- (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, stipend paid to each board member, and any executive compensation, bonus, benefit, or item of value paid to any individual affiliated with a Marijuana Establishment, including members of the nonprofit corporation, if any.
- (f) Waste disposal records as required under 935 CMR 500.105(12); and
- (g) Following closure of a Marijuana Establishment, all records must be kept for at least two years at the expense of the Marijuana Establishment and in a form and location acceptable to the Commission.
- (10) Liability Insurance Coverage or Maintenance of Escrow.
- (a) A Marijuana Establishment shall obtain and maintain general liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, and product liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, except as provided in 935 CMR 500.105(10)(b) or otherwise approved by the Commission. The deductible for each policy shall be no higher than \$5,000 per occurrence.
 - (b) A Marijuana Establishment that documents an inability to obtain minimum liability insurance coverage as required by 935 CMR 500.105(10)(a) may place in escrow a sum of no less than \$250,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.
 - (c) The escrow account required pursuant to 935 CMR 500.105(10)(b) must be replenished within ten business days of any expenditure.
 - (d) Reports documenting compliance with 935 CMR 500.105(10) shall be made in a manner and form determined by the Commission pursuant to 935 CMR 500.000.
- (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.

500.105: continued

(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.

(b) Liquid waste containing marijuana or by-products of marijuana processing shall be disposed of in compliance with all applicable state and federal requirements, including but not limited to, for discharge of pollutants into surface water or groundwater (Massachusetts Clean Waters Act, M.G.L. c. 21 §§ 26 through 53; 314 CMR 3.00: *Surface Water Discharge Permit Program*; 314 CMR 5.00: *Groundwater Discharge Program*; 314 CMR 12.00: *Operation Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers*; the Federal Clean Water Act, 33 U.S.C. 1251 *et seq.*, the National Pollutant Discharge Elimination System Permit Regulations at 40 CFR Part 122, 314 CMR 7.00: *Sewer System Extension and Connection Permit Program*), or stored pending disposal in an industrial wastewater holding tank in accordance with 314 CMR 18.00: *Industrial Wastewater Holding Tanks and Containers*.

(c) Organic material, recyclable material and solid waste generated at a Cannabis Establishment shall be redirected or disposed of as follows:

1. Organic material and recyclable material shall be redirected from disposal in accordance with the waste disposal bans described at 310 CMR 19.017: *Waste Bans*.

2. To the greatest extent feasible:

a. Any recyclable material as defined in 310 CMR 16.02: *Definitions* shall be recycled in a manner approved by the Commission; and

b. Any remaining marijuana waste shall be ground and mixed with other organic material as defined in 310 CMR 16.02: *Definitions* such that the resulting mixture renders the marijuana unusable for its original purpose. Once such marijuana waste has been rendered unusable, the mixture may be composted or digested at an aerobic or anaerobic digester at an operation that is in compliance with the requirements of 310 CMR 16.00: *Site Assignment Regulations for Solid Waste Facilities*.

3. Solid waste containing cannabis waste generated at a marijuana establishment may be ground up and mixed with solid wastes such that the resulting mixture renders the cannabis unusable for its original purposes. Once such cannabis waste has been rendered unusable, it may be brought to a solid waste transfer facility or a solid waste disposal facility (*e.g.*, landfill or incinerator) that holds a valid permit issued by the Department of Environmental Protection or by the appropriate state agency in the state in which the facility is located; or

(d) No fewer than two Marijuana Establishment Agents must witness and document how the marijuana waste is disposed or otherwise handled (recycled, composted, *etc.*) in accordance with 935 CMR 500.105(12). When marijuana products or waste is disposed or handled, the Marijuana Establishment must create and maintain a written or electronic record of the date, the type and quantity disposed or handled, the manner of disposal or other handling, the location of disposal or other handling, and the names of the two Marijuana Establishment Agents present during the disposal or other handling, with their signatures. Marijuana Establishments shall keep these records for at least three years. This period shall automatically be extended for the duration of any enforcement action and may be extended by an order of the Commission.

(13) Transportation Between Marijuana Establishments.

(a) General Requirements.

1. A licensed Marijuana Establishment shall, as an element of its license, be licensed to transport its marijuana products to other licensed establishments, except as otherwise provided herein.

2. Marijuana products may only be transported between licensed Marijuana Establishments by registered marijuana establishment agents.

3. A licensed Marijuana Transporter may contract with a licensed Marijuana Establishment to transport that licensee's marijuana products to other licensed Marijuana Establishments.

500.105: continued

4. The originating and receiving licensed Marijuana Establishments shall ensure that all transported marijuana products are linked to the seed-to-sale tracking program. For the purposes of tracking, seeds and clones will 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 remain with the vehicle at all times that the vehicle contains marijuana or marijuana products.
 7. Prior to leaving a Marijuana Establishment for the purpose of transporting marijuana products, the originating Marijuana Establishment must weigh, inventory, and account for, on video, all marijuana products to be transported.
 8. Within eight hours after arrival at the destination Marijuana Establishment, the destination establishment must re-weigh, re-inventory, and account for, on video, all marijuana products transported.
 9. When videotaping the weighing, inventorying, and accounting of marijuana products before transportation or after receipt, the video must show each product being weighed, the weight, and the manifest.
 10. Marijuana products must be packaged in sealed, labeled, and tamper 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 must be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle.
 12. A Marijuana Establishment or a Marijuana Transporter transporting marijuana products shall ensure that all transportation times and routes are randomized.
 13. A Marijuana Establishment or a Marijuana Transporter transporting marijuana products shall ensure that all transport routes remain within the Commonwealth.
 14. All vehicles and transportation equipment used in the transportation of cannabis products or edibles requiring temperature control for safety must be designed, maintained, and equipped as necessary to provide adequate temperature control to prevent the cannabis products or edibles from becoming unsafe during transportation, consistent with applicable requirements pursuant to 21 CFR 1.908(c).
- (b) Reporting Requirements.
1. Marijuana establishment agents must document and report any unusual discrepancy in weight or inventory to the Commission and law enforcement authorities not more than 24 hours of the discovery of such a discrepancy.
 2. Marijuana establishment agents shall report to the Commission and law enforcement authorities any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport, not more than 24 hours of such accidents, diversions, losses, or other reportable incidents.
- (c) Vehicles.
1. A vehicle used for transporting marijuana products must be:
 - a. owned or leased by the Marijuana Establishment or the Marijuana Transporter;
 - b. properly registered, inspected, and insured in the Commonwealth (documentation of such status shall be maintained as records of the Marijuana Establishment or the Marijuana Transporter, and shall be made available to the Commission upon request);
 - c. equipped with an alarm system approved by the Commission; and
 - d. equipped with functioning heating and air conditioning systems appropriate for maintaining correct temperatures for storage of marijuana products.
 2. Marijuana products must not be visible from outside the vehicle.
 3. Any vehicle used to transport marijuana products shall not bear any markings indicating that the vehicle is being used to transport marijuana products, and any such vehicle shall not indicate the name of the Marijuana Establishment or the Marijuana Transporter.
 4. When transporting marijuana products, no other products may be transported or stored in the same vehicle.
 5. No firearms may be located within the vehicle or on a marijuana establishment agent.

500.105: continued

(d) Storage Requirements.

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

(e) Communications.

1. Any vehicle used to transport marijuana products shall contain a global positioning system (GPS) monitoring device that is:
 - a. not a mobile device that is easily removable;
 - b. attached to the vehicle at all times that the vehicle contains marijuana products;
 - c. monitored by the Marijuana Establishment or Marijuana Transporter during transport of marijuana products; and
 - d. inspected by the Commission prior to initial transportation of marijuana products, and after any alteration to the locked storage compartment.
2. Each marijuana establishment agent transporting marijuana products shall have access to a secure form of communication with personnel at the originating location at all times that the vehicle contains marijuana and marijuana products.
3. Secure types of communication include, but are not limited to:
 - a. two-way digital or analog radio (UHF or VHF);
 - b. cellular phone; or
 - c. satellite phone.
4. When choosing a type of secure communications, the following shall be taken into consideration:
 - a. cellular signal coverage;
 - b. transportation area;
 - c. base capabilities;
 - d. antenna coverage; and
 - e. frequency of transportation.
5. Prior to, and immediately after leaving the originating location, the marijuana establishment agents shall use the secure form of communication to contact the originating location to test communications and GPS operability.
6. If communications or the GPS system fail while on route, the marijuana establishment agents transporting marijuana products must return to the originating location until the communication system or GPS system is operational.
7. The marijuana establishment agents transporting marijuana products shall contact the originating location when stopping at and leaving any scheduled location, and regularly throughout the trip, at least every 30 minutes.
8. The originating location must have a marijuana establishment agent assigned to monitoring the GPS unit and secure form of communication, who must log all official communications with marijuana establishment agents transporting marijuana products.

(f) Manifests.

1. A manifest shall be filled out in triplicate, with the original manifest remaining with the originating Marijuana Establishment, a second copy provide to the destination Marijuana Establishment upon arrival, and a copy to be kept with the licensed marijuana establishment agent during transportation and returned to the Marijuana Establishment or Marijuana Transporter upon completion of the transportation.
2. Prior to transport, the manifest shall be securely transmitted to the destination Marijuana Establishment by facsimile or email.
3. Upon arrival at the destination Marijuana Establishment, a marijuana establishment agent at the destination Marijuana Establishment shall compare the manifest produced by the agents who transported the marijuana products to the copy transmitted by facsimile or email. This manifest must, at a minimum, include;

500.105: continued

- a. the originating Marijuana Establishment name, address, and registration number;
 - b. the names and registration numbers of the agents who transported the marijuana products;
 - c. the name and registration number of the marijuana establishment agent who prepared the manifest;
 - d. the destination Marijuana Establishment name, address, and registration number;
 - e. a description of the marijuana products being transported, including the weight and form or type of product;
 - f. the mileage of the transporting vehicle at departure from originating Marijuana Establishment and mileage upon arrival at destination Marijuana Establishment, as well as mileage upon 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;
 - i. a signature line for the marijuana establishment agent who receives the marijuana products;
 - j. the weight and inventory before departure and upon receipt;
 - k. the date and time that the transported products were re-weighed and re-inventoried;
 - l. the name of the marijuana establishment agent at the destination Marijuana Establishment who re-weighed and re-inventoried products; and
 - m. the vehicle make, model, and license plate number.
4. The manifest shall be maintained within the vehicle during the entire transportation process, until the delivery is completed.
 5. A Marijuana Establishment shall retain all transportation manifests for no less than one year and make them available to the Commission upon request.
- (g) Requirements for Agents.
1. Each employee or agent transporting or otherwise handling marijuana products for a Marijuana Transporter must be registered as a marijuana establishment agent and have a driver's license in good standing issued by the Massachusetts Registry of Motor Vehicles for all classes of vehicle the marijuana establishment agent will operate for the Marijuana Transporter prior to transporting or otherwise handling marijuana products.
 2. A marijuana establishment agent shall carry his or her registration card at all times when transporting marijuana products, and shall produce his or her registration card to the Commission or law enforcement officials upon request.
- (h) Marijuana Transporters shall use best management practices to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts.
- (14) Access to the Commission, Emergency Responders and Law Enforcement.
- (a) The following individuals shall have access to a Marijuana Establishment or Marijuana Establishment transportation vehicle:
 1. Representatives of the Commission in the course of responsibilities authorized by St. 2016, c. 334, as amended by St. 2017, c. 55 or 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 to authorized law enforcement personnel or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.
- (15) Energy Efficiency and Conservation. A marijuana establishment must demonstrate consideration of the following factors as part of its operating plan and application for licensure:
- (a) Identification of potential energy use reduction opportunities (such as natural lighting and energy efficiency measures), and a plan for implementation of such opportunities;
 - (b) Consideration of opportunities for renewable energy generation, including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
 - (c) Strategies to reduce electric demand (such as lighting schedules, active load management, and energy storage); and

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 the destruction of cannabis goods necessitated by a violation of St. 2016, c. 334, as amended by St. 2017, c. 55 or 935 CMR 500.000 or the cessation of operation of the Marijuana Establishment.

(b) All bonds required under 935 CMR 500.000 must be issued by a corporate surety licensed to transact surety business in the Commonwealth.

(c) If the Marijuana Establishment is unable to secure a surety bond, as required by 935 CMR 500.105(16) it may place in escrow a sum of no less than \$5,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.

(d) The escrow account required pursuant to 935 CMR 500.105(16)(c) must be replenished within ten business days of any expenditure required under 935 CMR 500.105 except if the Marijuana Establishment has ceased operations. Documentation of the replenishment must be promptly sent to the Commission.

(17) Social Equity Program.

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

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

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

1. Residency in an area of disproportionate impact, as defined by the
 - 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 for a 94C offense under M.G.L. c. 94C or an equivalent conviction in another jurisdiction; 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 under M.G.L. c. 94C or an equivalent conviction in another jurisdiction.

500.110: Security Requirements for Marijuana Establishments

(1) General Requirements. A Marijuana Establishment shall implement sufficient safety measures to deter and prevent unauthorized entrance into areas containing marijuana and theft of marijuana at the Marijuana Establishment. Security measures taken by the licensee to protect the premises, employees, consumers and general public shall include, but not be limited to, the following:

(a) Positively identifying individuals seeking access to the premises of the Marijuana Establishment or to whom or marijuana products are being transported pursuant to 935 CMR 500.105(14) to limit access solely to individuals 21 years of age or older;

500.110: continued

- (b) Adopting procedures to prevent loitering and ensure that only individuals engaging in activity expressly or by necessary implication permitted by these regulations and its enabling statute are allowed to remain on the premises;
- (c) Disposing of marijuana in accordance with 935 CMR 500.105(12) in excess of the quantity required for normal, efficient operation as established within 935 CMR 500.105;
- (d) Securing all entrances to the Marijuana Establishment to prevent unauthorized access;
- (e) Establishing limited access areas pursuant to 935 CMR 500.110(4), which shall be accessible only to specifically authorized personnel limited to include only the minimum number of employees essential for efficient operation;
- (f) Storing all finished marijuana products in a secure, locked safe or vault in such a manner as to prevent diversion, theft and loss;
- (g) Keeping all safes, vaults, and any other equipment or areas used for the production, cultivation, harvesting, processing or storage of marijuana products securely locked and protected from entry, except for the actual time required to remove or replace marijuana;
- (h) Keeping all locks and security equipment in good working order;
- (i) Prohibiting keys, if any, from being left in the locks or stored or placed in a location accessible to persons other than specifically authorized personnel;
- (j) Prohibiting accessibility of security measures, such as combination numbers, passwords or electronic or biometric security systems, to persons other than specifically authorized personnel;
- (k) Ensuring that the outside perimeter of the Marijuana Establishment is sufficiently lit to facilitate surveillance, where applicable;
- (l) Ensuring that all marijuana products are kept out of plain sight and are not visible from a public place without the use of binoculars, optical aids or aircraft;
- (m) Developing emergency policies and procedures for securing all product following any instance of diversion, theft or loss of marijuana, and conduct an assessment to determine whether additional safeguards are necessary;
- (n) Developing sufficient additional safeguards as required by the Commission for Marijuana Establishments that present special security concerns; and
- (o) Sharing the Marijuana Establishment's security plan and procedures with law enforcement authorities and fire services and periodically updating law enforcement authorities and fire services if the plans or procedures are modified in a material way.

(2) Alternate Security Provisions.

(a) Notwithstanding the requirements specified in 935 CMR 500.110(1), (5) and (6), 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.

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

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

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

500.110: continued

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

(4) Limited Access Areas.

(a) All limited access areas must be identified by the posting of a sign that shall be a minimum of 12" x 12" and which states: "Do Not Enter—Limited Access Area—Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height.

(b) All limited access areas shall be clearly described by the filing of a diagram of the registered premises, in the form and manner determined by the Commission, reflecting entrances and exits, walls, partitions, vegetation, flowering, processing, production, storage, disposal and retail sales areas.

(c) Access to limited access areas shall be restricted to employees, agents or volunteers specifically permitted by the Marijuana Establishment, agents of the Commission, state and local law enforcement and emergency personnel.

(d) Employees of the Marijuana Establishment shall visibly display an employee identification badge issued by the Marijuana Establishment at all times while at the Marijuana Establishment or transporting marijuana.

(e) All outside vendors, contractors and visitors shall obtain a visitor identification badge prior to entering a limited access area, and shall be escorted at all times by a marijuana establishment agent authorized to enter the limited access area. The visitor identification badge shall be visibly displayed at all times while the visitor is in any limited access area. All visitors must be logged in and out and that log shall be available for inspection by the Commission at all times. All visitor identification badges shall be returned to the Marijuana Establishment upon exit.

(5) Security and Alarm Requirements for Marijuana Establishments Operating Enclosed Areas.

(a) A Marijuana Establishment located, in whole or in part, in a building, greenhouse or other enclosed area shall have an adequate security system to prevent and detect diversion, theft or loss of marijuana or unauthorized intrusion, utilizing commercial grade equipment which shall, at a minimum, include:

1. A perimeter alarm on all building entry and exit points and perimeter windows, if any;
2. A failure notification system that provides an audible, text or visual notification of any failure in the surveillance 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 hold-up alarm connected to local public safety or law enforcement authorities;
4. Video cameras in all areas that may contain marijuana, 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. 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-four hour recordings from all video cameras that are available immediate viewing by the Commission upon request and that are retained for at least 90 calendar days. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;
6. The ability to immediately produce a clear, color still photo whether live or recorded;
7. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and shall not significantly obscure the picture;

500.110: continued

8. The ability to remain operational during a power outage; and
 9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.
- (b) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.
 - (c) In addition to the requirements listed in 935 CMR 500.110(5)(a) and (b), the Marijuana Establishment shall have a back-up alarm system, with all the capabilities of the primary system, provided by a company supplying commercial grade equipment, which shall not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.
 - (d) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Commission upon request. If the surveillance room is on-site of the Marijuana Establishment it shall remain locked and shall not be used for any other function.
 - (e) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.
 - (f) 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 an Open Cultivation Facility.
- (a) A Marijuana Establishment that is an open cultivation facility shall implement adequate security measures to ensure that outdoor areas are not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of marijuana which shall, at a minimum, include:
 1. A perimeter security fence designed to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a limited access area;
 2. Commercial-grade, nonresidential locks;
 3. A security alarm system that shall:
 - a. be continuously monitored, whether electronically, by a monitoring company or other means determined to be adequate by the Commission; and
 - b. provide an alert to designated employees of the Marijuana Establishment within five minutes after a notification of an alarm or a system failure, either by telephone, email or text message;
 4. Video cameras at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. 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 upon request and that are retained for at least 90 calendar days. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;
 6. The ability to immediately produce a clear, color still photo whether live or recorded;
 7. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and shall not significantly obscure the picture;
 8. The ability to remain operational during a power outage;

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) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Commission upon request. If the surveillance room is on-site of the Marijuana Establishment it shall remain locked and shall not be used for any other function.

(d) 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.

(e) 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.

(7) Incident Reporting.

(a) A Marijuana Establishment shall notify appropriate law enforcement authorities and the Commission of any breach of security immediately and, in no instance, more than 24 hours following discovery of the breach. Notification shall occur, but not be limited to, during the following occasions:

1. discovery of discrepancies identified during inventory;
2. diversion, theft or loss of any marijuana product;
3. any criminal action involving or occurring on or in the Marijuana Establishment premises;
4. any suspicious act involving the sale, cultivation, distribution, processing or production of marijuana by any person;
5. unauthorized destruction of marijuana;
6. any loss or unauthorized alteration of records related to marijuana;
7. an alarm activation or other event that requires response by public safety personnel or security personnel privately engaged by the Marijuana Establishment;
8. the failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last more than eight hours; or
9. any other breach of security.

(b) A Marijuana Establishment shall, within ten calendar days, provide notice to the Commission of any incident described in 935 CMR 500.110(7)(a) by submitting an incident report in the form and manner determined by the Commission which details the circumstances of the event, any corrective action taken, and confirmation that the appropriate law enforcement authorities were notified.

(c) All documentation related to an incident that is reportable pursuant to 935 CMR 500.110(7)(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 upon request.

(8) Security Audits. A Marijuana Establishment must, on an annual basis, obtain at its own expense, a security system audit by a vendor approved by the Commission. A report of such audit must be submitted, in a form and manner determined by the Commission, no later than 30 calendar days after the audit is conducted. If the audit identifies concerns related to the establishment's security system, the Marijuana Establishment must also submit a plan to mitigate those concerns within ten business days of submitting the audit.

500.120: Additional Operational Requirements for Indoor and Outdoor Marijuana Cultivators

- (1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105, 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.
- (3) Only a licensed Marijuana Cultivator or Microbusiness is permitted to cultivate marijuana for adult use for sale to Marijuana Establishments.
- (4) All phases of the cultivation, processing, and packaging of marijuana by a Marijuana Cultivator shall take place in a designated area that is not visible from a public place without the use of binoculars, aircraft or other optical aids.
- (5) Application of pesticides shall be performed in compliance with M.G.L. c. 132B and the regulations promulgated at 333 CMR 2.00 through 333 CMR 14.00. Any testing results indicating noncompliance shall be immediately reported to the Commission, who may refer any such result to the Massachusetts Department of Agricultural Resources.
- (6) A Marijuana Cultivator selling or otherwise transferring marijuana to another Marijuana Establishment shall provide documentation of its compliance, or lack thereof, with the testing requirements of 935 CMR 500.160.
- (7) A Marijuana Cultivator may label marijuana with the word “organic” only if all cultivation is consistent with US Department of Agriculture organic requirements at 7 CFR 205;
- (8) Soil for cultivation shall meet federal standards identified by the Commission;
- (9) The cultivation process shall use best practices to limit contamination including, but not limited to, mold, fungus, bacterial diseases, rot, pests, pesticides not in compliance with 500.120(5) for use on marijuana, mildew, and any other contaminant identified as posing potential harm.
- (10) Any application of plant nutrient to land used for the cultivation of marijuana shall comply with St. 2012, c. 262, as amended by St. 2013, c. 118, § 26, and 330 CMR 31.00: *Plant Nutrient Application Requirements for Agricultural Land and Non-agricultural Turf and Lawns*.
- (11) A Marijuana Cultivator shall satisfy minimum energy efficiency and equipment standards established by the Commission and meet all applicable environmental laws, regulations, permits and other applicable approvals, including those related to water quality and solid and hazardous waste management, prior to obtaining a final license under 935 CMR 500.103(2). 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), 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. Marijuana Cultivators shall be subject to the following minimum energy efficiency and equipment standards:
 - (a) The building envelope for all facilities, except greenhouses, must meet minimum Massachusetts Building Code requirements and all Massachusetts amendments (780 CMR: *State Building Code*), International Energy Conservation Code (IECC) Section C.402 or The American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) Chapters 5.4 and 5.5 as applied or incorporated by reference in 780 CMR: *State Building Code*, except that facilities using existing buildings may demonstrate compliance by showing that the envelope insulation complies with code minimum standards for Type Factory Industrial F-1, as further defined in guidelines issued by the Commission.
 - (b) The Lighting Power Densities (LPD) for cultivation space must not exceed an average of 36 watts per gross square foot of active and growing space canopy, but for Tier 1 and Tier 2 a requirement of 50 watts per gross square foot of active canopy or growing unless otherwise determined in guidelines issued by the Commission.

500.120: continued

(c) Heating Ventilation and Air Condition (HVAC) and dehumidification systems must meet Massachusetts Building Code requirements and all Massachusetts amendments (780 CMR: *State Building Code*), IECC Section C.403 or ASHRAE Chapter 6 as applied or incorporated by reference in (780 CMR: *State Building Code*).

(d) Safety protocols must be established and documented to protect workers and consumers (e.g., eye protection near operating grow light).

(e) Requirements 935 CMR 500.120(11)(b) and (c) shall not be required if an indoor marijuana cultivator is generating 100% or more of the onsite load from an onsite clean or renewable resource.

(f) The Commission may further define these standards, or create reasonable exemptions or modifications, through guidelines issued in consultation with the energy and environmental standards working group established under St. 2017, c. 55, § 78(b), including but not limited to provisions for greenhouses and agricultural buildings.

(g) A RMD with a final certificate of registration before March 15, 2018, shall have a 12-month period to comply with 935 CMR 500.120(11) or until March 23, 2019.

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

(a) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(8);

(b) Policies and procedures for handling voluntary and mandatory recalls of marijuana. Such procedures shall be adequate to deal with recalls due to any action initiated at the request or order of the Commission, and any voluntary action by a Marijuana Establishment to remove defective or potentially defective marijuana from the market, as well as any action undertaken to promote public health and safety;

(c) Policies and procedures for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated marijuana is segregated from other marijuana and destroyed. Such procedures shall provide for written documentation of the disposition of the marijuana. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(12);

(d) Policies and procedures for transportation. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(13);

(e) Policies and procedures to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(15) and 935 CMR 500.120(11); and

(f) Policies and procedures for the transfer, acquisition, or sale of marijuana between Marijuana Establishments.

500.130: Additional Operating Requirements for Marijuana Product Manufacturers

(1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105, Marijuana Product Manufacturers shall comply with additional operational requirements required under 935 CMR 500.130.

(2) Production of edible marijuana products shall take place in compliance with the following:

(a) All edible marijuana products shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 500.000: *Good Manufacturing Practices for Food*, and with the requirements for food handlers specified in 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements*; and

(b) Any marijuana product that is made to resemble a typical food or beverage product must be packaged and labelled as required by 935 CMR 500.105(5) and 500.105(6)

500.130: continued

(3) A Marijuana Product Manufacturer 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 those related to water quality and solid waste disposal, 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) to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts. If minimum standards or best management practices are not established by the time of an application for initial licensure, a Marijuana Product Manufacturer shall satisfy such standards or best management practices as a condition of license renewal, in addition to any the terms and conditions of any environmental permit regulating the licensed activity.

(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.

(5) In addition to the written operating policies required under 935 CMR 500.105(1), a Marijuana Product Manufacturer shall maintain written policies and procedures for the production or distribution of marijuana products, as applicable, which shall include, but not be limited to:

(a) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(8);

(b) Policies and procedures for handling voluntary and mandatory recalls of marijuana products. Such procedures shall be adequate to deal with recalls due to any action initiated at the request or order of the Commission, and any voluntary action by a Marijuana Establishment to remove defective or potentially defective marijuana products from the market, as well as any action undertaken to promote public health and safety;

(c) Policies and procedures for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated marijuana products is segregated from other product and destroyed. Such procedures shall provide for written documentation of the disposition of the marijuana products. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(12);

(d) Policies and procedures for transportation. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(13);

(e) Policies and procedures to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts. The policies and procedures, at a minimum, must be in compliance with 935 CMR 500.105(15); and

(f) Policies and procedures for the transfer, acquisition, or sale of marijuana products between Marijuana Establishments.

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, licensees engaged in retail sales shall comply with additional operational requirements for Marijuana Retailer under 935 CMR 500.140.

(2) On-premises Verification of Identification for Adult Use Only Locations. Upon 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 retailer has verified that the individual is 21 years of age or older by an individual's proof of identification.

500.140: continued

- (3) On-premises Verification of Identification for Colocated Adult Use and Medical Use Locations. Upon entry into the premises of a Marijuana Retailer that is colocated with a RMD by an individual, a marijuana establishment agent shall immediately inspect the individual's proof of identification and determine that the individual is 21 years of age or older. If the individual is younger than 21 years old but 18 years of age or older, he or she shall not be admitted unless they produce an active medical registration card issued by the DPH. If the individual is younger than 18 years old, he or she shall not be admitted unless they produce an active medical registration card and they are accompanied by a personal caregiver with an active medical registration card. In addition to the medical registration card, registered qualifying patients 18 years of age and older and personal caregivers must also produce proof of identification.
- (4) Limitation on Sales. In accordance with M.G.L. c. 94G, § 7, a Marijuana Retailer may not sell more than one ounce of marijuana or five grams of marijuana concentrate to a consumer per transaction.
- (5) Unauthorized Sales and Right to Refuse Sales.
- (a) A Marijuana Retailer shall refuse to sell marijuana to any consumer who is unable to produce valid proof of identification.
 - (b) A retailer may refuse to sell marijuana products to a consumer if, in the opinion of the marijuana establishment agent based on the information available to the agent at that time, the consumer or the public would be placed at risk.
 - (c) A retailer shall not sell to an individual more than one ounce of marijuana or five grams of marijuana concentrate per transaction.
 - (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.
- (6) Recording Sales.
- (a) A Marijuana Retailer shall only utilize a point-of-sale (POS) system approved by the Commission, in consultation with the DOR.
 - (b) A retailer may utilize a sales recording module approved by the DOR.
 - (c) A retailer is prohibited from utilizing software or other methods to manipulate or alter sales data.
 - (d) A retailer shall conduct a monthly analysis of its equipment and sales data to determine that no software has been installed that could be utilized to manipulate or alter sales data and that no other methodology has been employed to manipulate or alter sales data. A Marijuana Retailer shall maintain records that it has performed the monthly analysis and produce it upon 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.
 - (e) A retailer shall comply with 830 CMR 62C.25.1: *Record Retention* and DOR Directive 16-1 regarding recordkeeping requirements.
 - (f) A retailer shall adopt separate accounting practices at the point-of-sale for marijuana and marijuana product sales, and non-marijuana sales.
 - (g) The Commission and the DOR may audit and examine the point-of-sale system used by a retailer in order to ensure compliance with Massachusetts tax laws and 935 CMR 500.000;
 - (h) A retailer that is colocated with a medical marijuana treatment center shall maintain and provide to the Commission on a biannual basis accurate sales data collected by the licensee during the six months immediately preceding this application for the purpose of ensuring an adequate supply of marijuana and marijuana products under 935 CMR 500.140(10).

500.140: continued

(7) Physical Separation of Marijuana and Marijuana Products for Medical or Adult Use. A Marijuana Retailer that is colocated with a RMD shall provide for physical separation between medical and adult-use sales areas. Separation may be provided by a temporary or semi-permanent physical barrier, such as a stanchion, that, in the opinion of the Commission, adequately separates sales areas of marijuana products for medical use from sales areas of marijuana products for adult use. A retailer shall provide for separate lines for sales of marijuana products for medical use from marijuana products for adult use within the sales area, provided, however, that the holder of a medical registration card may use either line and shall not be limited only to the medical use line. A retailer shall additionally provide an area that is separate from the sales floor to allow for confidential consultation.

(8) Consumer Education. A Marijuana Retailer shall make available educational materials about marijuana products to consumers. A retailer must have an adequate supply of current educational material available for distribution. Educational materials must be available in commonly spoken languages designated by the Commission, which will include, but not be limited to appropriate materials for the visually- and hearing-impaired. Such materials shall be made available for inspection by the Commission upon request. The Commission will establish fines or other civil penalties for a Marijuana Establishment's failure to provide these materials. The educational material must include at least the following:

- (a) A warning that marijuana has not been analyzed or approved by the FDA, that there is limited information on side effects, that there may be health risks associated with using marijuana, and that it should be kept away from children;
- (b) A warning that when under the influence of marijuana, driving is prohibited by M.G.L. c. 90, § 24, and machinery should not be operated;
- (c) Information to assist in the selection of marijuana, describing the potential differing effects of various strains of marijuana, as well as various forms and routes of administration;
- (d) Materials offered to consumers to enable them to track the strains used and their associated effects;
- (e) Information describing proper dosage and titration for different routes of administration. Emphasis shall be on using the smallest amount possible to achieve the desired effect. The impact of potency must also be explained;
- (f) A discussion of tolerance, dependence, and withdrawal;
- (g) Facts regarding substance abuse signs and symptoms, as well as referral information for substance abuse treatment programs;
- (h) A statement that consumers may not sell marijuana to any other individual;
- (i) Information regarding penalties for possession or distribution of marijuana in violation of Massachusetts law; and
- (j) Any other information required by the Commission.

(9) Testing. 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. The product must be deemed to comply with the standards required under 935 CMR 500.160.

(10) Patient Supply.

(a) A Marijuana Retailer that is colocated with a RMD shall ensure access to a sufficient quantity and variety of marijuana products, including marijuana, for patients registered under 105 CMR 725.000: *Implementation of an Act for the Humanitarian Medical Use of Marijuana.*

1. Where the Marijuana Retailer 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 105 CMR 725.000, that is 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(6).
2. Where the Marijuana Retailer has been open and dispensing for a period of less than six months, the licensee shall reserve 35% of the RMD's marijuana products.

500.140: continued

(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. In the event that a substitution must be made, the substitution shall reflect the type and strain no longer available at the Marijuana Retailer as closely as possible.

(c) On a quarterly basis, the Marijuana Retailer shall submit to the Commission an inventory plan to reserve a sufficient quantity and variety of marijuana products for registered 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 Marijuana Retailer shall submit a report to the Commission in a form determined by the Commission.

(d) Marijuana products reserved by the Marijuana Retailer 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. Marijuana Retailers shall perform audits of patient supply available at the Marijuana Retailer on a weekly basis and retain those records for a period of six months.

(e) The Commission shall, consistent with 935 CMR. 500.300, inspect and audit colocated Marijuana Retailers to ensure compliance with this section. The Commission may, in addition to the issuance of a deficiency statement under 935 CMR 500.310 and a plan of correction under 935 CMR 500.320, demand that the Marijuana Establishment take immediate steps to replenish its reserved patient supply to reflect the amounts required under 935 CMR 500.140(10)(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 500.500.

(f) A Marijuana Retailer 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.

500.150: Edible Marijuana Products

(1) Production of Edible Marijuana Products. Production of edibles shall take place in compliance with the following:

(a) Any edible marijuana product that is made to resemble a typical food or beverage product must be packaged and labeled as required by M.G.L. c. 94G, § 4(a½)(xxvi) and 935 CMR 500.105(5) and (6).

(b) The manufacture or sale of edibles in the following shapes is prohibited:

1. The distinct shape of a human, animal, or fruit; or
2. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, or fruit, including artistic, caricature, or cartoon renderings.

(c) Edible marijuana products that are geometric shapes and simply fruit-flavored are not considered fruit and are permissible.

(2) Sanitary Requirements. All edible marijuana products shall be prepared, handled, and stored in compliance with the requirements in 935 CMR 500.105(3) and 500.105(11),

(3) Additional Labeling and Packaging Requirements for Edible marijuana products.

(a) In addition to the requirements set forth in M.G.L. c. 94G, § 4(a½)(xxvi) and 935 CMR 500.105(5) and (6), every Marijuana Retailer must ensure that the following information or statement is affixed to every container holding an edible marijuana product:

1. If the retail edible marijuana product is perishable, a statement that the edible marijuana product must be refrigerated.
2. The date on which the edible marijuana product was produced.
3. A nutritional fact panel that must be based on the number of THC servings within the container.
4. Information regarding the size of each serving for the product by milligrams, the total number of servings of marijuana in the product, and the total amount of active THC in the product by milligrams (mgs). For example: “The serving size of active THC in this product is X mg(s), this product contains X servings of marijuana, and the total amount of active THC in this product is X mg(s).”

500.150: continued

5. A warning that the impairment effects of edible marijuana may be delayed by two hours or more.
 - (b) Once a label with a use-by date has been affixed to a container holding an edible marijuana product, a licensee shall not alter that date or affix a new label with a later use-by date.
 - (c) A Marijuana Product Manufacturer must ensure that each single serving of an edible marijuana product is physically demarked in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active THC.
 - (d) Each serving of an edible marijuana product within a multi-serving package of edible marijuana products must be easily separable in order to allow an average person 21 years of age or older to physically separate, with minimal effort, individual servings of the product.
 - (e) Each single serving of an edible marijuana product contained in a packaged unit of multiple edible marijuana product shall be marked, stamped, or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates the package contains marijuana product.

- (4) Dosing Limitations. A Marijuana Product Manufacturer may not prepare, and a Marijuana Retailer may not deliver, sell or otherwise transfer an edible marijuana product with potency levels exceeding the following, as tested by an independent marijuana testing facility licensed in accordance with M.G.L. c. 94G, § 15:
 - (a) for a single serving of an edible marijuana product, five milligrams of active tetrahydrocannabinol (THC); and
 - (b) in a single package of multiple edible marijuana product to be eaten, swallowed, or otherwise ingested, not more than 20 servings or 100 milligrams of active THC.
 - (c) The THC content must be homogenous, or evenly distributed throughout the edible 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 the *Protocol for Sampling and Analysis of Finished Medical Marijuana Products and Marijuana-infused Products*, as amended in November, 2016, published by the DPH. 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 DPH.
- (2) A Marijuana Establishment shall have a written policy for responding to laboratory results that indicate contaminant levels are above acceptable limits established in the DPH protocols identified in 935 CMR 500.160(1). Any such policy shall include notifying the Commission within 72 hours of any laboratory testing results indicating that the contamination cannot be remediated and disposing of the production batch. The notification must be from both the Marijuana Establishment and the Independent Testing Laboratory, separately and directly. The notification from the Marijuana Establishment must describe a proposed plan of action for both the destruction of the contaminated product and the assessment of the source of contamination.
- (3) A Marijuana Establishment shall maintain the results of all testing for no less than one year;
- (4) The sale of seeds is not subject to these testing provisions.
- (5) Clones are subject to these testing provisions, but are exempt from testing for metals.
- (6) All transportation of marijuana to and from Independent Testing Laboratories providing marijuana testing services shall comply with 935 CMR 500.105(13).
- (7) All storage of marijuana at a laboratory providing marijuana testing services shall comply with 935 CMR 500.105(11);

935 CMR: CANNABIS CONTROL COMMISSION

500.160: continued

(8) All excess marijuana must be disposed in compliance with 935 CMR 500.105(12), either by the Independent Testing Laboratory returning excess marijuana to the source Marijuana Establishment for disposal or by the Independent Testing Laboratory disposing of it directly; and

(9) 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.

500.170: Municipal Requirements

(1) Marijuana Establishments and marijuana establishment agents shall comply with all local rules, regulations, ordinances, and bylaws.

(2) Nothing in 935 CMR 500.000 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.

500.200: 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 (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 500.000 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 product to the mainland of Massachusetts.

(3) If Marijuana Establishments operating from locations in the island counties are prevented from utilizing Independent Testing Laboratories by operation of law, they are required to test marijuana products in a manner that is not unreasonable 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.

500.300: Inspections and Compliance

(1) The Commission or its agents may inspect a Marijuana Establishment and affiliated vehicles at any time without prior notice in order to determine the Marijuana Establishment's compliance with St. 2016, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000. All areas of a Marijuana Establishment, all marijuana establishment agents and activities, and all records are subject to such inspection. Acceptance of a license by a Marijuana Establishment constitutes consent for such inspection.

(2) A Marijuana Establishment shall immediately upon request make available to the Commission all information that may be relevant to a Commission inspection, or an investigation of any incident or complaint.

(3) A Marijuana Establishment shall make all reasonable efforts to facilitate the Commission's inspection, or investigation of any incident or complaint, including the taking of samples, photographs, video or other recordings by the Commission or its agents, and to facilitate the Commission's interviews of marijuana establishment agents.

500.300: continued

(4) An inspection or other investigation may be made prior to the issuance of a license or renewal of registration. Additional inspections may be made whenever the Commission deems it necessary for the enforcement of St. 2016, c. 334, as amended by St. 2017, c. 55 and 935 CMR 500.000.

(5) During an inspection, the Commission may direct a Marijuana Establishment to test marijuana for contaminants as specified by the Commission, including but not limited to mold, mildew, heavy metals, plant-growth regulators, and the presence of pesticides not approved for use on marijuana by the Massachusetts Department of Agricultural Resources.

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

(1) Secret Shopper Program Authorized. The Commission, at any time and without prior notice, authorize an employee or other agent to pose as a customer and purchase any marijuana products from any licensed Marijuana Establishment. The Commission may authorize such purchase for any investigative purposes that are consistent with St. 2016, c. 334, as amended by St. 2017, c. 55 or 935 CMR 500.000, including, but not limited to, investigative testing for compliance with laboratory testing standards and identification check requirements. The purchasing employee or agent shall document the purchase, including the date, time, and place of purchase, type and amount of marijuana product, and any other information required by the Commission.

(2) Custody and Preservation of Purchases. The marijuana products purchased as part of the program shall be securely stored during transport in a manner to prevent contamination or spoilage.

(3) Contamination and Spoilage During Storage or Transport. Any contamination or spoilage of purchases under the Secret Shopper Program during storage or transport while under the control of the purchaser shall be promptly documented by the purchaser in writing and reported to the Commission. The Commission may authorize the disposal of the contaminated or spoiled purchase, pursuant to the regulations concerning marijuana waste disposal under 935 CMR 500.105(12).

(4) Use of Secret Shopper Investigative Results. Results of investigations conducted under Secret Shopper Program shall be promptly submitted to the Commission.

(a) All investigative results shall be retained as part of the records for the licensed Marijuana Establishment from which the purchase originated.

(b) The licensed Marijuana Establishment may be notified of any investigative results determined by the Commission to be noncompliant at a time and manner determined by the Commission.

(c) After the Marijuana Establishment is notified of the investigative results, such results may be used by the Commission to take action on the license of the Marijuana Establishment pursuant to 935 CMR 500.340, 500.350, 500.450, or 500.500 or assess fines or other civil penalties pursuant to 935 CMR 500.550.

(d) Without notice to the Marijuana Establishment, the Commission may share such investigative results with any other law enforcement or regulatory authorities.

(e) The Commission may elect to conduct further evaluation of the investigative results at any time for verification or for other purposes reasonably related to sanitation, public health or public safety.

500.302: Complaints Process

(1) In a time and manner determined by the Commission, a dedicated telephone number, email address or other means shall be provided for members of the public or consumers to notify the Commission of complaints regarding Marijuana Establishments or marijuana establishment agents.

(2) The Commission may, at its discretion, investigate or decline to investigate any complaint or refer a complaint to another law enforcement or regulatory authority.

500.310: Deficiency Statements

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

500.320: Plans of Correction

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

500.330: Marijuana Establishments: Limitation of Sales

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

500.340: Summary Cease and Desist Order and Quarantine Order

(1) A summary cease and desist order or quarantine order may be imposed by the Commission prior to a hearing in order to immediately stop or restrict operations by a Marijuana Establishment to protect the public health, safety, or welfare. The Commission may rescind or amend a summary cease and desist order or quarantine order.

If based on inspection or other evidence, the Commission determines that a Marijuana Establishment poses an immediate or serious threat to the public health, safety, or welfare, the Commission may:

- (a) Issue a cease and desist order or quarantine order which requires cessation of any or all Marijuana Establishment operations or the sale or use of marijuana products sold by the establishment; or
- (b) Issue a cease and desist order or quarantine order, which places restrictions on any or all Marijuana Establishment operations to the extent necessary to avert a continued threat, pending final investigation results.

(2) On receipt of notice 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 the Marijuana Establishment or other notice in a form and manner determined by the Commission.

500.340: continued

(3) If a hearing is requested in writing within 14 calendar days after the effective date stated in the order, a licensee shall be afforded a hearing on the order in accordance with 935 CMR 500.500(2).

(4) If, after further investigation, the Commission determines that there are grounds to suspend or revoke a Marijuana Establishment's license, it may also issue an order to show cause why the license should not be suspended or revoked or take any other administrative action it deems necessary to protect the public health, safety, or welfare.

(5) The requirements of the cease and desist or quarantine order shall remain in effect until the Commission rescinds or amends the order until there is a final decision on the merits of a Commission order to show cause, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or withdrawn by the Commission or until such time as is otherwise established in 935 CMR 500.500(2)(b).

500.350: Summary Suspension Order

(1) The Commission may summarily suspend any registration card or license issued pursuant to 935 CMR 500.000, pending further proceedings for denial of renewal or revocation of a registration or license, whenever the Commission finds that continued licensure poses an imminent danger to the public health, safety, or welfare. The Commission may rescind or amend the order.

If based on inspection or other evidence, the Commission determines that a Marijuana Establishment poses an immediate or serious threat to the public health, safety, or welfare, the Commission may:

- (a) Issue a summary suspension order, which requires cessation of any or all Marijuana Establishment operations or the sale or use of marijuana products sold by the establishment;
- or
- (b) Issue a summary suspension order, which places restrictions on any or all Marijuana Establishment operations to the extent necessary to avert a continued threat, pending final investigation results.

(2) On receipt of notice 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 the Marijuana Establishment or other notice in a form and manner determined by the Commission.

(3) If a hearing is requested in writing within 14 calendar days after the effective date stated in the order, a licensee shall be afforded a hearing on the order in accordance with 935 CMR 500.500(2)(c).

(4) If after further investigation, the Commission determines that there are grounds to suspend or revoke a Marijuana Establishment's license, it may also issue an order to show cause why the license should not be suspended or revoked or take any other administrative action it deems necessary to protect the public health, safety or welfare.

(5) The requirements of the summary suspension order shall remain in effect until the Commission rescinds or amends the order until there is a final decision on the merits of a Commission order to show cause, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or withdrawn by the Commission or until such time as is otherwise established in 935 CMR 500.500(2)(c).

500.400: Marijuana Establishment: Grounds for Denial of Initial Application for License

Each of the following, in and of itself, constitutes full and adequate grounds for denying an initial application for a Marijuana Establishment license.

- (1) Information provided by the applicant was misleading, incorrect, false, or fraudulent;

500.400: continued

- (2) 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, 935 CMR 500.105 and 935 CMR 500.110 based on the submission of information required by 935 CMR 500.101(1) and (2);
- (3) The applicant has been determined to be either not suitable pursuant to any one or more of the factors listed in 935 CMR 500.800 and 500.801;
- (4) The applicant failed to complete the application process within the time required by the Commission;
- (5) Members or executives of the Marijuana Establishment were members or executives of a Marijuana Establishment that had its license revoked or denied renewal in the Commonwealth or another jurisdiction; or
- (6) Any other ground that serves the purposes of St. 2016, c. 334, as amended by St. 2017, c. 55 or 935 CMR 500.000.

500.415: Void Marijuana Establishment License

A Marijuana Establishment license is void if the Marijuana Establishment ceases to operate or transfers its location without Commission approval.

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

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

- (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 materially inaccurate, incomplete, or fraudulent.
- (3) The Marijuana Establishment has failed to comply with any requirement of St. 2016, c. 334, as amended by St. 2017, c. 55 or 935 CMR 500.000, or any applicable law or regulation, including 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 assign its license to another entity without prior approval of the Commission.
- (6) There has been a lack of responsible operation of the Marijuana Establishment, as shown by, but not limited to, one or more of the following:
 - (a) failure to maintain the Marijuana Establishment in a clean, orderly, and sanitary fashion;
 - (b) permitting a marijuana establishment agent to use a registration card belonging to a different person;
 - (c) repeated sales of marijuana products to individuals younger than 21 years old, unless in each instance, the marijuana establishment agent reasonably relied upon validly issued government identification in compliance with M.G.L. c. 94G, § 9(b);
 - (d) repeated failure to verify the age of an individual prior to permitting that individual on the premises of a Marijuana Establishment or making sales of marijuana products to that individual; or
 - (e) other incompetent or negligent operation.

500.450: continued

- (7) The financial management of the Marijuana Establishment has resulted in the filing of a petition for bankruptcy or receivership related to the financial solvency of the Marijuana Establishment.
- (8) An executive or member of a Marijuana Establishment has maintained a substandard level of compliance with the statutory and regulatory requirements for the operation of a Marijuana Establishment in another jurisdiction including, but not limited to: failure to correct deficiencies, a limitation upon or a suspension, revocation, or refusal to grant or renew a registration or license to operate.
- (9) A marijuana establishment agent has a history of criminal conduct as evidenced by any criminal proceedings against such individual or marijuana facilities in which such individual either owned shares of stock or served as a corporate officer, and which resulted in conviction, guilty plea, plea of *nolo contendere*, or admission to sufficient facts.
- (10) An executive or member of a Marijuana Establishment has committed, permitted, aided, or abetted any illegal practices in the operation of any Marijuana Establishment.
- (11) 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.
- (12) The conduct or practices of the Marijuana Establishment have been detrimental to the safety, health, or welfare the public.
- (13) The conduct or practices of the Marijuana Establishment demonstrate a lack of suitability as specified in 935 CMR 500.800 and 500.801.
- (14) 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 Actions on Licenses

- (1) Notice of Violations. The Commission shall send written notice of the alleged violation(s) to a licensee. The written notice shall provide the licensee with a statement of the grounds for the action and of the right to request a hearing and the time period for such request.
- (2) Hearings.
 - (a) Generally. All hearings held pursuant to 935 CMR 500.500 shall be conducted in accordance with M.G.L. c. 30A and 801 CMR 1.02: *Informal/Fair Hearing Rules* and shall be conducted by a Hearing Officer determined by the Commission.
 - (b) Hearings on Summary Cease and Desist Orders or Quarantine Orders.
 1. Upon written request filed with the Commission, a licensee shall be afforded a hearing on a summary cease and desist order or quarantine order. The hearing request shall be filed no later than 14 days after the effective date of the order issued pursuant to 935 CMR 500.340.
 2. The Commission shall hold a hearing in a timely manner after receipt of a written request for a hearing.
 3. If the Commission proves by a preponderance of the evidence that there existed immediately prior to, or at the time of the order, an immediate or serious threat to the public health, safety, or welfare, the Hearing Officer may extend the order.
 4. If the licensee does not request a hearing, the order shall remain in effect until one or more of the following events has occurred;
 - a. The Commission rescinds the order after a determination that the conditions at issue in the order no longer exist;
 - b. There is a final decision on the merits of a Commission order to show cause, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or withdrawn by the Commission; or

500.500: continued

- c. There is a final decision on the merits of a Commission decision issued after the order, including judicial review of the decision, unless the decision is reversed or modified by a court of competent jurisdiction.
- (c) Hearings on Summary Suspension Orders.
 - 1. Upon written request filed with the Commission, a licensee shall be afforded a hearing on a summary suspension order. The hearing request shall be filed no later than 14 days after the effective date of the order issued pursuant to 935 CMR 500.350.
 - 2. The Commission shall hold a hearing in a timely manner after receipt of a written request for a hearing.
 - 3. If the Commission proves by a preponderance of the evidence that there existed immediately prior to, or at the time of the order, an immediate or serious threat to the public health, safety, or welfare, the Hearing Officer may extend the order.
 - 4. If the licensee does not request a hearing, the order shall remain in effect until one or more of the following events has occurred;
 - a. The Commission rescinds the order after a determination that the conditions at issue in the order no longer exist;
 - b. There is a final decision on the merits of a Commission order to show cause, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or withdrawn by the Commission; or
 - c. There is a final decision on the merits of a Commission decision issued after the order, including judicial review of the decision, unless the decision is reversed or modified by a court of competent jurisdiction.
- (d) Hearings on Other Actions. Notwithstanding 935 CMR 500.500(2)(b) and (c), for all other actions against a registration or license the Commission shall provide written notice and shall provide a hearing, if a hearing is requested in writing, within 21 calendar days after the effective date stated in the notice, prior to:
 - 1. the suspension, revocation, denial of a renewal application, fine, or other action taken with regards to a registration card issued to a marijuana establishment agent or marijuana-related business agent; or
 - 2. the suspension or revocation denial of a renewal application, fine or other action taken with regards to license issued to operate as a Marijuana Establishment;
- (e) Final Decision. The Commission shall bear the burden of proving the violation of law. All decisions of the Hearing Officer shall be in writing. The decision of the Hearing Officer shall be considered to be a final decision by the Commission.
- (f) Appeals. Any person aggrieved by a determination of the Commission may appeal the decision to the Superior Court in accordance with M.G. L. c. 30A, § 14.
- (g) Timeliness. The right to a hearing shall be waived if a hearing permitted under 935 CMR 500.500(2) is not requested within the specified time.

500.550: Fines

- (1) The Commission may issue an order to a licensee to show cause as to why a fine or other financial penalty against a licensee should not be imposed for any acts or omissions determined to be in violation of any provision of the state marijuana laws, including 950 CMR 500.000.
 - (a) Each such order:
 - 1. shall be in writing;
 - 2. shall describe with particularity the nature of the violation, including a reference to the law or regulation determined to have been violated;
 - 3. may contain an assessment of an administrative fine of up to \$25,000, or an order of abatement fixing a reasonable time for abatement of the violation or both;
 - 4. shall be served personally or by certified mail; and
 - 5. shall inform the licensee or person that he or she may request a hearing in accordance with 935.500(d).
 - (b) Failure to pay a fine within 30 calendar days of the date of the assessment, unless the order is appealed pursuant to 935 CMR 500.500, may result in further action being taken by the Commission including, but not limited to, suspension or revocation of a license. If an order is not appealed and the fine is not paid within 14 calendar days, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without the payment of the renewal fee and fine.

500.550: continued

(c) Nothing in 935 CMR 500.050 shall limit the Commission from issuing an order to suspend or revoke a license or registration card or taken any other administrative action allowed by law.

(d) An administrative fine up to \$25,000 may be assessed for each violation, but the decision to impose any fine shall identify the factors considered by the Commission in setting the amount of the fine. Each day during which a violation continues may constitute a separate offense, and each provision of the state marijuana laws, including 935 CMR 500.000, that is violated may constitute a separate offense.

(e) The Commission, in determining the amount of sanctions to impose may consider mitigating circumstances including, but not limited to:

1. the licensee's good faith efforts to avoid a violation;
2. the licensee's cooperation in the investigation;
3. the licensee's willingness to accept responsibility;
4. the licensee's status as current or past leader pursuant to the Leadership Ratings Program under 935 CMR 500.040; and
5. the licensee's compliance with the training requirements pursuant to 935 CMR 500.105(2)(B).

(2) All fees, fines, and penalties collected by or on behalf of the Commission, except for fingerprint-based criminal background checks, shall be made payable to the Commission and deposited into the Marijuana Regulation Fund.

500.650: Non-conflict with Other Laws

(1) Nothing in 935 CMR 500.000 shall be construed to limit the applicability of 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.

500.700: Waivers

(1) The Commission may waive applicability of one or more of the requirements imposed by 935 CMR 500.000 upon finding that:

- (a) compliance would cause undue hardship to the requestor;
- (b) if applicable, the requestor's noncompliance does not jeopardize the health or safety of any patient or the public;
- (c) if applicable, the requestor has instituted compensating features that are acceptable to the Commission; and

(2) The requestor provides to the Commission written documentation, in a form and manner determined by the Commission, supporting its request for a waiver.

(3) Waiver of Security Requirements. Upon receipt of the waiver request and written documentation, the Commission shall submit the request and documentation 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 waiver request and, within 30 days,

- (a) certify that waiver of the security requirement is not unreasonable under the circumstances; or
- (b) provide the Commission with a statement of reasons why the waiver jeopardizes the health or safety of consumers or the public.

500.700: continued

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

500.750: 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.

500.800: Background Check Suitability Standard for Licensure and Registration

- (1) The Commission may, in an exercise of its discretion, make a suitability determination.
- (2) The Commission may also delegate suitability determinations to the Executive Director, who may appoint a Suitability Review Committee to advise the Executive Director. The committee shall:
 - (a) consider whether an application or renewal should be denied or revoked based on a negative suitability determination;
 - (b) consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under Tables A-E, as applied to the subject, renders the subject unsuitable for licensure or registration; and
 - (c) 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 2.19: *Adverse Licensing Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS*.
- (3) All reviews shall be on the basis of information and evidence.
 - (a) Reviews shall be instituted by the Suitability Review Committee at the Executive Director's direction upon notification by designated investigative services staff or contractors of the need for a review.
 - (b) Reviews for appeals of determinations of unsuitability based on claims of erroneous information obtained as part of the background check shall be accompanied by the appropriate form as determined by the Commission and shall be filed no later than ten business days following receipt of the negative determination. Requests received after ten business days shall be considered at the discretion of the committee.
- (4) The Suitability Review Committee may make a Negative Suitability Determination, which may be based on one or more of the following:
 - (a) the applicant's or registrant's prior actions posed a risk to the public health, safety, or welfare, or indicate that the applicant or registrant would likely pose a risk to the public health, safety, or welfare, if a license or registration is granted or renewed;
 - (b) the applicant's or registrant's prior actions indicate that the applicant or registrant would likely act in a manner that is inconsistent with the purposes of St. 2016, c. 334, as amended by St. 2017, c. 55 as set forth in St. 2016, c. 334, § 1 if a license or registration is granted or renewed; or
 - (c) the applicant's or registrant's prior actions indicate that the applicant or registrant is not suitable for licensure or registration.A Negative Suitability Determination shall be based on credible and reliable information.

500.800: continued

(5) The Suitability Review Committee may make a Presumptive Negative Suitability Determination. The committee shall take into consideration the following factors when reviewing a presumptive negative suitability determination:

- (a) time since the offense or incident;
- (b) age of the subject at the time of the offense or incident;
- (c) nature and specific circumstances of the offense or incident;
- (d) sentence imposed and length, if any, of incarceration, if criminal;
- (e) penalty or discipline imposed, including damages awarded, if civil or administrative;
- (f) relationship of offense or incident to nature of work to be performed;
- (g) number of offenses or incidents;
- (h) whether offenses or incidents were committed in association with dependence on drugs or alcohol from which the subject has since recovered;
- (i) if criminal, any relevant evidence of rehabilitation or lack thereof, such as information about compliance with conditions of parole or probation, including orders of no contact with victims and witnesses, and the subject's conduct and experience since the time of the offense including, but not limited to, professional or educational certifications obtained; and
- (j) any other relevant information, including information submitted by the subject to the Suitability Review Committee or requested by the Commission.

(6) The Executive Director in consultation with the Suitability Review Committee may determine that an individual suitability determination warrants the Commission's consideration and make a recommendation to the Commission with regards to the individual's suitability determination.

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 controlling person has been convicted of a felony or offense in another state 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

(2) For purposes of determining suitability based on background checks in accordance with 935 CMR 500.101(1)(b) and (2)(c):

- (a) all conditions, offenses, and violations are construed to include Massachusetts law or like or similar law(s) of another state, the United States or foreign jurisdiction, a military, territorial or Native American tribal authority, or any other jurisdiction.
- (b) all criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation. Juvenile dispositions shall not be considered as a factor for determining suitability.
- (c) where applicable, all look back periods for criminal conditions, offenses, and violations included in Table A commence upon the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence upon release from incarceration.

(3) All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800.

935 CMR: CANNABIS CONTROL COMMISSION

500.801: continued

Table A: Marijuana Establishment Licensees. Shall apply solely to marijuana establishment agents listed on the application for licensure in accordance with 935 CMR 500.101(1) and (2).

| Time Period | Precipitating Issue | Result |
|---|---|---|
| Present (during time from start of application process through action on application) | 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 another jurisdiction but excluding any criminal proceeding based solely on a marijuana-related offense or a violation of M.G.L. c. 94C, § 34. | Mandatory Disqualification |
| | Open/Unresolved Marijuana Business-Related License Violations (Massachusetts or Other Jurisdictions) | Mandatory Disqualification |
| | Outstanding or Unresolved Criminal Warrants | Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.800(5) and 500.801) |
| Indefinite | Sex Offender Registration: required to register as a sex offender in any jurisdiction. | Mandatory Disqualification |
| | Felony Convictions in Massachusetts or Other Jurisdiction Including, but not Limited to: Felony weapons violation involving narcotics; Felony violence against a person; Felony involving theft or fraud; Felony drug, excluding conviction under M.G.L. c. 94C, § 34. | Mandatory Disqualification |
| | Conviction or CWOFF for any Distribution of a Controlled Substance to a Minor | Mandatory Disqualification |
| | Non-Felony Weapons Violations, Including Firearms, Involving Narcotics | Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.800(5) and 500.801) |
| | Firearms Crimes | Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.800(5) and 500.801) |
| Preceding Five Years | Multiple Criminal Complaints 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 complaints. | Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.800(5) and 500.801) |

500.802: Suitability Standard for Registration as a Marijuana Establishment Agent

(1) 935 CMR 500.802 shall apply to marijuana establishment agents or applicants in their capacity as employees or volunteers for a Marijuana Establishment licensed pursuant to 935 CMR 500.100 and shall be used by the Marijuana Establishment executive registered with the Department of Criminal Justice Information Systems pursuant to 803 CMR 2.04: *iCORI Registration* and the Commission for purposes of determining suitability for registration as a marijuana establishment agent with the licensee.

(2) For purposes of determining suitability based on background checks performed in accordance with 935 CMR 500.030(1):

(a) all conditions, offenses, and violations are construed to include Massachusetts law or like or similar law(s) of another state, the United States or foreign jurisdiction, a military, territorial or Native American tribal authority, or any other jurisdiction.

(b) all criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation. Juvenile dispositions shall not be considered as a factor for determining suitability.

(c) where applicable, all look back periods for criminal conditions, offenses, and violations included in 935 CMR 500.802: *Tables B through D* commence upon the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence upon release from incarceration.

(3) 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, the Suitability Review Committee shall:

(a) 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

(b) consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17: *Requirement to Maintain a Secondary Dissemination Log* and 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS*.

Table B: Retail and Transporter Marijuana Establishment Agents. Shall apply 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 under 935 CMR 500.050 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.) | 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 another jurisdiction but excluding any criminal proceeding based solely on a marijuana-related offense or a violation of M.G.L. c. 94C, § 32E (a) or § 34. | Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.800(5) and 500.802) |
| | Open Occupational License Cases | Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.800(5) and 500.802) |
| | 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 another 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 (<i>see</i> 935 CMR 500.800(5) and 500.802) |

500.802: continued

| Time Period | Precipitating Issue | Result |
|----------------------|---|--|
| Indefinite | Sex Offense: Felony conviction for a “sex offense” as defined in M.G.L. c. 6, § 178C and M.G. L. c. 127, § 133E or like offenses in other jurisdictions. | Mandatory Disqualification |
| | Felony Convictions in Massachusetts or Other Jurisdictions for trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in other jurisdictions, except convictions for solely marijuana-related crimes under M.G.L. c. 94C, § 32E(a), or like crimes in other jurisdictions. The Commission will provide guidance as to the list of controlled substances at issue. | Mandatory Disqualification from any position in which marijuana or marijuana products are handled or accessible. |
| | Conviction or CWOFF for Any Distribution of a Controlled Substance to a Minor | Mandatory Disqualification |
| | Failure to Register as a Sex Offender in Any Jurisdiction | Mandatory Disqualification |
| Preceding Five Years | Felony Convictions in Massachusetts or Other Jurisdictions for crimes of violence against a person or crimes of dishonesty or fraud, “violent crime” to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E. | Mandatory Disqualification |

Table C: Product Manufacturer Marijuana Establishment Agents. Shall apply solely to applicants for registration as a marijuana establishment 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.) | 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 another jurisdiction but excluding any criminal proceeding based solely on a marijuana-related offense or a violation of M.G.L. c. 94C, § 32E (a) and § 34. | Presumptive Negative Suitability Determination (see 935 CMR 500.800(5) and 500.802) |
| | Open Occupational License Cases | Presumptive Negative Suitability Determination (see 935 CMR 500.800(5) and 500.802) |
| | 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 another 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 (see 935 CMR 500.800(5) and 500.802) |

500.802: continued

| Time Period | Precipitating Issue | Result |
|-----------------------|--|--|
| Indefinite | Felony Convictions in Massachusetts or Other Jurisdictions for trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in other jurisdictions, except convictions for solely marijuana-related crimes under M.G.L. c. 94C, § 32E (a), or like crimes in other jurisdictions. The Commission will provide guidance as to the list of controlled substances at issue. | Mandatory Disqualification from any position in which marijuana or marijuana products are handled or accessible. |
| | Conviction or CWOFF for Any Distribution of a Controlled Substance to a Minor | Mandatory Disqualification |
| | Failure to Register as a Sex Offender in Any Jurisdiction | Mandatory Disqualification |
| Preceding Five Years | Felony Convictions in Massachusetts or Other Jurisdictions for crimes of violence against a person or crimes of dishonesty or fraud, “violent crime” to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E. | Mandatory Disqualification |
| Preceding Seven Years | CWOFF for Crimes of Violence, Fraud | Presumptive Negative Suitability Determination (see 935 CMR 500.800(5) and 500.802) |
| Preceding Ten Years | Sex Offense: Felony conviction for a “sex offense” as defined in M.G.L. c. 6, § 178C and M.G. L. c. 127, § 133E or like offenses in other jurisdictions. | Mandatory Disqualification |

Table D: Cultivation and Distribution Marijuana Establishment Agents. Shall apply solely to applicants for registration as a Marijuana Establishment agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100 as a Marijuana Cultivator or Craft Marijuana Cooperative under 935 CMR 500.050.

| Time Period | Precipitating Issue | Result |
|--|--|---|
| Present (during time from start of application process through action on application.) | 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 another jurisdiction but excluding any criminal proceeding based solely on a marijuana-related offense or a violation of M.G.L. c. 94C, § 32E (a) or § 34. | Presumptive Negative Suitability Determination (see 935 CMR 500.800(5) and 500.802) |
| | Open Occupational License Cases | Presumptive Negative Suitability Determination (see 935 CMR 500.800(5) and 500.802) |
| | 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 another 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 (see 935 CMR 500.800(5) and 500.802) |

500.802: continued

| Time Period | Precipitating Issue | Result |
|-----------------------|---|--|
| Indefinite | Conviction or CWOFF for Any Distribution of a Controlled Substance to a Minor | Mandatory Disqualification |
| | Felony Convictions 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 (<i>see</i> 935 CMR 500.800(5) and 500.802) |
| | Felony Convictions in Massachusetts or Other Jurisdictions for trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in other jurisdictions, except convictions for solely marijuana-related crimes under M.G.L. c. 94C, § 32E(a), or like crimes in other jurisdictions. The Commission will provide guidance as to the list of controlled substances at issue. | Mandatory Disqualification from any position in which marijuana or marijuana products are handled or accessible. |
| Preceding Three Years | Felony Convictions in Massachusetts or Other Jurisdictions for crimes of dishonesty or fraud. | Mandatory Disqualification |

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 500.050 and shall be used by the Independent Testing Laboratory executive registered with the Department of Criminal Justice Information Systems pursuant to 803 CMR 2.04: *iCORI Registration* and the Commission for purposes of determining suitability for registration as a laboratory agent with the licensee.

(2) In accordance with M.G.L. c. 94G, § 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 in another state that would be a felony drug offense in the Commonwealth.

(3) For purposes of determining suitability based on background checks performed in accordance with 935 CMR 500.803:

(a) All conditions, offenses, and violations are construed to include Massachusetts law or a similar law(s) of another state, the United States or a foreign jurisdiction, a military, territorial or Native American tribal authority, or any other jurisdiction. All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation. Juvenile dispositions shall not be considered as a factor for determining suitability.

(b) Where applicable, all look back periods for criminal conditions, offenses, and violations included in 935 CMR 500.803: *Table E* commences upon the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence upon release from incarceration.

(c) 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, the Suitability Review Committee shall:

1. consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under Table E renders the subject unsuitable for registration regardless of the determination of the licensee; and
2. consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17: *Requirement to Maintain a Secondary Dissemination Log* and 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS*.

935 CMR: CANNABIS CONTROL COMMISSION

Table E: Registration as a Laboratory Agent. Shall apply solely to applicants for registration as a laboratory agent in accordance with 935 CMR 500.803 at a Marijuana Establishment licensed pursuant to 935 CMR 500.050(7).

| Time Period | Precipitating Issue | Result |
|-----------------------|--|--|
| | 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 another jurisdiction. | Mandatory Disqualification |
| | Open Occupational License Cases | Mandatory Disqualification |
| | 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 another 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 (<i>see</i> 935 CMR 500.800(5) and 500.803) |
| Indefinite | Felony Drug Convictions in Massachusetts or Other Jurisdictions | Mandatory Disqualification |
| | Felony Convictions in Massachusetts or Other Jurisdictions for trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in other jurisdictions, except convictions for solely marijuana-related crimes under § 32E(a), or like crimes in other jurisdictions. The Commission will provide guidance as to the list of controlled | Mandatory Disqualification from any position in which marijuana or marijuana products are handled or accessible. |
| Preceding Five Years | Felony Convictions or CWOFF 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 (<i>see</i> 935 CMR 500.800(5) and 500.803) |
| Preceding Seven Years | Felony Convictions or CWOFF in Massachusetts or other Jurisdictions for crimes of dishonesty or fraud. | Presumptive Negative Suitability Determination (<i>see</i> 935 CMR 500.800(5) and 500.803) |

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: St. 2016, c. 334, as amended by St. 2017, c. 55.