



PROVISIONALLY ADOPTED RULES MAINE'S ADULT USE MARIJUANA PROGRAM

**Office of Marijuana Policy
Department of Administrative and Financial Services**

JUNE 2019

Table of Contents

General	4
Section 1 - Administrative	4
1.1 - Statutory Authority	4
1.2 - Communication with Department	4
1.3 - Definitions	4
Section 2 – Licenses and Licensing	12
2.1 - Licensing Overview	12
2.2 - Classes of Marijuana Establishment Licenses	13
2.3 - Qualifications	15
2.4 - Application for Conditional License	17
2.5 - Department Review of Conditional Applications	25
2.6 - Application for Active License, or Provisional Testing License	26
2.7 - Individual Identification Cards	28
2.8 - License Renewal Process	29
2.9 - Application for Relocation of Licensed Premises	30
2.10 - Transfer of License	31
Section 3 - General Compliance	33
3.1 - Reporting of Ownership, Financial, Management and Other Interests	33
3.2 - Premises	33
3.3 - Security	36
3.4 - General Conduct	38
3.5 - Adherence to Written Plans Approved by the Department	39
3.6 - Requirements Applicable to Cultivation Facilities	40
3.7 - Requirements Applicable to Testing Facilities	42
3.8 - Requirements Applicable to Products Manufacturing Facilities	42
3.9 - Requirements Applicable to Marijuana Stores and Nursery Cultivation Facilities	45
Section 4 - Tracking	48
4.1 - General Tracking Requirements	48
4.2 - Transportation	50
Section 5 - Advertising	53
5.1 - Definitions	53

5.2 - Prohibitions	53
5.3 - Websites	54
5.4 - Required Statements	54
5.5 - Objectionable and Non-Conforming Advertising	54
Section 6 - Licensee Samples	55
6.1 - Trade Samples	55
6.2 - Samples for Testing and Research	55
Section 7 - Authorized Transfers	56
Section 8 - Product Safety	57
8.1 - General Sanitary Requirements	57
8.2 - Marijuana Products Manufacturing Facility Product Safety	57
Section 9 - Waste Management	59
9.1 - Hazardous Waste	59
9.2 - Marijuana Waste	59
Section 10 - Wastewater	60
Section 11 - Package and Labeling	60
11.1 - General Packaging and Labeling Requirements for Retail Sale	60
11.2 - Packaging and Labeling of Trade Samples	61
11.3 - Packaging and Labeling for Retail Sale of Inhaled Marijuana Products	62
11.4 - Packaging and Labeling for Retail Sale of Edible Marijuana Products	63
11.5 - Packaging and Labeling for Retail Sale of Topical Marijuana Products	64
11.6 - Packaging and Labeling for Storage by a Marijuana Establishment	64
Section 12 - Enforcement	66
12.1 - Department Enforcement Authority	66
12.2 - Administrative Monetary Penalties	67
12.3 - License Restriction, Suspension, Revocation and Voluntary Surrender	69
12.4 - Destruction and Voluntary Surrender of Marijuana Plants, Marijuana and Marijuana Products	70
12.5 - Audit, Compliance and Random Testing	71
12.6 - Seizure or Confiscation of Marijuana, Marijuana Concentrate or Marijuana Products	71
12.7 - Marijuana Recalls	72
Section 13 - Fee Schedule	73
13.1 - Payment of Fees	73
13.2 - Return of Fees Prohibited	73

13.3 - Individual Identification Card Fees	73
13.4 - Fingerprinting and Criminal History Record Check Fee	73
13.5 - Tracking System Fees	73
13.6 - Cultivation Facility Application and License Fees	74
13.7 - Other Marijuana Establishment Application and License Fees	74
13.8 - Other Marijuana Establishment Fees	74
13.9 - Annual Renewal and Late Renewal Application and License Fees	74

General

These rules establish the requirements for becoming a licensed marijuana establishment, including fees, application and licensing processes and procedures for cultivation, production and retail sale of adult use marijuana. The activities described in these rules may be considered a violation of federal law. Persons cultivating, producing, selling, purchasing or otherwise receiving marijuana products may be subject to federal sanctions for what may otherwise be considered authorized conduct in the State of Maine, and compliance with these rules does not exempt licensees, their employees or customers from possible federal prosecution. The Department is not responsible or liable for the actions of marijuana establishments under these rules.

Unless otherwise indicated in these rules, copies of rules and statutes referenced herein are available from the following sources:

Code of Federal Regulations (CFR) is available online at <https://www.govinfo.gov/app/frtoc/today> (last accessed June 3, 2019) or in print from the Office of the Federal Register of the National Archives and Records Administration at 710 North Capitol Street NW, Washington, DC 20401.

Maine Revised Statutes (MRS) are available online at <http://mainelegislature.org/statutes/> (last accessed June 3, 2019) or in print from the Office of the Revisor of Statutes, 7 State House Station, Augusta, ME 04333-0007.

Code of Maine Rules (CMR) is available online at <https://www.maine.gov/sos/cec/rules/rules.html> (last accessed June 3, 2019) or in print from the Maine Department of the Secretary of State, Bureau of Corporations, Elections, and Commissions, 101 State House Station, Augusta, ME 04333-0101.

Section 1 - Administrative

1.1 - Statutory Authority

The Office of Marijuana Policy, referred heretofore as the Department, is an office of the Maine Department Administrative and Financial Services, pursuant to P. L. 2018, ch. 409, 28-B M.R.S. § 101, et seq. (the “Act”) generally, and 28-B M.R.S. §104 thereof specifically, has developed the following rules, to be known heretofore as the “Rule,” for the purposes of implementing, administering and enforcing the Act.

1.2 - Communication with Department

1.2.1 Written Communications. If an applicant or licensee is required to or elects to submit anything in writing to the Department, unless otherwise prescribed by the Department, the applicant or licensee may submit the writing to the Department via:

- A. Mail;
- B. In-person delivery;
- C. Facsimile; or
- D. E-mail.

1.2.2 Submission Deadline. If a written notification must be submitted by a deadline it must be received by the Department, regardless of the method used to submit the writing, by 5:00 p.m. Eastern Time.

1.3 - Definitions

1. **Active license:** “Active license” means a license issued by the Department that authorizes cultivation, testing, manufacture or sale of marijuana or marijuana products in accordance with the Maine Revised Statutes and this Rule.

2. **Adult use marijuana:** "Adult use marijuana" means marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.
3. **Adult use marijuana product:** "Adult use marijuana product" means a marijuana product that is manufactured, distributed or sold by a marijuana establishment.
4. **Age restricted retail area:** "Age restricted retail area" is an area in a marijuana store or nursery cultivation facility that allows access to adults aged 21 or older only for purposes authorized in Section 3.2.2 of this Rule.
5. **Analytical batch:** "Analytical batch" means a group of samples that is prepared and/or analyzed together with the same process and personnel, using the same lot(s) of reagents.
6. **Another jurisdiction:** "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states of the United States except Maine.
7. **Apparent activity:** "Apparent activity" is any sights, sounds, smells or other indications that persons are present at a marijuana establishment.
8. **Applicant:** "Applicant" means a person who submits an application for a license under this chapter to the department for review that the department has not yet approved or denied.
9. **Batch:** "Batch" means:
 - a. A specific quantity of adult use marijuana harvested during a specified period of time from a specified cultivation area within a cultivation facility; or
 - b. A specific quantity of adult use marijuana or adult use marijuana products produced during a specified period of time in a specified manufacturing area within a products manufacturing facility.
10. **Batch number:** "Batch number" means a distinct group of numbers, letters or symbols, or any combination thereof, assigned to a specific batch of adult use marijuana by a cultivation facility or to a specific batch of adult use marijuana or adult use marijuana products by a products manufacturing facility.
11. **Business entity:** "Business entity" means a partnership, association, company, corporation, limited liability company or other entity incorporated or otherwise formed or organized by law. "Business entity" does not include a federal, state or municipal government organization.
12. **Caregiver:** "Caregiver" has the same meaning as in 22 MRS§2422(8-A).
13. **Child-resistant:** "Child-resistant" means, with respect to packaging or a container:
 - a. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and
 - b. With respect to any product intended for more than a single use or that contains multiple servings, resealable.
14. **Commissioner:** "Commissioner" means the Commissioner of Administrative and Financial Services.
15. **Conditional license:** "Conditional license" is a license issued by the Department that authorizes the licensee to seek local authorization. The conditional license does not authorize possession, transfer, cultivation, testing, manufacture or sale of marijuana or marijuana products.

16. **Container:** "Container" means a sealed package in which adult use marijuana or an adult use marijuana product is placed by a marijuana store prior to sale to a consumer and that meets all applicable packaging, labeling and health and safety requirements of this chapter and the rules adopted pursuant to this chapter.
17. **Criminal justice agency:** "Criminal justice agency" has the same meaning as in 16 MRS§803(4).
18. **Cultivation:** "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction.
19. **Cultivation facility:** "Cultivation facility" means a facility licensed under this Rule to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores. A cultivation facility includes a nursery cultivation facility. Licensees that cultivate marijuana in a nursery cultivation facility may sell an unlimited number of marijuana seeds and a sum total of 12 seedlings and immature plants to a consumer 21 years of age or older.
20. **Department:** "Department" means the Department of Administrative and Financial Services.
21. **Disqualifying drug offense:** "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more, except that "disqualifying drug offense" does not include:
- a. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years prior to the submission of an application for a license under this Rule; or
 - b. An offense that consisted of conduct that is authorized under 28-B MRS, chapter 3.
22. **Edible marijuana product:** "Edible marijuana product" means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing marijuana or marijuana concentrate.
23. **Flowering:** "Flowering" means, with respect to a marijuana plant, the gametophytic or reproductive state of a female marijuana plant during which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of marijuana.
24. **Harvest batch:** "Harvest batch" means a batch of marijuana flowers, leaves and trim that was harvested from marijuana plants of the same strain, grown under the same conditions, in the same area of a marijuana cultivation establishment and harvested at the same time.
25. **Identity statement:** "Identity statement" means the name of a business entity as it is commonly known and used in any advertising or marketing by the business entity.
26. **Immature marijuana plant:** "Immature marijuana plant" means a marijuana plant that is not a mature marijuana plant or a seedling.
27. **Infused marijuana product:** "Infused marijuana product" means a product or compound that includes one or more marijuana concentrate along with other materials or ingredients, including without limitation, edible marijuana products and topical marijuana products.
28. **Inhaled marijuana product:** "Inhaled marijuana product" means usable marijuana, marijuana concentrate or marijuana products that are intended to be consumed by inhalation, including, without limitation: marijuana flower or trim, pre-rolled marijuana cigarettes, vaporizer cartridges and vaporizer pens.

29. **Inherently hazardous materials:** "Inherently hazardous materials" means a liquid chemical, compressed gas or commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous materials" does not include any form of alcohol or ethanol.
30. **Intermediate packaging:** "Intermediate packaging" means packaging materials that are not part of the marketing layer or container, but are included inside an outer container layer, such as a marketing layer.
31. **Intoxication:** "Intoxication" means a substantial impairment of an individual's mental or physical faculties as a result of drug or alcohol use.
32. **Law enforcement officer:** "Law enforcement officer" has the same meaning as in 17-A MRS§2(17).
33. **Licensed premises:** "Licensed premises" means the premises specified in a license to operate a marijuana establishment within which the licensee is authorized under this chapter and the rules adopted pursuant to this chapter to cultivate, manufacture, distribute, test or sell adult use marijuana or adult use marijuana products.
34. **Licensee:** "Licensee" means a natural person or business entity licensed pursuant to 28-B MRS to operate a marijuana establishment.
35. **Limited access area:** "Limited access area" means a building, room or other area within the licensed premises of a marijuana establishment where a licensee is authorized to cultivate, process, store, weigh, manufacture, package or otherwise prepare for transfer or retail sale, marijuana and marijuana products. A "limited access area" can only be accessed by authorized individual identification cardholders or visitors 21 and older accompanied by an authorized individual identification cardholder.
36. **Liquid:** "Liquid" means a substance that flows freely but is of constant volume, having a consistency like that of water or oil.
37. **Local authorization:** "Local authorization" means authorization from a municipality in accordance with 28-B MRS§402 or authorization from the Land Use Planning Commission and either a town, plantation, or county commission in accordance with 28-B MRS§403.
38. **Transportation manifest:** "Transportation manifest" means a record, either paper or electronic, required by the Department for a licensed facility to document the possession and transfer of the marijuana or marijuana product on the premises, tracking all inventory, acquisition, sales and waste disposal.
39. **Manufacture:** "Manufacture" or "manufacturing" means the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including but not limited to marijuana extraction or preparation by means of chemical synthesis. "Manufacture" or "manufacturing" does not include cultivation or testing.
40. **Manufacturing batch:** "Manufacturing batch" means a batch of cannabis concentrate or extract that is produced in one production cycle using the same extraction methods or formulation and standard operating procedures.
41. **Marijuana:** "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include hemp as defined in 7 MRS§2231(1), or a marijuana product.
42. **Marijuana concentrate:** "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredient combined with marijuana or marijuana concentrate to prepare the marijuana product may not be included.

43. **Marijuana drink:** "Marijuana drink" means a liquid edible marijuana product with a concentration of less than 1 mg of THC per ounce of liquid
44. **Marijuana establishment:** "Marijuana establishment" means a cultivation facility, a products manufacturing facility, a testing facility or a marijuana store licensed under 28-B MRS and these Rules.
45. **Marijuana extraction:** "Marijuana extraction" means the process of extracting marijuana concentrate from marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.
46. **Marijuana flower:** "Marijuana flower" means the pistillate reproductive organs of a mature marijuana plant, whether processed or unprocessed, including the flowers and buds of the plant. "Marijuana flower" does not include marijuana trim or whole mature marijuana plants.
47. **Marijuana items:** "Marijuana items" means any usable marijuana or marijuana product that is packaged and labeled for retail sale.
48. **Marijuana plant:** "Marijuana plant" means all species of the plant genus cannabis, including, but not limited to, a mother plant, a mature marijuana plant, an immature marijuana plant or a seedling but it does not include a marijuana product or "hemp" as defined in 7 MRS § 2231(1)..
49. **Marijuana products:** "Marijuana products" means a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.
50. **Marijuana store:** "Marijuana store" means a facility licensed under this chapter to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.
51. **Marijuana trim:** "Marijuana trim" means any part of a marijuana plant, whether processed or unprocessed, that is not marijuana flower or a marijuana seed; except that "marijuana trim" does not include fan leaves, stalks, and root balls.
52. **Marijuana waste** "Marijuana waste" means marijuana, marijuana plants or marijuana products that are unfit for retail sale for reasons including, without limitation, failed mandatory testing, expired products or crop failure.
53. **Marketing layer:** "Marketing layer" means the outermost layer of a retail sale container, which is most predominantly apparent and visible, such as a box or bag that another container containing marijuana, marijuana plants, marijuana concentrate, or marijuana products are within. If the retail sale container consists of only a single layer, then the outer surface of the retail sale container is the marketing layer.
54. **Mature marijuana plant:** "Mature marijuana plant" means a marijuana plant that is flowering.
55. **Minor:** "Minor" means a person under the age of 21.
56. **Mother plant:** "Mother plant" means a mature marijuana plant that is used solely for the taking of seedling cuttings.
57. **Municipality:** "Municipality" means a city, town or plantation in this State that is not located within the unorganized and deorganized areas.
58. **Nursery plant canopy:** "Nursery plant canopy" is defined as the total square footage of cultivation space occupied by immature plants and seedlings.
59. **Opaque:** "Opaque" means, with respect to packaging or a container, that any product inside of the packaging or container cannot be seen from outside the packaging or container.

60. **Other interested parties:** “Other interested parties” means individuals, groups of individuals or entities that have a direct or indirect financial interest in the licensee’s business plan, marketing strategy or operations but are not substantially involved in the management of a marijuana establishment. “Other interested parties” includes state- or federally-chartered financial institutions like banks and credit unions, except where explicitly excluded in these rules.
61. **Party of control:** “Party of control” means an individual person, group of persons or entity that exerts more than minimal influence, through direct or indirect financial interest, over decisions regarding the operation of a marijuana establishment and is entitled to a share of the revenue or profits of the marijuana establishment. “Party of control” does not include state- or federally-chartered financial institutions like banks and credit unions.
62. **Person:** “Person” means a natural person or a business entity.
63. **Plant canopy:** “Plant canopy” means the total surface area within the licensed premises of a cultivation facility that is authorized by the Department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by defined boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculation the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedling and that are not used by the licensee at any time to cultivate mature marijuana plants.
64. **Premises:** “Premises” means the designated area within a structure or structures and land specified in the application for registration that is owned, leased or otherwise held under the control of the applicant or licensee where conduct related to marijuana processing and manufacturing takes place. The premises must be a contiguous area and may only be occupied by one establishment, unless otherwise permitted by statute and this Rule. Nothing in this definition should be construed to prohibit the siting of multiple marijuana establishments in the same building or property so long as each establishment operates in a physically distinct space from any other establishment.
65. **Process:** “Process,” “processing” or “processed” means the activities involving marijuana plants and plant materials that follow the harvesting of marijuana plants and that precede the manufacturing of marijuana products or the transfer of marijuana to a marijuana store. Activities include, without limitation, the drying, curing, trimming, sorting, weighing and packaging of usable marijuana.
66. **Production batch:** “Production batch” means a prepared marijuana product that is finished plant material, marijuana concentrate, infused marijuana products or other marijuana products made at the same time, using the same methods, equipment and ingredients.
67. **Products manufacturing facility:** “Products manufacturing facility” means a facility licensed under this chapter to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities
68. **Propagation:** “Propagation” means the process of reproducing marijuana plants through the use of marijuana seeds, cuttings or grafting.
69. **Provisional license:** “Provisional license” means a license issued by the Department that authorizes testing of marijuana or marijuana products by a testing facility that has met all requirements other than third party certification, including application for third party certification. The Department may renew a provisional license only once.
70. **Resident:** “Resident” means a natural person who:

- a. Has filed a resident individual income tax return in this State pursuant to Title 36, Part 8 in each of the 4 years prior to the year in which the person files an application for licensure under this chapter. This paragraph is repealed effective June 1, 2021;
 - b. Is domiciled in this State; and
 - c. Maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State.
- 71. **Retail sale container:** "Retail sale container" means a container in which marijuana, marijuana plants, marijuana concentrate and marijuana products are conveyed during a retail sale which meets all applicable packaging and labeling requirements set forth in 28-B MRS and this Rule.
- 72. **Sale:** "Sale" or "sell" means a transfer of marijuana or marijuana products for consideration.
- 73. **Seedling:** "Seedling" means a marijuana plant that is:
 - a. Not flowering;
 - b. Less than 6 inches in height; and
 - c. Less than 6 inches in width.
- 74. **Tamper-evident:** "Tamper-evident" means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.
- 75. **Testing:** "Testing" or "test" means the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency. "Testing" or "test" does not include cultivation or manufacturing.
- 76. **Testing facility:** "Testing facility" means a facility licensed under this chapter to develop, research and test marijuana, marijuana products and other substances.
- 77. **THC:** "THC" means tetrahydrocannabinol.
- 78. **Tincture:** "Tincture" means a liquid edible marijuana product with a concentration of greater than 1 mg of THC per ounce of liquid.
- 79. **Topical marijuana product:** "Topical marijuana product" means non-edible marijuana or marijuana products that are intended to be applied topically and absorbed transdermal, including without limitation salves, creams, lotions, transdermal patches or balms.
- 80. **True party of interest:** "True party of interest" means a natural person who is a sole proprietor, owner, officer, director, manager or general partner of an applicant or a licensee. Regardless of a person's title within the business entity, anyone who holds an ownership interest and is involved in management decisions, board meetings or operations is considered to be a true party of interest; except that "manager" for the purposes of this definition does not include an employee of a licensee whose managerial responsibilities are limited to staff supervision related to the day-to-day operation of a marijuana establishment.
- 81. **Universal symbol:** "Universal symbol" means an image developed by the department, and made available to licensees, that indicates that a container, package or product contains marijuana or contains or is a marijuana product.
- 82. **Unorganized and deorganized areas:** "Unorganized and deorganized areas" has the same meaning as in 12 MRS§682(1).
- 83. **Usable marijuana:** "Usable marijuana" means dried flowers and trim from mature marijuana plants.

84. **Unusable:** “Unusable” means that the Marijuana can no longer be smoked, eaten, ingested, topically applied or otherwise ingested. Nor can the marijuana be further manipulated in a manner to extract more than a trace amount of cannabinoid.
85. **Visibly intoxicated:** "Visibly intoxicated" means in a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual that clearly demonstrates the state of intoxication.
86. **Wholesale container:** “Wholesale container” means a sealed package in which adult use marijuana, marijuana concentrate and marijuana products are conveyed during an authorized transfer.

Section 2 – Licenses and Licensing

2.1 - Licensing Overview

2.1.1 License Classes Identified. The general classes of licenses for marijuana establishments are cultivation facility, testing facility, products manufacturing facility and marijuana store.

2.1.2 Licensing Process for all Classes of Marijuana Establishments. The application process for all forms of marijuana establishment licenses shall include the following steps:

- A. The applicant submits an application for a conditional license, including all forms and supplemental information required by the Department. It is the exclusive responsibility of the applicant to clearly indicate on any forms, attachments, and supplemental information supplied to the Department any content the applicant deems to be trade secrets or other information that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding, which may otherwise be included as a “public record” pursuant to 1 MRS § 402(3) in a response to a request for records and information under the Maine Freedom of Access Act.
- B. The State Bureau of Identification conducts fingerprinting and criminal history record check of all true parties of interest pursuant to Rule 2.4.3.
- C. Within 90 days of receiving all application forms, supplemental materials, and criminal history record check results required for the issuance of a conditional license, the Department shall either deny the license or issue a non-renewable conditional license valid for up to one year. A conditional license does not grant the authority to cultivate, test, manufacture, sell, or otherwise possess or transfer marijuana or marijuana products.
- D. The holder of the conditional license must then secure local authorization to locate the marijuana establishment in a municipality, town or plantation that has voted to allow that class of marijuana establishment, or in a township where the county has opted in to allow that class of marijuana establishment.
 - (1) If located in a municipality, the conditional licensee may appeal, under Maine Rules of Civil Procedure, Rule 80B, the municipality’s denial of approval or failure to act on the application as described in 28-B MRS§402(5).
 - (2) If located in an unorganized or deorganized area, the conditional licensee may appeal, under Maine Rules of Civil Procedure, Rule 80B or 80C, the denial of approval or failure to act on the application by the town, plantation, county or Maine Land Use Planning Commission, as described in 28-B MRS§403(5).
 - (3) If the proposed location is in a municipality, the Department may not proceed until the municipality transmits to the Department its approval on the local authorization form issued by the Department.
 - (4) If located in an unorganized or deorganized area, the Department may not proceed until the Land Use Planning Commission transmits to the Department its approval, and the approval of the town, plantation, or (in the case of townships) county commission on the local authorization form issued by the Department.
 - (5) It is the responsibility of the municipality, or the responsibility of Land Use Planning Commission, in coordination with the town, plantation or county commission, to submit copies of the relevant written permits, warrant article or other agreement affecting the licensee’s operations to the Department as an attachment to the local authorization form.
 - (6) It is the responsibility of the licensee to comply with the terms of the local permit or warrant article authorizing marijuana establishments, any local ordinance and land use standards, other warrant article affecting operations and any other conditions of local approval, even if such requirements have not been communicated to the Department.
- E. Within 10 days of receiving the local authorization form from the municipality or Maine Land Use Planning Commission, the Department shall notify the conditional licensee of the remaining requirements for an active license.

- F. The conditional licensee must then submit a facility plan and other required plans required for the class of license applied for, showing the location of the establishment within the municipality, town, plantation or township.
- G. The conditional licensee must obtain a sales tax identification number unique to the marijuana establishment and submit proof of registration with the State Tax Assessor.
- H. A conditional cultivation facility licensee must additionally:
 - (1) Submit up-to-date operating and cultivation plans.
 - (2) Obtain an Excise Tax Identification Number unique to the marijuana establishment and submit proof of registration with the State Tax Assessor.
- I. The conditional licensee must submit in writing a description of any material changes, including but not limited to recent arrests, administrative sanctions or ownership changes, or an affirmation that no material changes have taken place.
- J. Based on the additional information submitted by the conditional licensee, the Department may deny the application for an active license in accordance with 28-B MRS§206.
- K. Upon the conditional licensee's satisfaction of all other requirements for an active license, the Department shall then invoice the conditional licensee for the applicable license fee. No payment of this initial license fee may be accepted by the Department unless invoiced by the Department.
- L. When all requirements have been met, the Department shall issue an active license valid for one year, or in the case of a testing facility that has met all requirements other than third-party accreditation, a provisional license valid for one year and renewable only once.
- M. The licensee must submit renewal applications no less than 30 days prior to the date of expiration of the license, including obtaining continued local authorization.
- N. The licensee must apply for Department approval whenever relocating a marijuana establishment or transferring any ownership, financial or management interest in the marijuana establishment. Department approval of any marijuana establishment relocation is contingent upon approval of the relocation by the relevant municipal official(s).

2.2 - Classes of Marijuana Establishment Licenses

2.2.1 Cultivation Facility License.

- A. The Department may issue the following types of cultivation facility licenses:
 - (1) **Tier 1 cultivation facility license.** The two subcategories of tier 1 cultivation facility license are plant-count-based tier 1 cultivation facility license and plant-canopy-based tier 1 cultivation facility license:
 - (a) Plant-count-based tier 1 cultivation facility license. Allows cultivation of a specified number (not more than 30) of mature marijuana plants and an unlimited number of immature marijuana plants and seedlings;
 - (b) Plant-canopy-based tier 1 cultivation facility license. Allows cultivation of not more than 500 square feet of plant canopy of mature plants.
 - (2) **Tier 2 cultivation facility license.** Allows cultivation by a licensee of not more than 2,000 square feet of plant canopy of mature plants;
 - (3) **Tier 3 cultivation facility license.** Allows cultivation by a licensee of not more than 7,000 square feet of plant canopy of mature plants;
 - (4) **Tier 4 cultivation facility license.** Allows cultivation by a licensee of not more than 20,000 square feet of plant canopy of mature plants, except as approved by the Department pursuant to 28-B MRS§304; or
 - (5) **Nursery cultivation facility license.** Allows cultivation by a licensee of not more than 1,000 square feet of plant canopy, subject to the requirements and restrictions of 28-B MRS§501(3).
- B. A tier 1, tier 2, tier 3 or tier 4 cultivation facility license permits the following activities, subject to all requirements of Maine Title 28-B and this Rule:
 - (1) Planting and raising marijuana plants, subject to the limits associated with each tier of license described above;
 - (2) Harvesting and trimming marijuana plants;
 - (3) Storing harvested marijuana flower and marijuana trim;

- (4) Packaging marijuana flower and marijuana trim into individual retail units for wholesale to a marijuana store; and
- (5) Selling and transporting as authorized marijuana flower and marijuana trim to testing facilities, products manufacturing facilities or marijuana stores.

A tier 1, tier 2, Tier 3, or tier 4 cultivation license does not exempt the licensee from electrical permitting and inspection requirements and does not authorize sales to consumers.

- C. A nursery cultivation facility license permits the following activities, subject to all requirements of 28-B MRS and this Rule:

- (1) Planting and raising immature marijuana plants, subject to the limits described above;
- (2) Planting and raising mature marijuana plants, subject to the plant canopy square footage limits in Section 2.2.1 (A)(e) of this Rule, solely for the purpose of propagating seedlings or immature marijuana plants or collecting seeds, in an area clearly delineated from areas used for planting and raising immature marijuana plants and seedlings;
- (3) Collection of marijuana seeds for sale;
- (4) Preparation of marijuana seedlings and immature plants for sale;
- (5) Selling marijuana seeds, seedlings and immature plants to cultivation facilities and marijuana stores;
- (6) Selling unlimited marijuana seeds, and a sum total of 12 seedlings and immature plants to a consumer 21 years of age or older provided the premises has age restricted retail areas in compliance with Section 3.2.2 of this Rule; and
- (7) Selling agricultural or gardening supplies relating to the cultivation of marijuana, including agricultural chemicals approved for use in marijuana cultivation and electrical equipment that is approved by being listed by a nationally recognized testing laboratory or approved by the authority having jurisdiction.

A nursery cultivation facility license does not exempt the licensee from electrical permitting and inspection requirements.

2.2.2 Testing Facility License.

Reserved for routine technical rulemaking as defined in 5 MRS, chapter 375, subchapter 2-A.

2.2.3 Products Manufacturing Facility License.

- A. A products manufacturing facility license permits the following activities, subject to all requirements of 28-B MRS and this Rule:
 - (1) Purchasing adult use marijuana from licensed cultivation facilities;
 - (2) Purchasing adult use marijuana concentrate from other licensed products manufacturing facilities;
 - (3) Extracting cannabinoids from marijuana or marijuana plants;
 - (4) Preparing, weighing, packaging, labeling and storing inhaled marijuana products, edible marijuana products or tinctures and/or topical marijuana products using marijuana or marijuana concentrate;
 - (5) Selling or authorized transport of marijuana concentrate to licensed products manufacturing facilities; and
 - (6) Selling or authorized transport of marijuana products to licensed marijuana stores.
- B. A products manufacturing facility license does not permit the manufacture or assembly of any goods other than marijuana products, including without limitation pipes, other smoking paraphernalia, reusable storage containers or any other items that do not contain marijuana and/or are not intended for consumption. A manufacturing facility may assemble packaging and labeling for use on their products if packaging and labeling is consistent with the requirements of governing statute and standards contained in this Rule.
- C. A products manufacturing facility shall comply with all generally applicable kitchen-related health and safety standards of the relevant local jurisdiction and of the State of Maine Food Code, Department of Health and Human Services (Chapter 200) and Agriculture, Conservation and Forestry (Chapter 331), except that, for the purposes of these rules, the addition of marijuana or THC to food shall not be considered impermissible adulteration.
- D. Preparation of all marijuana products, unless otherwise specified, shall comply with all provisions of the State of Maine Food Code, including rules relating to potentially hazardous foods, food preparation areas

and all other safety related provisions, unless otherwise specified. For the purposes of these rules, the addition of marijuana or THC to food shall not be considered impermissible adulteration.

- E. A products manufacturing facility licensee must meet electrical codes and municipal, state, and federal environmental requirements.
- F. Adult use marijuana products shall comply with all other provisions of this Rule, including the use of solvents and inherently hazardous substances.

2.2.4 Marijuana Store License.

- A. A marijuana store license permits the following activities, subject to all requirements of 28-B MRS and this Rule:
 - (1) Purchase adult use marijuana, pre-packaged retail units of marijuana flower and marijuana trim, immature marijuana plants and seedlings from a licensed cultivation facility;
 - (2) Purchase packaged adult use marijuana and adult use marijuana products from a products manufacturing facility;
 - (3) Store adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings;
 - (4) Conduct authorized transports of adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to another licensed marijuana store or licensed testing facility;
 - (5) Sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers;
 - (6) Sell consumable products not containing marijuana, tobacco, or alcohol, including, but not limited to: soft drinks, candies and baked goods.A marijuana store license does not exempt the licensee from any state or local permitting and inspection requirements.

2.3 - Qualifications

2.3.1 General Licensing Criteria. An applicant for a license to operate a marijuana establishment must meet each of the following requirements, if applicable. Except as otherwise provided in this Section, if the applicant is a business entity, every true party of interest of the business entity must meet each of the requirements of this Section. An applicant shall disclose in or include with its application the names and addresses of the applicant and all natural persons and business entities having a direct or indirect financial interest in the applied-for license and the nature and extent of the financial interest held by each person or entity and, if applicable, the nature and extent of any financial interest the person or entity has in any other license applied for or issued under this chapter.

- A. **Age.** The applicant must be at least 21 years of age. If the applicant is a business entity, every officer, director, manager and general partner of the business entity must be at least 21 years of age.
- B. **Resident.**
 - (1) If the applicant is a natural person, the applicant must certify that he or she is a resident of the State of Maine as defined by this Rule.
 - (2) If the applicant is a business entity:
 - (a) Every officer, director, manager and general partner of the business entity must be a natural person who is a resident of the State of Maine. The applicant shall demonstrate to the Department that every officer, director, manager and general partner of the business entity is a natural person who is a resident of the State of Maine; and
 - (b) A majority of the shares, membership interests, partnership interests or other equity ownership interests as applicable to the business entity must be held or owned by natural persons who are residents or business entities whose owners are all natural persons who are residents of the State of Maine. The applicant shall demonstrate to the Department that a majority of the shares, membership interests, partnership interests and other equity ownership interests are held by residents of the State of Maine.
 - (3) This subsection does not apply to an applicant for a testing facility license.
- C. **Incorporated in State.** If the applicant is a business entity, the business entity must be incorporated in the State of Maine or otherwise formed or organized under the laws of the State.
- D. **Prohibited persons.**

- (1) Not employee of state agency. The applicant may not be employed by the Department or any other state agency with regulatory authority under this chapter or the rules adopted pursuant to this chapter. The applicant must disclose any current state employment.
- (2) Not law enforcement officer or corrections officer. The applicant may not be a law enforcement officer; a corrections officer as defined in 25 MRS§2801-A(2); or any other natural person subject to the certification requirements of 25 MRS, chapter 341.

E. Good conduct and character.

- (1) No disqualifying drug offense. The applicant is not currently subject to prosecution for, or has not been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation or use of a controlled substance, except that the Department may grant a license to an applicant if the applicant:
 - (a) Completed his or her sentence, including any term of probation, incarceration or supervised release, 10 or more years prior to the submission of the application; or
 - (b) In the 10 years immediately preceding his or her application date, has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the applicant was convicted of the offense on the date he or she applied for a license.
- (2) No other disqualifying offense. Applicants are required to disclose, and the Department shall consider, all convictions within the 10 years immediately preceding the submission of the application and all pending criminal prosecutions and criminal convictions other than disqualifying drug offenses to determine the applicant's character. This shall include misdemeanor convictions and convictions in other jurisdictions related to crimes of dishonesty or physical violence including fraud or theft. The Department may request supplemental information regarding any convictions older than 10 years that is identified by a background check. Factors the Department shall use in considering whether the applicant's previous convictions are disqualifying include, but are not limited to:
 - (a) The recency of the offense(s);
 - (b) The number and frequency of offenses;
 - (c) Whether the offense(s) involved dishonesty, deception, misappropriation or fraud;
 - (d) Whether the offense(s) involved violence or threat of violence;
 - (e) Whether the offense(s) involved operation of a motor vehicle under the influence of drugs or alcohol;
 - (f) Evidence of rehabilitation, including employment and educational attainment; and
 - (g) Character references submitted by the applicant.
- (3) No license revocation. The applicant, or if the applicant is a business entity, any officer, director, manager or general partner of that entity, may not have had previously had revoked a license issued under this chapter.
- (4) No medical registry identification card or registration certificate revocation. The applicant or any officer, director, manager and general partner if the applicant is a business entity, may not have had revoked a registry identification card or registration certificate previously issued pursuant to the Maine Medical Use of Marijuana Act.
- (5) No revocation of other state marijuana license, permit, certificate or other government-issued authorization. The applicant or any officer, director, manager or general partner if the applicant is a business entity, may not have had revoked a license, permit, certificate or other government-issued authorization issued in another jurisdiction allowing the cultivation, manufacture, testing or sale of marijuana or marijuana products.
- (6) No outstanding court-ordered payments. A license may not be issued to an applicant if that applicant, or any business entity in which that applicant is a true party of interest, has any outstanding payments due on court-ordered fines, court-appointed attorney's fees or court-ordered restitution. Except that the Department may issue a license to an applicant if it is satisfied that the applicant has entered into and is in compliance with the terms of any agreement or payment plan for the remittance of any fines, fees, or restitution owed.
- (7) No past due taxes, interest, penalties or fees in Maine. A license may not be issued to an applicant if that applicant, or any business entity in which that applicant is a true party of interest, is currently delinquent in any payment of income tax, sales tax, excise tax or any other tax, interest, penalty or fee to the state or any municipality within the state. Except that the Department may

issue a license to an applicant if it is satisfied that the applicant has entered into and is in compliance with the terms of any agreement or payment plan with the relevant tax authority overseeing the tax liability for which the applicant is otherwise delinquent.

- (8) No other disqualifying tax delinquency. The Department shall consider all applicants' history of paying taxes to Maine and other jurisdictions in the previous 2 years, as well as any tax liens imposed in any jurisdiction in the previous 5 years.
- F. **Criminal history record check.** The applicant must have submitted to a criminal history record check in accordance with the requirements of 28-B MRS and this Rule.
- G. **Compliance with application process; no false statement of material fact.** The applicant must have completed all application forms required by the Department fully and truthfully and complied with all information requests of the department relating to the license application. A license may not be issued to an applicant that has knowingly or recklessly made any false statement of material fact to the Department in applying for a license under this chapter. The Department shall revoke the license of a licensee pursuant to 28-B MRS, chapter 1, subchapter 8 if, subsequent to the issuance of the license, the Department determines that the licensee knowingly or recklessly made a false statement of material fact to the Department in applying for the license.

2.4 - Application for Conditional License

2.4.1 Conditional License. The Department may issue a conditional license to applicants for any class of marijuana establishment license.

- A. The conditional license is valid for one year and is non-renewable.
- B. The conditional license may be used to demonstrate that the applicant has met most of the Department's licensing requirements, for the purpose of seeking local authorization.
- C. The conditional license does not grant any authority for cultivation, manufacturing, testing or sale of marijuana or marijuana products.

2.4.2 Required Forms and Supplemental Information for Conditional License. All applicants for a marijuana establishment license shall include on forms supplied by the Department as well as attachments thereto, all information requested by the Department, including without limitation information described in this Section. It is the exclusive responsibility of the applicant to clearly indicate on any forms, attachments, and supplemental information supplied to the Department any content the applicant deems to be trade secrets or other information that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding, which may otherwise be included as a "public record" pursuant to 1 MRS § 402(3) in a response to a request for records and information under the Maine Freedom of Access Act.

- A. All applicants, for all classes of licenses, shall provide, on forms made available by the Department:
 - (1) The name of the applicant;
 - (2) An email account that is actively monitored;
 - (3) Date of application;
 - (4) The class of marijuana establishment license being applied for;
 - (5) Whether or not the licensee proposes to co-locate adult use and medical marijuana operations as permitted by this Rule and in accordance with rules governing the Maine Medical Use of Marijuana Program on the licensed premises;
 - (6) Identification of the applicant's proposed true parties of interest, including every officer, director, manager and general partner of the business entity;
 - (7) Identification of any parties of control or other interested parties, except that with respect to banks, credit unions, or other state- and federally-chartered financial institutions, the applicant must only disclose the name of the institution, its address, and terms of any financial instrument held by the bank, credit union, or other state- or federally-chartered financial institution in order to satisfy the requirements of this subsection;
 - (8) Identification of any other marijuana establishments, including those outside of Maine, in which the applicant (or any of the applicant's true parties of interest) is a true party of interest;

- (9) Attestation that the applicant has read the licensing requirements, and that all true parties of interest are age 21 years or older, meet residency requirements and do not have disqualifying drug convictions or other disqualifying criminal convictions; and
- (10) A notarized signature page, attesting under penalty of perjury to the accuracy of the information provided in the application.
- B. At a minimum, all applicants shall provide, at the time of application, the following information:
 - (1) Proof of lawful presence or citizenship and Maine residence, and as required by the current forms prescribed by the Department.
 - (2) All requested information concerning financial and management associations and interests of other persons, parties of control, other interested parties or true parties of interest in the marijuana establishment as applicable; except that with respect to banks, credit unions, or other state- or federally-chartered financial institutions, the applicant must only disclose the name of the institution, its address, and terms of any financial instrument held by the bank, credit union, or other state- or federally-chartered financial institution in order to satisfy the requirements of this subsection.
- C. If the applicant for any license is a business entity it shall submit applications for all of its shareholders, members, partners, officers and directors, along with the following additional information and supporting material:
 - (1) If the business entity is a corporation, a copy of its articles of incorporation or articles of organization; evidence of incorporation within Maine; name, address and state of residency of each shareholder; and proof of Maine residency for true parties of interest and a majority of all parties of control.
 - (2) If the business entity is a limited liability company, a copy of its articles of organization and its operating agreement; evidence of incorporation within Maine; name, address and state of residency of each member; proof of Maine residency all officers and true parties of interest and a majority of all parties of control.
 - (3) If the business entity is a general partnership, limited partnership, limited liability partnership or limited liability limited partnership, a copy of the partnership agreement; evidence of incorporation in Maine; name, address and state of residency of each partner; and proof of Maine residency for all true parties of interest and a majority of all parties of control.
 - (4) The residency requirements of this subsection do not apply to an applicant for a testing facility license.
- D. The Department shall require evidence of compliance with all tax obligations.
 - (1) The Department shall request, for each person subject to fingerprinting and criminal history record check:
 - (a) The person's Social Security Number and informed consent for the Maine Revenue Service to provide the Department with an assessment of whether the person owes back taxes, interest, fees or penalties.
 - (b) A list of sales tax identification numbers and employer identification numbers for all entities licensed in the state in which the person has a management role or ownership interest of 10 percent or more, along with informed consent for the Maine Revenue Service to provide the Department with an assessment of whether any of these entities owe back taxes, interest, fees or penalties.
 - (2) The Department shall request, for each business entity that is an applicant or a party of control, the business entity's employer identification number and any associated sales tax ID number, along with informed consent for the Maine Revenue Service to provide the Department with an assessment of whether any of these entities owe back taxes, interest, fees or penalties.

2.4.3 Criminal History Record Check.

- A. The Department shall require fingerprinting and state and federal criminal history record checks for every applicant.
 - (1) For applicants that are business entities, the Department shall require fingerprinting and criminal history record checks for:
 - (a) All true parties of interest; and

- (b) All other natural persons who exert influence over the licensee as or through a party of control.
- (2) The applicant is responsible for all costs associated with fingerprinting and criminal history record checks. The fee for the fingerprinting and criminal history record checks shall be set by the State Police and/or State Bureau of Identification, in accordance with its usual operations.
- (3) The Department shall issue a fingerprinting and criminal history record check form or use forms specified by the Department of Public Safety, Bureau of State Police, State Bureau of Identification or Federal Bureau of investigation. Such forms shall obtain the applicant's consent and information needed to complete the check, including but not limited to:
 - (a) First, middle and last name;
 - (b) Any aliases and/or previous names;
 - (c) Date of birth;
 - (d) Place of birth;
 - (e) Identifying information such as gender, height, weight and eye color;
 - (f) Disclosure of previous convictions;
 - (g) Driver license information; and
 - (h) Address and recent residency information.
- (4) The Department may request that an applicant disclose his or her Social Security Number if notice is provided that:
 - (a) Indicates the disclosure of the Social Security Number is voluntary; and
 - (b) That the Department requests the Social Security Number for the purpose of positively identifying the applicant during the criminal records check process.
- (5) All applicants required to submit to a criminal history record check under this Section shall submit to having the individual's fingerprints taken. The State Police, upon payment by the individual of the required fee, shall take or cause to be taken the individual's fingerprints and shall forward the fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of Identification.
- (6) The State Bureau of Identification shall conduct the state and national criminal history record checks, which shall include information from:
 - (a) The Maine Criminal Justice Information System, regarding records of offenses within the state
 - (b) The Federal Bureau of Investigation, regarding offenses in other jurisdictions
- (7) Except for the portion of a payment, if any, that constitutes the processing fee for a criminal history record check charged by the Federal Bureau of Investigation, all money received by the State Police under this Section must be paid to the Treasurer of State, who shall apply the money to the expenses incurred by the Department of Public Safety in the administration of this Section.
- (8) All criminal history record information obtained by the Department pursuant to this Section is confidential, is for the official use of the Department only and may not be disseminated outside of the department or disclosed to any other person or entity unless it is requested as part of a law enforcement investigation.
- (9) The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations (henceforth referred to C.F.R; the Code of Federal Regulations is available free online at multiple websites, including federal government websites, by searching the citation. All references are to the 2018 version) Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to 16 MRS§709.

2.4.4 Additional Requirements for Issuance of a Conditional Cultivation Facility License.

- A. Each applicant for a conditional cultivation facility license shall designate in its operating plan and cultivation plan the tier (or designation as a nursery cultivation facility) for the proposed cultivation facility.

- (1) Each applicant for a conditional tier 1 cultivation facility license must designate in its operating plan and cultivation plan whether the license sought is plant-count based or total plant canopy area based pursuant to 28-B MRS§301.
 - (2) Each applicant for a conditional nursery cultivation facility license must designate in its operating plan and cultivation plan whether it intends to sell marijuana seeds, seedlings or immature plants to adults, 21 years of age or older, who are not licensees.
- B. Each applicant for a conditional cultivation facility license must submit a preliminary operating plan, accompanied by a fully completed cover form made available by the Department, along with all supplemental information and documentation specified by the Department. At minimum, the preliminary operating plan shall include:
- (1) The proposed size of the cultivation facility;
 - (2) The proposed layout of the cultivation facility;
 - (3) Operating days and hours;
 - (4) Plans for wastewater and waste disposal for the cultivation facility, in compliance with all state and federal laws;
 - (5) The lights, irrigation, greenhouses and other equipment to be used and the approval listing;
 - (6) A list of all pesticides, fungicides, insecticides and fertilizers that will be present or used;
 - (7) Plans for providing electricity, water and other utilities necessary for the normal operation of the cultivation facility;
 - (8) Plans for ventilation and filtration systems that prevent marijuana plant odors from significantly altering the environmental odor outside, while addressing the potential for mold;
 - (9) A workplace safety plan consistent with 29 CFR Part 1910, covering personal protective equipment, hazard assessment, safe equipment operation, proper application of agricultural chemicals, ladder use, hazard communication and other state and federal workplace safety requirements;
 - (10) Plans for compliance with applicable building code, the National Fire Protection Association (NFPA) model fire code, the Maine Electrical Code, and federal and state environmental requirements; and
 - (11) A legal ingress onto property from the closest maintained public way;
 - (12) If the property is also used as a residence, the location of that residence within that property and plans for complete separation of the residence from the facility, including:
 - (a) Entirely separate entrances from the public right of way; and
 - (b) No solvent extraction using potentially hazardous extraction methods or inherently hazardous extraction methods in the same building or structure as the residence.
- C. Each applicant for a conditional cultivation facility license shall submit a preliminary cultivation plan, accompanied by a fully completed cover form made available by the Department, along with all supplemental information and documentation specified by the Department. The floor plan for a marijuana cultivation establishment must include the detail dimensions of all areas which the licensee is authorized to cultivate mature plants. At minimum, the cultivation plan shall cover:
- (1) A floor plan showing the proposed size and layout of the cultivation areas where the licensee intends to cultivate mature marijuana plants, showing exterior dimensions of the areas, drawn in straight lines and clearly stating the square footage of each area;
 - (2) A sum total of the combined area within the premises in which the licensee is authorized to cultivate mature marijuana plants;
 - (3) The total amount of plant canopy (or, in the case of a plant-count-based tier 1 cultivation facility license, the number of mature marijuana plants);
 - (4) A floor plan showing the proposed size and layout of the cultivation areas where the licensee intends to cultivate mature marijuana plants solely for the purpose of propagating seedlings, immature marijuana plants or collecting seeds, seedlings and immature marijuana plants, showing exterior dimensions of the areas, drawn in straight lines and clearly stating the square footage of each area and whether this square footage is within or outside the plant canopy;
 - (5) Clear delineation of where mature marijuana plants, marijuana plants solely used for propagation, immature plants and seedlings will be grown; and

- (6) Plans for physically separating areas where mature marijuana plants will be grown, from where marijuana plants solely used for propagation, seedlings and immature marijuana plants will be grown.
- D. Additional requirements apply to shared premises with a registered medical marijuana dispensary or registered marijuana caregiver.
 - (1) Each applicant for a conditional cultivation facility license to share premises with a registered medical marijuana dispensary or registered marijuana caregiver must address the following issues in its operating plan:
 - (a) A list of all equipment to be used for cultivating both medical marijuana and adult use marijuana;
 - (b) A description of how the licensee will ensure that each shared piece of cultivation equipment is not used simultaneously on medical marijuana and adult use marijuana, with the purpose of ensuring that medical marijuana flowers and trim remain separate from adult use marijuana flowers and trim.
 - (2) Each applicant for a conditional cultivation facility license to share premises with a registered medical marijuana dispensary or registered marijuana caregiver must address the following issues in its cultivation plan:
 - (a) Indication on the floor plan, with the same level of detail, areas to be used for cultivating medical marijuana plants solely used for propagation, seedlings, immature plants and mature plants;
 - (b) Indication on the floor plan any areas that will support cultivation of both medical marijuana and adult use marijuana, including storage areas, office space, walkways, entryways, restrooms and utility rooms; and
 - (c) Plans for visually and physically separating medical marijuana cultivation from adult use marijuana cultivation.
 - (3) The licensee shall separately track medical marijuana and adult use marijuana and will otherwise ensure that they do not become intermixed.
- E. Additional requirements apply to issuance of a conditional nursery cultivation facility license authorizing sales to non-licensees. If an applicant intends to conduct sales to adults over the age of 21 who are not licensees, the applicant must submit an operating plan that meets all of the requirements for both a cultivation facility operating plan (as described in this subsection) and a marijuana store operating plan (as described in Subsection 2.4.7).

2.4.5 Additional Requirements for Issuance of a Conditional Testing Facility License.

Reserved for routine technical rulemaking as defined in 5 MRS, chapter 375, subchapter 2-A.

2.4.6 Additional Requirements for Issuance of a Conditional Products Manufacturing Facility License. Each applicant for a conditional products manufacturing facility license shall submit sufficient information to enable the Department to determine the applicant's ability to operate a marijuana products manufacturing facility meeting the requirements of 28-B MRS and this Rule. This information shall be contained in a products manufacturing facility operating plan, which at a minimum includes the following:

- A. A description of the classes of products such as edible, inhaled or topical that will be manufactured on the premises, along with a description of each specific product to be made;
- B. A description of the manufacturing processes that will occur on the premises;
- C. A diagram illustrating in which areas of the premises each manufacturing activity will occur;
- D. If the property is also used as a residence, the location of that residence within that property and plans for complete separation of that residence from the facility including:
 - (1) Entirely separate entrances from a public right of way; and
 - (2) No solvent extraction using potentially hazardous extraction methods or inherently hazardous extraction methods in the same building or structure as the residence;
- E. A diagram illustrating the areas of the premises where any solvent (excluding water), chemical or potentially hazardous substance will be stored
- F. Operating days and hours;
- G. Education and relevant experience of the person in charge of food safety requirements;

- H. Education and relevant experience of any employee who will oversee day-to-day food safety procedures;
- I. Equipment to be used, including UL or other safety listing;
- J. Standard operating procedures for each process to be used to manufacture a marijuana product;
- K. Plans for ventilation and filtration systems that prevent marijuana odors from significantly altering the environmental odor outside, while reducing the risk of fire or respiratory harm within the facility;
- L. Any extraction methods and solvents to be used for extraction;
- M. Any inherently hazardous substances to be used for extraction, along with the process for use, certification by a certified industrial hygienist or professional engineer licensed in Maine that the manufacturing facility's storage, preparation, electrical, gas monitoring, fire suppression and exhaust systems are adequate;
- N. Status of licensure of any areas in which marijuana or marijuana concentrate is handled or combined with non-marijuana ingredients to form marijuana products as a commercial kitchen area;
- O. Status of licensure of any areas in which unwrapped marijuana products are stored, cooled, cut, packaged or otherwise handled as a commercial kitchen area;
- P. Plans for compliance with any other relevant sanitary standards;
- Q. Plans for compliance with packaging, labeling and other requirements;
- R. Plans for refrigerating any marijuana products or ingredients thereof requiring refrigeration;
- S. Plans for disposal of marijuana and marijuana product waste;
- T. A workplace safety plan consistent with 29 C.F.R. 1910, covering personal protective equipment, hazard assessment, safe equipment operation, proper application of agricultural chemicals, ladder use, hazard communication and other state and federal workplace safety requirements; and
- U. Plans for compliance with applicable building and electrical codes and federal and state environmental requirements.

It is the exclusive responsibility of the applicant to clearly indicate on any forms, attachments, and supplemental information supplied to the Department any content the applicant deems to be trade secrets or other information that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding, which may otherwise be included as a "public record" pursuant to 1 MRS § 402(3) in a response to a request for records and information under the Maine Freedom of Access Act.

2.4.7 Additional Requirements for Issuance of a Conditional Marijuana Store License. Each applicant for a conditional marijuana store license shall submit sufficient information to enable the Department to determine the applicant's ability to comply with health and safety rules and operate a marijuana store meeting the requirements of the Maine Revised Statutes and this Rule. This information shall be contained in a marijuana store operating plan.

- A. A marijuana store operating plan must at a minimum include the following:
 - (1) Operating days and hours;
 - (2) Background screening process for employees and vendors;
 - (3) Plans for verifying identification of all customers and prevention of unauthorized sales to, or access to age-restricted retail areas by, persons under age 21;
 - (4) Layout of the store, indicating limited access areas and age-restricted areas;
 - (5) If the property is also used as a residence, the location of that residence within that property and plans for complete separation of the residence from the store, including:
 - (a) Entirely separate entrances from a public right of way; and
 - (b) No solvent extraction using potentially hazardous extraction methods or inherently hazardous extraction methods in the same building or structure as the residence.
 - (6) Descriptions or diagrams of displays indicating how they control customer access to marijuana and marijuana products;
 - (7) Descriptions of any electrical equipment and its UL or other safety listing;
 - (8) Plans for refrigerating any marijuana products requiring refrigeration;
 - (9) Plans for disposal of marijuana and marijuana product waste; and
 - (10) Plans for compliance with applicable building and electrical codes and federal and state environmental requirements.
 - (11) Plans for shipping and receiving of marijuana and marijuana products

- B. If the operating plan for a nursery cultivation facility includes sales to consumers, the operating plan shall meet all requirements that are applicable to marijuana stores in addition to all requirements that are applicable to nursery cultivation facilities.

2.4.8 Co-location - Medical Marijuana Dispensary and Caregiver Operation. Co-mingling of adult use marijuana and medical marijuana or marijuana products is prohibited, and licensees are responsible for maintaining separate adult use marijuana and medical marijuana operations.

- A. A cultivation facility with a marijuana store license, nursery cultivation facility, or standalone marijuana store shall not possess or otherwise handle any medical marijuana, marijuana concentrate or marijuana seeds, seedlings, immature plants or mature plants on the same premises on which the marijuana store or nursery cultivation facility operates.
 - (1) If a licensee for any of these types of facilities is also a registered caregiver or medical marijuana dispensary, it must not conduct medical marijuana activities under a Sales Tax Identification Number or Excise Tax Identification Number associated with an adult use license.
 - (2) If a cultivation facility with a marijuana store license, nursery cultivation facility, or standalone marijuana store is located adjacent to a registered caregiver or medical marijuana dispensary, it must have distinctly separate entrances from a public right of way and signage that does not convey the impression that the two businesses are connected. There must be no way that a member of the public may travel between the two businesses without returning to the public right of way.
 - (3) Public right of way shall be interpreted in this subsection to include private property that is generally open to the public during normal business hours, such as a shopping center or business park.
- B. Any cultivation facility or products manufacturing facility that cultivates, processes, manufactures, stores, dispenses or otherwise handles marijuana or marijuana products for both adult use and medical use must clearly differentiate the two types of marijuana and marijuana products and prevent their co-mingling within the premises at all times. If a licensee proposes to co-locate adult use and medical marijuana operations, the licensee must illustrate in its facility plan and security plan:
 - (1) The areas of the premises that will contain adult use marijuana plants, marijuana, marijuana products or marijuana concentrate;
 - (2) The areas of the premises that will contain medical marijuana plants, marijuana, marijuana products or marijuana concentrate;
 - (3) The areas of the premises, if any, that will contain equipment, chemicals or other items that may be used for both adult use and medical marijuana plants, marijuana or marijuana products.
 - (4) Plans for ensuring that all marijuana, finished marijuana concentrate and other marijuana products are correctly packaged and labeled for medical use or adult use; and
 - (5) A description of how the licensee will separately track, including input to the tracking system, medical marijuana, marijuana concentrate and marijuana products separately from adult use marijuana, marijuana concentrate and marijuana products and will otherwise keep them from becoming intermixed.
- C. Each applicant for a conditional cultivation facility license to share premises with a registered medical marijuana dispensary or registered marijuana caregiver, must address the following issues in its operating plan:
 - (1) A list of all equipment to be used for cultivating both medical marijuana and adult use marijuana;
 - (2) A description of how the licensee will ensure that each shared piece of cultivation equipment is not used simultaneously or contemporaneously on medical marijuana and adult use marijuana, with the purpose of ensuring that medical marijuana flowers and trim remain separate from adult use marijuana flowers and trim; and
 - (3) A description of how the licensee will separately track medical marijuana and adult use marijuana and will otherwise keep them from becoming intermixed.
- D. Each applicant for a conditional cultivation facility license to share premises with a registered medical marijuana dispensary or registered marijuana caregiver, must address the following issues in its cultivation plan:
 - (1) Indication on the floor plan, with the same level of detail, areas to be used for cultivating medical marijuana plants solely used for propagation, seedlings, immature plants and mature plants;

- (2) Indication on the floor plan any areas that will support cultivation of both medical marijuana and adult use marijuana, including storage areas for equipment and agricultural chemicals, office space, walkways, entryways, restrooms and utility rooms;
 - (3) Plans for visually and physically separating medical marijuana cultivation from adult use marijuana cultivation;
 - (4) Plans for visually and physically separating the storage of harvested medical marijuana flowers and trim from harvested adult use marijuana flowers and trim; and
 - (5) A description of how the licensee will separately track, including input to the tracking system, medical marijuana, marijuana concentrate and marijuana products separately from adult use marijuana, marijuana concentrate and marijuana products and will otherwise keep them from becoming intermixed.
- E. Each applicant for a conditional products manufacturing facility license to share premises with a registered medical marijuana dispensary or registered medical marijuana caregiver, must address the following issues in its operating plan:
- (1) A list of all extraction equipment and other supplies to be used for extracting from both medical marijuana and adult use marijuana;
 - (2) A list of all manufacturing equipment and other supplies to be used for manufacturing both medical marijuana products and adult use marijuana products;
 - (3) A description of how the licensee will ensure that each shared piece of extraction or manufacturing equipment is not used simultaneously or contemporaneously on medical marijuana and adult use marijuana, with the purpose of ensuring that medical marijuana, marijuana concentrate and marijuana products remain separate from adult use marijuana, marijuana concentrate and marijuana products;
 - (4) A description of how the licensee will separately track medical marijuana, including input to the tracking system, marijuana concentrate and marijuana products separately from adult use marijuana, marijuana concentrate and marijuana products and will otherwise keep them from becoming intermixed;
 - (5) Plans for storage and refrigeration that keep medical marijuana, marijuana concentrate and marijuana products remain separate from adult use marijuana, marijuana concentrate and marijuana products;
 - (6) Plans for ensuring that all finished marijuana concentrate and other marijuana products are correctly packaged and labeled for medical use or adult use;
 - (7) A clear indication on floor plans of which areas house equipment used to manufacture both medical marijuana and adult use marijuana products; and
 - (8) A clear indication of any areas used to store equipment, supplies or non-marijuana ingredients used to produce, package or label both medical marijuana products and adult marijuana products.

2.4.9 Co-Location of Adult Use Marijuana Establishments. An Applicant may propose the co-location of multiple marijuana establishment types.

- A. The Department may approve an application that would result in a testing facility being located adjacent to another type of adult use marijuana establishment or a medical marijuana dispensary, caregiver, or registered medical marijuana manufacturing facility, only if the following conditions are met:
- (1) The testing facility must have a distinctly separate entrance from a public right of way;
 - (2) The testing facility must demonstrate it has adequate environmental controls to protect against incidental contamination of testing equipment or samples as a result of its location adjacent to an adult use marijuana establishment, medical marijuana dispensary, caregiver, or registered medical marijuana manufacturing facility;
 - (3) Signage must not convey the impression that the two businesses are connected; and
 - (4) There must be no way that an employee of the testing facility or the other business may travel between the two businesses without returning to the public right of way. Public right of way shall be interpreted in this subsection to include private property that is generally open to the public during normal business hours, such as a shopping center or business park.

- B. If a cultivation facility is co-located with a products manufacturing facility or marijuana store, then all written plans must clearly delineate the cultivation facility from the other establishment.
 - (1) The cultivation facility area shall be clearly delineated from the other establishment.
 - (2) The cultivation facility may connect to another class of establishment by a single, lockable door. Regardless of common ownership, excise tax is payable when any marijuana seedlings, immature plants, marijuana, or marijuana products pass out of the cultivation facility into another class of marijuana establishment. All marijuana to pass through a single, lockable door must be entered into the tracking system, and excise taxes shall be paid in accordance with this Rule and the Maine Revised Statutes.
- C. If a products manufacturing facility is co-located with a marijuana store, then all written plans must clearly delineate all areas in which products manufacturing take place. Any shared space must comply with all regulations applicable to products manufacturing facilities and all regulations applicable to marijuana stores.
- D. No manufacturing facility using inherently hazardous materials may be co-located with a marijuana store unless it is in an entirely independently standing structure.

2.5 - Department Review of Conditional Applications

2.5.1 Ownership interest. The Department will verify that any marijuana establishment (other than a testing facility) is controlled by people who are legal residents of Maine and file all required Maine income tax returns.

- A. The Department may require additional information to verify that business structures, loans, franchise agreements, royalty agreements and other legal arrangements or anything else regarding true parties of interest, parties of control or other interested parties are not being used to circumvent ownership requirements; except that with respect to banks, credit unions, or other state- and federally-chartered financial institutions, the applicant must only disclose the name of the institution, its address, and terms of any financial instrument held by the bank, credit union, or other state- or federally-chartered financial institution in order to satisfy the requirements of this subsection.
- B. An application for license will not be considered complete until the applicant satisfies all such information requests.
- C. The Department may refuse to license any applicant at its discretion until it is convinced that Maine residents control its operations.

2.5.2 Application Processing. An application for a conditional license is considered incomplete until the Department is in possession of all required forms, supplemental information and criminal history record checks and any other requirements listed in 2.3.1 of this Rule for all required parties to the application. If in the course of processing the application, the Department discovers that any required forms, supplemental information or criminal history record checks are incomplete, the Department may ask the applicant to supply the missing information, and the Department has 90 days from the submission of the missing information to review the application. The Department shall, however, avoid unreasonable delays in the case of inadvertent omission of material that is not central to its review of the merits of the application for a conditional license.

2.5.3 Application Review. For the purposes of processing applications for marijuana establishments, the Department, pursuant to 28-B MRS§205, shall apply an objective standard to establishing whether an applicant has satisfied the marijuana establishment licensing requirements, specifically the satisfaction of general licensing criteria and the submission of all required documents, forms and fees and the subsequent issuance of provisional and active licenses.

2.5.4 Withdrawal.

- A. The Department and the applicant for a conditional license may mutually agree in writing to the voluntary withdrawal of an application.
- B. Applicants must first submit a notice to the Department requesting a voluntary withdrawal of the application.

- C. The Department will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Department may at its discretion grant the request with or without prejudice or deny the request.
- D. The Department will notify the applicant and relevant local jurisdiction of its acceptance of the voluntary withdrawal and the terms thereof.
- E. If the applicant agrees in writing to a voluntary withdrawal granted with prejudice, then the applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.
- F. The Department may not refund any application or other fees, regardless of the circumstances of the withdrawal.

2.5.5 Denial. If the application for conditional license reveals disqualifying drug offenses, other mandatory disqualifying factors, or if the Department has serious concerns about the applicant's character based on the applicant's criminal record, disciplinary record with other government regulatory agencies or previous employment; the management or ownership structure; or the ability to meet all operating requirements, the Department shall set forth in writing a summary of reasons for the denial of the application. The denial shall include reference to the applicant's appeal rights under the Maine Administrative Procedures Act.

2.5.6 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375.

2.6 - Application for Active License, or Provisional Testing License

2.6.1 Forms. An applicant shall prepare an application on forms made available by the Department for the type of license sought along with the appropriate application fee as determined by the Department pursuant to 28-B MRS§207 and this Rule. In order for an application for a marijuana establishment to be considered complete, the following must be true:

- A. All applications must be complete and accurate in every material detail;
- B. All applications must include all attachments or supplemental information required by the current forms supplied by the Department and all sections of this Rule.
- C. A license issued to a marijuana establishment or an individual constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the applicant.
- D. The Department may refuse to accept or consider an incomplete application.

2.6.2 Local Authorization.

- A. In order for a marijuana establishment conditional licensee to be eligible for a marijuana establishment active license, the municipality or the Maine Land Use Planning Commission, whichever has jurisdiction over the planned site, must have submitted a signed and notarized local authorization certification form prepared and furnished by the Department.
- B. Upon receipt of the local authorization certification form, the Department shall, within 10 calendar days, notify the applicant of any additional information needed for the issuance of an active license or, in the case of testing facilities, a provisional license.
- C. Nothing in these rules shall be construed to prohibit local entities from implementing municipal or other local regulations further restricting the operation and siting of marijuana establishments, including, but not limited to regulations regarding the co-location of residences and marijuana establishments.

2.6.3 Tax Registration. The Department may not issue an active license to a conditional licensee that is not properly registered with the State Tax Assessor.

- A. Any conditional licensee must obtain a Sales Tax Identification Number. A unique Sales Tax Identification Number is required for each active license, regardless of common ownership or co-location.
- B. A conditional cultivation facility licensee, including a nursery cultivation facility licensee, must additionally obtain an Excise Tax Identification Number. A unique Excise Tax Identification Number is

required for each active cultivation facility license (including nursery cultivation facility), regardless of common ownership or co-location.

2.6.4 Application Review. For the purposes of processing applications for marijuana establishments, the Department, pursuant to 28-B MRS§205, shall apply an objective standard to establishing whether an applicant has satisfied the marijuana establishment licensing requirements, specifically the satisfaction of general licensing criteria and the submission of all required documents, forms and fees and the subsequent issuance of provisional and active licenses.

2.6.5 Supplemental Information for Issuance of Active License.

- A. All conditional licensees must submit the following forms and supplemental information:
- (1) Evidence of compliance with all municipal or state electrical inspection and permitting requirements; which may include, but is not limited to: a Certificate of Occupancy issued by the municipal code officer, or written clearance by the Electricians Examining Board, Department of Professional and Financial Regulations. Licensees engaging in manufacturing involving inherently hazardous materials shall also show proof of compliance with the requirements of Section 3.8.4 of this Rule.
 - (2) Sales Tax Identification Number and proof of registration with the State Tax Assessor.
 - (3) Facility plan, covering the following elements:
 - (a) Location of the establishment within the municipality, town, township, plantation or county, and indicating its proximity to any school. A copy of a tax map showing an area in all directions from the Premises of 1000 feet, or in cases where a municipality or the Land Use Planning Commission has reduced the setback to no less than 500 feet, then showing the distance in all directions required by local authority, and indicating that the area around the Premises does not include a pre-existing public or private school, as defined in 28-B MRS§§402(2)(A) and 403(2)(A), shall meet this requirement;
 - (b) Size and layout of the establishment, including limited access areas, display areas, commercial kitchen areas and points of entry;
 - (c) Proof of ownership of the premises or proof the owner's consent for the intended use of the premises;
 - (d) A legal ingress onto property from the closest maintained public way; and
 - (e) If the property is also used as a residence, the location of that residence within that property and plans for complete separation of the residence from the facility, including:
 - (i) Entirely separate entrances from a public right of way; and
 - (ii) No solvent extraction in the same building or structure as the residence.
 - (4) Security plan, consistent with Section 3.3 of this rule.
 - (5) Operating plan, if any changes were made to the original operating plan submitted by the applicant, or certification that the municipality or Maine Land Use Planning Commission required no changes.
 - (6) Proof that the marijuana establishment has a tracking system account activated and functional.
 - (7) Any material changes from the conditional license application, including but not limited to, any changes related to ownership or control, any changes in residency of any true parties of interest, and any new arrests or criminal charges of any true parties of interest
- B. Cultivation facilities (including nursery cultivation facilities) must additionally submit the following documents before the Department may issue an active license:
- (1) An updated cultivation plan, if any changes were made to the original cultivation plan submitted by applicant, or certification that the municipality or entity/entities responsible for local authorization required no changes; and
 - (2) Excise Tax Identification Number and proof of registration with the State Tax Assessor.
- C. Testing facilities must submit proof of compliance with any accreditation, certification, or standards required by the rules regarding licensure of a marijuana testing facility.

2.6.6 Payment of Fees. Before issuing an active license, the Department shall invoice the conditional licensee for the applicable fee as determined by the Department pursuant to Title 28-B and this Rule. The Department shall not accept any license fees except pursuant to such invoice.

2.6.7 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375.

2.7 - Individual Identification Cards

2.7.1 Individual Identification Cards Required.

- A. A valid individual identification card issued by the Department is required to be displayed by any individual working in a licensed marijuana establishment who:
 - (1) possesses, cultivates, processes, manufactures, tests, dispenses, transfers, serves, handles, transports or delivers marijuana or marijuana products; or
 - (2) has the authority to access or input data into the inventory tracking system or a marijuana establishment point of sale system.
- B. Licensees are responsible for verifying that each required person has a valid individual identification card and must report within 24 hours any attempt by an individual to use an individual identification card that is fake, altered or issued to a person other than the bearer.
- C. Contractors not engaged in the business of cultivating, processing or transferring marijuana or marijuana products do not require individual identification cards; however, no person may enter a limited access area without displaying a valid individual identification card, unless the person signs a visitor log and is supervised by the licensee according to the requirements of Section 3.2 of this Rule.
- D. The individual identification card requirement does not apply to employees or agents of the Department, law enforcement officers or employees or agents of other local or state agencies with regulatory authority, including but not limited to fire marshals, electrical inspectors, pesticide control staff and environmental inspectors, for the purpose of exercising such regulatory authority.

2.7.2 Issuance of Individual Identification Cards.

- A. The Department shall issue individual identification cards to natural persons licensed under Title 28-B.
- B. Upon request, the Department shall issue an individual identification card to a true party of interest who has participated in the license application process and has had fingerprinting and criminal history record checks approved by the Department within the past year, subject to the reporting of any arrests subsequent to the criminal history record check.
- C. Upon request, the Department shall issue an individual identification card for the purpose of employment to an applicant who:
 - (1) Submits to fingerprinting and criminal history record checks following procedures applicable to Licensees under this Rule;
 - (2) Submits proof of being of age 21 or older in a form satisfactory to the Department;
 - (3) Submits any other information required by the Department on its individual identification card application form, including history of enforcement actions in the adult use or medical marijuana programs; and
 - (4) Satisfies all requirements for the issuance of an individual identification card.
- D. The Department may deny an application for individual identification card by any person who:
 - (1) Has a disqualifying drug offense, any other disqualifying offense, adult use marijuana license revocation, medical marijuana credential revocation, outstanding court-ordered payments, past due taxes or fees or other tax delinquency;
 - (2) Has had an individual identification card revoked within the previous 2 years; or
 - (3) Has had been subject to 2 or more individual identification card revocations.
- E. Each licensee shall provide to the Department annually, and upon request of the Department at any other time, a list of all individual identification card numbers used by any owners, officers, managers, contractors, employees or other support staff of the licensee.

- F. A licensee shall timely notify the Department if it terminates for cause an individual identification cardholder.
- G. The Department shall maintain a list of all individual license cards that have been issued to individuals and any licensees that have reported an affiliation with the cardholder.

2.7.3 Format and Use of Individual Identification Cards.

- A. The Department shall charge fees for the issuance, reissuance and renewal of an individual identification card in accordance with the fee schedule located in Section 13 of this Rule.
- B. The individual identification card shall include a current photograph, full name, date of birth, expiration date and a unique identification number.
- C. Individual identification cards are valid for one year from the date of issue. The individual identification card shall be renewed on forms provided by the Department in accordance with the fee schedule located in Section 13 of this Rule; at the time of renewal of an individual identification card, the applicant shall inform the Department of all criminal convictions and other issues that could affect their eligibility since the original issuance of the individual identification card.
- D. All individual identification cards shall remain the property of the Department and shall be returned to the Department upon demand of the Department.
- E. No person shall alter, obscure, damage or deface an individual identification card in any manner. To be valid, all individual identification cards must be in good condition, with all original markings and information clearly legible.
- F. The holder of an identification card must notify the Department immediately if the individual identification card is lost, stolen or damaged. A fee, in accordance with the fee schedule located in Section 13 of this Rule, will be charged for the issuance of a reissued individual identification card, which will not extend the expiration date of the individual identification card it replaces.

2.7.4 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375.

2.8 - License Renewal Process

2.8.1 Annual Renewal.

- A. Active licenses must be renewed on an annual basis.
- B. An annual inspection by the Department or an authorized third-party may be required in the renewal process.
- C. A license will not be renewed by the Department if outstanding fines or penalties are owed to the Department, unless a plan for payment of those fines has been agreed to and approved, in writing, by the Department, prior to the expiration of an active license.
- D. The Department shall notify all licensees of the duty to renew no later than 90 days prior to the expiration date of an active license.
- E. A cultivation facility licensee may apply for a different tier of cultivation facility license or increased number of plants or canopy, and the Department shall approve the application, subject to:
 - (1) Submission of revised operation plan and cultivation plan;
 - (2) Payment of any requisite fee(s) in accordance with Section 13.1 of this Rule;
 - (3) Licensee demonstrating 85% of adult use marijuana cultivated by licensee at its cultivation facility was sold over the current period of licensure; and
 - (4) Compliance with total canopy limits.
- F. At the time of renewal, the licensee shall ensure that all material changes to the required plans have been communicated in writing to the Department pursuant to Section 3.5 of this Rule.
- G. The licensee shall submit proof that the licensee is still in good standing with MRS.
 - (1) For all licensees, an active Sales Tax Identification Number, and no tax delinquencies associated with that Sales Tax Identification Number.
 - (2) For cultivation facility licensees, an active Excise Tax Identification Number, and no tax delinquencies associated with that Excise Tax Identification Number.

- (3) For all licensees, a list of all Sales Tax Identification Numbers and Excise Tax Identification Numbers associated with any related marijuana establishment in Maine and no tax delinquencies associated with those numbers.
- H. The licensee shall submit proof, through a renewed local authorization certification form, that the licensee is still in compliance with all requisite local permits and licenses, and is in good standing with the municipality or other local entity wherein the licensee's facility is located.

2.8.2 Application to Change Tier of Cultivation License. If an application to change the operating plan of record changes the license tier related to the total area in square feet of total mature plant canopy, the applicant shall include, on forms made available by the department, an application to change the tier of the license.

- A. Requests to change the tier of cultivation license may only be done as part of a license renewal and must be pursuant to 28-B MRS§303.
- B. If the change of tier includes the total area in square feet of total canopy of mature plants exceeding the limit stated in 28-B MRS§205(2), paragraph A, then the changes must be made and approved by the Department pursuant to 28-B MRS§304.

2.8.3 Continued Authority.

- A. The Department shall make every effort to approve license renewals in a timely manner.
- B. A licensee that has submitted a timely renewal application by the deadline given by the Department shall be permitted to continue operations if no true party of interest is required, pursuant to these Rules and 28-B MRS, to report information, including criminal convictions or enforcement actions, that could affect continued eligibility.
- C. A cultivation facility may not increase its mature plant canopy beyond the limits of its type of license before receiving approval from the Department.
- D. Any application for change in ownership or control must be approved by the Department and is not considered a renewal application.

2.8.4 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375.

2.9 - Application for Relocation of Licensed Premises

The Department must approve any relocation of a marijuana establishment, even if the move is entirely within a premise in the control of the licensee. This includes, but is not limited to: expansion, movement of a greenhouse or changes to co-location of multiple establishment types.

2.9.1 Conditional Relocation of Licensed Premises Approval.

- A. Before seeking local authorization, the licensee must inform the Department, in writing of its application for relocation of licensed premises.
 - a. All licensees must submit an updated facility plan, security plan, operating plan and proof of compliance with all municipal or state electrical inspection and permitting requirements.
 - b. All cultivation facilities must submit a revised cultivation plan.
- B. The Department shall, within 30 days, issue a conditional relocation of licensed premises approval.
- C. All licensees must then obtain, as applicable, local authorization.
- D. The relevant authority must submit a local authorization form to the Department.

2.9.2 Updated License.

- A. Within 10 days of receiving authorization on the local authorization form, the Department shall notify the licensee and issue an updated license with the new address. The license shall have the same expiration date as the one it replaces.

- B. A marijuana establishment may operate at the new location only after receiving the updated license from the Department.
- C. After receiving the updated license, the marijuana establishment may conduct activity concurrently at both locations, subject to the following limitations:
 - (1) The licensee shall provide the department with timeline of planned relocation not to exceed 90 days.
 - (2) From the moment the licensee transfers any marijuana or marijuana products in any form to the new location, the licensee has no more than 90 days to cease all activities at the old location. During the period of transfer, the licensee may not begin any new operations in the old location.
 - (3) From the moment the licensee sells or otherwise transfers marijuana or marijuana products in any form to the new location, the licensee may no longer sell or transfer marijuana or marijuana products in any form at the old location, except to transfer the marijuana or marijuana products to the new location.
 - (4) The licensee shall notify the Department in writing when it has ceased operations at the old location.
 - (5) During the period of transfer, limits of the number of plants or size of the plant canopy shall be calculated by combining the total amount of plants at both the old and new location.

2.9.3 Relocation with Any Change in Ownership. When a licensee proposes both a relocation and any change in ownership or management, the licensee shall be required to fulfill all requirements of an application for a new license, and the Department shall evaluate the application de novo.

2.9.4 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375.

2.10 - Transfer of License

A transfer of license is required at any time when there is a change to the true parties of interest who maintain a controlling share interest in the marijuana establishment, or otherwise when there is a change to the party of control of a marijuana establishment.

2.10.1 Department Approval Required. A transfer of license may only occur after an approval for the application for a transfer of license has been approved by the Department.

- A. An application for the transfer of license must:
 - (1) Be completed on forms made available by the Department;
 - (2) Be submitted to the Department;
 - (3) Be accompanied by any applicable fees described on the application form; and
 - (4) Be accompanied by all required forms and supplemental information similar to that required in an application for a marijuana establishment license, including without limitation changes to the operating plan or other plans specific to the license type.
- B. Fingerprinting and criminal history record checks in accordance with Section 2.4.3 of the Rule as described above are required for anyone proposed as a true party of interest.
- C. The municipality or the Maine Land Use Planning Commission, as applicable, must submit the local authorization form.

2.10.2 Temporary Appointee. Ownership or operations generally may not be transferred to a person or business entity prior to the approval of an application for transfer of license. However, in cases of death, disability, bankruptcy or other exceptional circumstances, a court may appoint a receiver, personal representative, executor, administrator, guardian, conservator, trustee or similarly situated person to take possession of, operate, manage or control a licensed marijuana establishment. Under such circumstances:

- A. The court appointee may assert a financial and management interest in a marijuana establishment upon certification to the Department that the person is 21 years of age and has no disqualifying drug offenses.

- B. No person appointed by the court may enter a limited access area, sell or otherwise transfer without a valid individual identification card.
- C. No person may use the tracking system until authorized by the Department.
- D. The person shall submit application for transfer of a license as soon as practical, and in no case more than 45 days after a qualifying event.

2.10.3 License Invalidation. The Department may revoke or otherwise make void a license immediately upon discovery of any effort to transfer ownership or control of a license without complying with the requirements of this subsection.

2.10.4 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375

Section 3 - General Compliance

3.1 - Reporting of Ownership, Financial, Management and Other Interests

Licensees shall not attempt to conceal or disguise ownership or other control over their operations. Any change thereof requires Departmental approval prior to becoming effective. The Department retains discretion to determine when a transfer of ownership or control has occurred. Licenses must comply with all reporting requirements of this subsection. It is the exclusive responsibility of the applicant to clearly indicate on any forms, attachments, and supplemental information supplied to the Department any content the applicant deems to be trade secrets or other information that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding, which may otherwise be included as a “public record” pursuant to 1 MRS § 402(3) in a response to a request for records and information under the Maine Freedom of Access Act.

3.1.1 True Parties of Interest. A licensee is required to report, on forms provided by the Department, all true parties of interest related to the license. For any change in true parties of interest, the transfer of license procedures must be followed.

3.1.2 Parties of Control. A licensee is required to report, on forms provided by the Department, all parties of control related to the license.

3.1.3 Other Interested Parties. A licensee is required to report, on forms provided by the Department, any other interested parties that exert substantial influence over the licensee’s business plan, marketing strategy or operations. Such parties may include the following individuals, groups of individuals and entities:

- A. **Lenders.** Persons, business entities, financial institution or other entities that lend money to a Licensee with the expectation of receiving repayment, with or without additional interest, or who otherwise expect to receive financial payments as a condition of lending. Except that with respect to banks, credit unions, or other state- and federally-chartered financial institutions, the applicant must only disclose the name of the institution, its address, and terms of any financial instrument held by the bank, credit union, or other state- or federally-chartered financial institution in order to satisfy the requirements of this subsection.
- B. **Third-party Contracted Managers.** Persons or other entities which provide ongoing management and/or consulting services to a Licensee for a period longer than 6 months.
- C. **Royalty License Partners.** Person(s) or other entities which expect to receive financial payment, including without limitation, royalty payments, profit share or revenue share, in return for the licensing of an intellectual property asset or proprietary property, whether or not such assets or property be trademarked or patented, including without limitation, standard operating procedures, brand names, products, packaging, marketing materials, business plans or financial projections.

3.1.4 Employees. Licensees are permitted to employ persons with valid individual identification cards for the operation of marijuana establishments, so long as compensation is not structured as a means of evading ownership restrictions. As employers, licensees are required to follow all applicable local, state and federal employment laws, including, without limitation, laws pertaining to workplace safety, whistleblower protections, hours and wages, equal opportunity employment, workplace harassment and all other laws pertaining to the employment of persons in the State of Maine. Nothing in this Rule shall be misconstrued to exempt a marijuana establishment license from the rights and responsibilities associated with being an employer.

3.2 - Premises

Only activities authorized by these Rules and 28-B MRS may be conducted on the licensed premises. No other activities besides those authorized by these Rules and 28-B MRS may be conducted at any time on the licensed premises, including without limitation: sampling events, catered events, parties, etc.

3.2.1 Public Access Areas.

- A. Marijuana establishments must designate an entry area as a public access area for limited purposes, which may include:
 - (1) For all establishment types, for maintaining a visitor entry log and for controlling access to limited access areas;
 - (2) For all establishment types, for receiving mail, meal deliveries and deliveries of supplies other than marijuana or marijuana products; and
 - (3) For nursery cultivation facilities and marijuana stores, for checking for a valid government-issued form of identification and controlling access to age restricted retail areas.
- B. The public access area must be designed so as not to enable a person in the area to handle marijuana or marijuana products.
- C. No advertising or marketing material may be posted in public access areas.
- D. People under the age of 21 shall be allowed in public access areas only for valid purposes.
 - (1) Valid purposes include delivering meals to employees; delivering office supplies not containing marijuana, agricultural chemicals or other non-age-restricted items; or seeking or providing emergency assistance.
 - (2) The licensee is responsible for ensuring that a person under the age of 21 does not remain in the public access area for longer than is necessary.

3.2.2 Age Restricted Retail Areas.

- A. Marijuana stores and nursery cultivation facilities must establish age restricted retail areas that allow access to adults aged 21 or older for the following purposes:
 - (1) Consultations between employees and adult customers;
 - (2) Distribution of printed materials about marijuana;
 - (3) Sales or returns of products that may be legally sold by the licensee; and
 - (4) Customer restrooms, if provided.
- B. No marijuana or marijuana products may be consumed in age restricted retail areas.

3.2.3 Limited Access Areas.

- A. Limited access areas include, but are not limited to:
 - (1) Areas in cultivation facilities in which marijuana plants, immature, plants or seedlings are grown; cut marijuana is stored, trimmed, cured or otherwise processed; marijuana is packaged for transfer; or marijuana waste is stored or processed.
 - (2) Areas in testing facilities in which marijuana or marijuana products are received, stored, handled, tested, transferred or discarded.
 - (3) Areas in marijuana product manufacturing facilities in which marijuana or marijuana concentrate is received, stored, processed or combined with other ingredients; marijuana products are stored, cooled, cut, packaged or labeled; marijuana or marijuana products are refrigerated; or marijuana waste is discarded or destroyed.
 - (4) Areas in marijuana stores in which a person would be able to touch or handle marijuana or marijuana products, including point of sale areas intended for employees only.
- B. Any other area that is used to cultivate, store, weigh, manufacture, package or otherwise prepare for sale adult use marijuana and adult use marijuana products is also considered a limited access area.
- C. It is the sole responsibility of the licensee to control access to limited access areas and limit access only to the following persons:
 - (1) The establishment's owners, managers or employees who are displaying a valid individual identification card issued to that person;
 - (2) Visitors over the age of 21 (including licensees of other establishments and not affiliated with the establishment) in compliance with this subsection;
 - (3) Contractors (including, but not limited to, electricians, plumbers, carpenters, engineers or alarm technicians) who will not handle marijuana plants, marijuana or marijuana products, in compliance with this subsection;
 - (4) Staff or agents of the Department;
 - (5) Law enforcement officers; and

- (6) Employees or agents of other local or state agencies with regulatory authority, including but not limited to fire marshals, electrical inspectors, pesticide control staff, and environmental inspectors.
- D. Staff or agents of the Department, law enforcement officers and employees or agents of local or state agencies with regulatory authority shall provide proof of identification but shall not be considered visitors and shall not be denied entry to any area of the Premises.
- E. Security.
 - (1) Licensees shall use identification checks, locked doors, and video surveillance, in accordance with their Department-approved security plan, to prevent unauthorized entry to limited access areas.
 - (2) Licensees with age restricted retail areas must control access between age restricted retail areas and limited access areas, using counters, locked displays and locked doors, in accordance with their Department-approved security plan.
 - (3) Any security breaches must be reported within 24 hours, in writing, to the Department.
- F. Required Signage.
 - (1) All areas of ingress and egress to limited access areas on the premises shall be clearly identified by posting a sign which shall be no smaller than 8.5 inches high and 11 inches wide, composed of letters not less than a half inch in height, which shall state: "Pursuant to State Law, Do Not Enter – Authorized Persons Only."
 - (2) If a person must pass through a limited access area to reach other limited access areas, and there is no other route through which a person can gain access to the subsequent limited access areas, then signage must only be posted on the first limited access area through which a person must pass.
- G. Visitors.
 - (1) Licensees may allow visitors over the age of 21, subject to any established safety requirements, for legitimate purposes such as educating them about their operations or pursuing business opportunities.
 - (2) A visitor to a marijuana establishment may enter a limited access area only if wearing a visitor identification badge, signed in and recorded on a visitor entry log and accompanied at all times by a licensee or employee of the marijuana establishment being visited and who holds and displays a valid individual identification card.
 - (3) At all times while in a limited access area, the visitor shall display in a conspicuous place on their person a visitor identification badge.
 - (a) The visitor identification badge must display an identifying mark, which may be a clearly identifiable letter, number or symbol or combination thereof.
 - (b) The visitor identification badge may be displayed on a sticker, a card on a lanyard, a card pinned to the clothing of the visitor, or by other effective means.
 - (4) A visitor entry log must include, at a minimum:
 - (a) The date and time of the visitor's entry;
 - (b) The date and time of the visitor's departure;
 - (c) The full name of visitor;
 - (d) The identifying number of the visitor's state or federal identification;
 - (e) The identifying mark on the visitor identification badge;
 - (f) The individual identification card number of the person who will accompany the visitor while the visitor is in the limited access areas of the premises; and
 - (g) The purpose for which the visitor is accessing the limited access area[s].
 - (5) Any incident not compliant with the marijuana establishment licensee's authorized conduct that occurred while the visitor was in a limited access area of the premises must be reported in writing to the Department within 24 hours, including all information required by the visitor entry log.
- H. Contractors.
 - (1) Contractors who will not handle marijuana plants, marijuana or marijuana products, including but not limited to electricians, plumbers, engineers and alarm technicians, do not require an individual identification card.
 - (2) A person who is on the premises as a contractor to the licensee, for purposes of doing temporary work that requires that they be within limited access areas must sign the visitor entry log and be issued a visitor identification badge.
 - (3) If the contractor is working in an area with immediate access to marijuana plants, marijuana or marijuana products, a licensee or employee must supervise the contractor at all times.

- (4) If the contractor is working in an area in which locked doors, compartments or other physical security measures prevent the contractor from accessing marijuana plants, marijuana or marijuana products, a licensee or employee must take reasonable precautions to ensure that the contractor remains in such areas and does not attempt to gain access to marijuana plants, marijuana or marijuana products.

3.3 - Security

3.3.1 Mandatory Requirements for All Classes of Licensees. All marijuana establishments must enact security measures to prevent the diversion of marijuana or marijuana products that are being cultivated, manufactured, tested, processed, stored, displayed or transported.

A. Lighting

- (1) Any gate or perimeter entry point of a marijuana establishment must have lighting sufficient for observers to see, and cameras to record, any activity within 10 feet of the gate or entry.
- (2) A motion detection lighting system may be employed to light required areas in low-light conditions.

B. Doors and windows

- (1) Commercial grade locks, appropriate for facilities requiring high levels of physical security, are required on all perimeter entry doors and on all doors separating limited access areas from areas open to visitors and customers.
- (2) All external entrances to indoor facilities on the licensed premises must be able to be locked.
- (3) All perimeter windows must be in good condition and lockable.

C. Alarm system

- (1) Monitored sensors are required on all perimeter entry points and perimeter windows.
- (2) Alarm systems must be monitored by a licensed security company capable of contacting the licensee and, if necessary, law enforcement.
- (3) The system must include an audible alarm, which must be capable of being disabled remotely by the security company.

D. Video surveillance

- (1) Placement and coverage of cameras shall be sufficient:
 - (a) Cameras must be permanently fixed inside each entry/exit point (perimeter and limited access area) to allow identification of persons entering the premises and limited access areas.
 - (b) Cameras must be permanently fixed outside each entry/exit point (perimeter and limited access area) to allow identification of persons exiting the premises and limited access areas.
 - (c) A sufficient number of cameras must be permanently fixed to allow the viewing, in its entirety, of any area where marijuana, marijuana plants, immature marijuana plants, seedlings, seeds, marijuana concentrate or marijuana products are cultivated, processed, manufactured, stored, prepared for transfer or sale.
 - (d) A sufficient number of cameras must be permanently fixed to allow the viewing, in its entirety, of any area where marijuana waste is stored before being made unusable, or where marijuana waste is made unusable.
 - (e) A camera must be permanently fixed at each point of sale to monitor the identity of the purchaser and ensure facial identity.
 - (f) A sufficient number of cameras shall be permanently fixed to allow recording of all areas outside of the premises within 10 feet of the exterior fence and gates of a cultivation facility with outdoor growing.
- (2) Video surveillance shall meet the following minimum requirements:
 - (a) Minimum camera resolution is 720p.
 - (b) System storage and cameras are internet protocol (IP) compatible.
 - (c) All cameras must record continuously twenty-four hours per day and at a minimum of 15 frames per second.

- (d) All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.
 - (e) The surveillance system storage device must be secured on the premises in a lockbox, cabinet or closet, or must be on a third-party server or secured in another manner to protect from employee tampering or criminal theft.
- (3) All surveillance recordings must be kept for a minimum of 45 days on the licensee's recording device.
- (4) All videos are subject to inspection by any Department employee or law enforcement officer and must be copied and provided to the Department or law enforcement officer upon request.
- (5) Licensees shall maintain a list of all persons with access to video surveillance recording and procedures for controlling access to recordings.

3.3.2 Fencing and Lighting Requirements for Cultivation Facilities. A cultivation facility that cultivates seedlings, immature plants or mature plants in outdoor areas or in greenhouses that do not meet all security requirements for buildings must secure such cultivation areas with fencing and lighting.

- A. Any cultivation facility with cultivation areas that do not meet the requirements for building security shall erect secure fencing around such areas. Fencing and all gates must be secure, at least 6 feet high and obscure, or have a cover that obscures, the Limited Access Area from being readily viewed from outside of the fenced in area.
- B. Lighting shall be designed to illuminate a perimeter of at least 10 feet around any point of entry, whether it is a gate or access from a building.

3.3.3 Additional Security Measures. The licensee may choose to enact additional security measures to enhance the safety of the marijuana establishment.

- A. Measures to prevent employee theft:
 - (1) Licensees may designate areas for employee storage of bags, overcoats and other belongings.
 - (2) Licensees may place limits on the size of bags to be brought to the marijuana establishment.
 - (3) Licensees may institute other reasonable procedures for checking for stolen marijuana or marijuana products when an employee leaves the premises.
- B. Security guards:
 - (1) Security guards are permitted but not required at marijuana establishments.
 - (2) Security guards employed or contracted by a licensee must:
 - (a) Meet all qualifications of 32 MRS, chapter 93;
 - (b) Be at least 21 years of age;
 - (c) Comply with all requirements of 32 MRS, chapter 93; and
 - (d) Obtain and display individual identification cards if they will be in limited access areas or in a vehicle that is transporting marijuana plants, marijuana or marijuana products.
 - (3) Security guards must not consume marijuana or marijuana products or be intoxicated while performing any duties for a licensee.
 - (4) Licensees, employees and security guards must comply with all laws and regulations related to firearms and other weapons.

3.3.4 Written Security Plan. Before cultivating, testing, processing, selling, storing or transporting marijuana or marijuana products, each licensee shall receive Department approval of a written security plan, demonstrating compliance with all requirements of this Rule.

- A. At a minimum, the security plan shall provide sufficient detail so that the Department may determine whether the following requirements are met:
 - (1) Lighting adequately illuminates entry and exit points;
 - (2) All doors and windows are lockable;
 - (3) Fences (if present) meet height and other requirements;
 - (4) Alarm sensors are present on all entry points and windows and are remotely monitored;

- (5) Video cameras are present in all required locations;
 - (6) Video cameras and storage meet all required specifications;
 - (7) Points of passage between public access areas and age restricted areas (if any) or limited access areas are lockable and/or monitored whenever people may be present in public access areas; and
 - (8) In age restricted retail areas (if any), lockable and secure display cases or counters of sufficient height to prevent the public from handling marijuana plants, marijuana or marijuana products without direct supervision of a licensee or employee.
- B. Each licensee shall adhere to the security plan and submit in writing to the Department a revised security plan within 14 days any time a material change is made to security measures. The Department may, but is not required, to approve revised security plans. The Department may determine at any time that the revised security plan does not meet minimum requirements.
 - C. Material changes include, but are not limited to, the addition or removal of sensors or cameras, changing of monitoring companies, additions of points of entry and changes to lighting.

3.4 - General Conduct

3.4.1. General Requirements.

- A. Marijuana licensees are responsible for the operation of their licensed business in compliance with Maine Revised Statutes, Titles 28-B, 17-A, 36; this Rule; and any other applicable state laws and rules.
- B. Licensees and their employees must conduct the business and maintain the licensed premises, surrounding area, and vehicles transporting product, in compliance with the following laws, as they now exist or may later be amended:
 - (1) Falsification in Official Matters, 17-A MRS, chapter 19;
 - (2) Offenses against Public Order, 17-A MRS, chapter 21;
 - (3) Drugs, 17-A MRS, chapter 45
 - (4) Motor Vehicles and Traffic, 29-A MRS
- C. Licensees have the responsibility to control their conduct and the conduct of employees, customers and visitors on the licensed premises at all times. Licensees shall ensure that at all times during operating hours and hours of apparent activity that there is, on-site, an individual identification cardholder authorized to cooperate with Department inspection of the premises and business records. Except as otherwise provided by law, licensees or employees may not:
 - (1) Be disorderly or visibly intoxicated by liquor, marijuana or controlled substances on the licensed premises;
 - (2) Permit any disorderly or visibly intoxicated person to remain on the licensed premises;
 - (3) Engage in or allow behavior on the licensed premises that provokes conduct which presents a threat to public safety;
 - (4) Engage, or permit any employee or other person to engage in, conduct on the licensed premises that is prohibited by any portion of 28-B MRS, 17-A MRS or 36 MRS; any part of this Rule; or any other applicable state laws and rules;
 - (5) Permit anyone under the age of 21 to be in age restricted retail areas or limited access areas.
- D. Engage in or permit any employee or other person to engage in the consumption of any type of marijuana, marijuana concentrate or marijuana product on the premises, except:
 - (1) A licensee may allow an employee who is a qualifying patient to consume legally obtained medical marijuana or marijuana products, so long as no customer or visitor sees, smells, hears or otherwise observes the consumption of medical marijuana. No employer is required to accommodate the ingestion of medical marijuana in any workplace or any employee working while under the influence of marijuana, 22 MRS§2426(2)(B).
 - (2) A products manufacturing facility licensee or employee may ingest, consume or apply products for quality control, research or development purposes, so long as the licensee does not allow any products to be smoked on the premises and the licensee ensures that the person conducting the testing does not operate any equipment or machinery or a motor vehicle while under the influence of the marijuana product.
- E. Licensees are prohibited by this Rule from manufacturing, selling or offering for sale any marijuana item intended for intravenous delivery or that involves any type of injection involving piercing of the skin of a human or animal.

3.5 - Adherence to Written Plans Approved by the Department

Marijuana establishment licensees are required to conduct operations in accordance with all written plans submitted by the licensee as an applicant, conditional licensee or active licensee and approved by the Department as indicated by the issuance of a marijuana establishment license.

3.5.1 Covered Plans. The licensee is responsible for developing, obtaining approval for and adhering to any plans that the Department may require to promote public health, public safety and orderly operation of the adult use marijuana program in accordance with the 28-B MRS and this rule. At minimum:

- A. All marijuana establishments must develop, receive approval for and operate in accordance with:
 - (1) An operating plan;
 - (2) A facility plan; and
 - (3) A security plan.
- B. All cultivation facilities must additionally develop, receive approval for, and operate in accordance with a cultivation plan.
- C. All marijuana establishments must operate in accordance with:
 - (1) Any other written assurances regarding operations to the Department for the purposes of ensuring health and safety;
 - (2) Local ordinances, land use standards or warrant articles;
 - (3) Any permits issued, or conditions imposed by a municipality, town, plantation, county commission or the Land Use Planning Commission in connection with local authorization; and
 - (4) Any plans required by any other state agency or regulatory authority.

3.5.2 Plans of Record. The Department shall keep on file a copy of all facility plans, security plans, operating plans and cultivation plans, as well as copies of certifications of testing facilities. The most recent plan, whether submitted with the issuance of the marijuana establishment license, or by the subsequent approval of an application to change, shall be the plan of record with which the licensee must comply.

3.5.3 Licensee Responsibility. A marijuana establishment licensee is solely responsible for the operation of the marijuana establishment in accordance with the marijuana establishment operating plan of record on file with the Department.

3.5.4 Changes to Operating Plan or Cultivation Plan. Any significant changes to the operating plan of record of any marijuana establishment or the cultivation plan of a cultivation facility must be approved by the Department.

- A. An application to significantly change the operating plan of a marijuana establishment must be:
 - (1) Submitted on forms made available by the Department;
 - (2) Accompanied by all required fees associated with a change of operating plan; and
 - (3) Consistent with 28-B MRS, this Rule and any other applicable laws and rules.
- B. No licensee shall make changes to operations until the application for changes to the operating plan have been approved by the Department.
- C. Within 30 days of receiving an application for changes to the operating plan, the Department shall:
 - (1) Approve the application for changes to the operating plan and update the operating plan of record on file with the Department; or
 - (2) Deny the application for changes to the operating plan only if the changes requested are in violation of 28-B MRS, this Rule, conditions required for local approval or other applicable laws or rules.
- D. The Department may place an application for changes to an operating plan on hold if the marijuana establishment applying for the change of operating plan is currently under investigation for a violation of 28-B MRS, this Rule or other related laws or rules.
- E. The same procedures apply for changing a cultivation plan.
- F. For purposes of this section, a licensee proposing to co-locate a medical marijuana operation not currently operating on the premises shall constitute a change in the operating plan.

3.5.5 Changes to Facility Plan. Any changes to the facility plan must be approved. The licensee shall submit a revised facility plan to the Department 14 days prior to any material change. The Department may deny the application for changes to the facility plan if the changes requested are in violation of 28-B MRS, this Rule, conditions required for local approval or other applicable laws or rules

3.6 - Requirements Applicable to Cultivation Facilities

3.6.1 General Compliance. In addition to the general compliance requirements pursuant to this Rule, including without limitation Section 3, and all requirements pursuant to 28-B MRS, 36 MRS and all other applicable laws and rules, a marijuana cultivation licensee must comply with the requirements of this subsection 3.6.

3.6.2 Privileges Granted. A marijuana cultivation licensee shall only exercise those privileges granted to it by the Department. In accordance with 28-B MRS, this Rule and all other applicable laws and rules, a marijuana cultivation licensee may within limited access areas of the premises as described in the marijuana establishment operating plan of record:

- A. Propagate and cultivate marijuana plants;
- B. Process, trim, dry, cure and store marijuana;
- C. Prepare marijuana plants and marijuana for authorized transfer and participate in authorized transfers of marijuana plants and marijuana;
- D. Produce marijuana items:
 - (1) A marijuana cultivation establishment may package marijuana flowers and trim as marijuana items for retail sale; and
 - (2) A marijuana cultivation establishment may produce pre-rolled marijuana cigarettes, so long as the pre-rolled marijuana cigarettes contain only marijuana flowers or trim.
- E. Prepare marijuana waste for disposal and dispose of marijuana waste;
- F. Transfer marijuana samples to products manufacturing and marijuana store licensees pursuant to 28-B MRS and this Rule;
- G. Transfer marijuana testing samples to a licensed marijuana testing facility; and
- H. Performed authorized transfer of marijuana plants and marijuana.

3.6.3 Authorized Sources of Marijuana Plants and Seeds. A cultivation facility licensee may acquire marijuana plants and seeds by the following processes:

- A. By lawful purchase from another marijuana establishment, including a nursery cultivation facility.
- B. By gift from an individual person, who must be a resident of the State of Maine:
 - (1) A marijuana cultivation licensee may receive, by gift from an individual, only plants that qualify as marijuana seedling pursuant to this Rule
 - (2) If a marijuana cultivation licensee receives a marijuana plant or plants as a gift from an individual, the marijuana cultivation licensee shall record, on forms made available by the Department, the full name, contact telephone number and the identification number of a valid state identification belonging to the individual.
 - (3) The individual gifting the marijuana plant start to the licensee may not receive remuneration of any kind in return
 - (4) The gift of the marijuana plant start must not be conditional or contingent upon any other terms or requirements of the licensee.
- C. By way of limited authorization for the sale of marijuana plants (including seedlings, immature plants and mature plants) and marijuana seeds by registered caregiver or registered dispensary to marijuana cultivation licensee, pursuant to 28-B MRS§501(6):
 - (1) A cultivation facility licensee may not make such purchases unless the cultivation facility licensee is:
 - (a) A natural person who is also a registered caregiver or registered dispensary;
 - (b) A business entity that is also a registered caregiver or registered dispensary; or
 - (c) A business entity with identical ownership and ownership shares as registered caregiver or registered dispensary.

- (2) A cultivation facility may not make such purchases more than 1 year after it is first issued a cultivation facility license.
- (3) A cultivation facility may not make such purchases more than 2 years after the Department first issues a cultivation facility license to any other licensee.
- (4) A cultivation facility must enter all marijuana seedlings, immature plants, and mature marijuana plants acquired through such purchases into the tracking system.
- (5) A cultivation facility must report such purchases on a form supplied by the Department.
- (6) A cultivation facility must pay any excise tax that would have been owed if the same amount of marijuana plants or seeds had been sold by a cultivation facility.
- (7) Any marijuana seeds and marijuana must be transported in accordance with all requirements relevant to transfers between licensees.
- (8) A cultivation facility may not make such a purchase from a registered caregiver or registered dispensary that previously has made a sale of marijuana or marijuana seeds under this provision.
- (9) Any marijuana or marijuana seeds obtained in violation of this paragraph, and any marijuana derived therefrom, are subject to seizure and destruction by the Department, in addition to any administrative penalties that the Department may impose.

3.6.4 Marijuana Cultivation Establishment Premises.

- A. The premises of a marijuana cultivation establishment must comply with all security requirements described in Section 3.3.
- B. All electrical equipment, including but not limited to growing lights, cultivation equipment and packaging equipment, must be agency approved including UL, ETL, and CSA.
- C. Any cultivation of seedlings, immature plants or mature plants must take place in:
 - (1) A fully enclosed secure indoor facility or secure greenhouse with walls, a roof, lockable doors, and secure windows as described in Section 3.3 that prevent entry by unauthorized persons; or
 - (2) Within a secured fenced area, as described in Section 3.3, structures, or an expanse of open or cleared ground.
- D. The entire area within the fence surrounding non-secure greenhouses, other structures or expanse of open or cleared ground shall be considered a limited access area.
 - (1) An outdoor or greenhouse marijuana cultivation facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals.
 - (2) It shall be the responsibility of the licensee to maintain physical security in a manner similar to a cultivation facility located in an indoor licensed premises so it can be fully secured and alarmed.
- E. A nursery cultivation facility or a cultivation facility that also holds a marijuana store license on the same premises must use a fence or other adequate security measures to separate age restricted retail areas from limited access areas.

3.6.5 Authorized Mature Plant Canopy. At no time may a marijuana cultivation licensee cultivate mature marijuana plants in an area not clearly illustrated on the operating plan of record or cultivation plan of record, previously filed and approved by the Department. At no time may the total area in square feet in which mature marijuana plants are cultivated exceed the total area for which the marijuana cultivation licensee has been approved as indicated on the license issued to the licensee by the Department.

3.6.6 Hours of Operation.

A marijuana cultivation licensee may not, outside of the hours of operation stated on the operating plan of record, conduct the following activities:

- A. Harvest mature marijuana plants;
- B. Move immature and mature marijuana plants from one area of the premises to another;
- C. Transfer marijuana to or from a drying or curing area;
- D. Process marijuana;
- E. Create, change or combine a batch of marijuana items;
- F. Transfer or transport of any material tracked in the tracking system;
- G. Prepare marijuana waste to be unusable; or
- H. Dispose of marijuana waste.

Except that, in the event of an emergency due to unforeseen or otherwise unavoidable circumstances, the licensee may conduct the enumerated activities outside the hours of operation stated on the operating plan of record, for the purposes of protecting the licensee's marijuana inventory, provided that the licensee first provides notice to the Department regarding the character of the emergent circumstances, the activities to be conducted and the hours during which such activities will occur.

3.6.7 Cultivation of Medical and Adult Use Marijuana on the Same Premises. A cultivation facility may cultivate both medical marijuana and adult use marijuana only if: (1) it has received the Department's approval of an operating plan to cultivate both, and (2) it is a validly registered dispensary or caregiver. The cultivation facility must:

- A. Cultivate medical marijuana in an area physically and visually separated from the area used to cultivate adult use marijuana;
- B. Track all medical marijuana separately from adult use marijuana;
- C. Store all medical marijuana separately from adult use marijuana;
- D. Ensure that medical marijuana is never processed simultaneously or contemporaneously with adult use marijuana on the same piece of equipment;
- E. Keep a log of the following information for all equipment used to cultivate both medical marijuana and adult use marijuana:
 - (1) The name of the licensee or employee who operated the equipment;
 - (2) The tracking information for the marijuana or marijuana concentrate that was processed using the equipment;
 - (3) The exact date, time and duration the equipment was used; and
 - (4) The tracking information for the resulting marijuana concentrate or marijuana product; and
- F. Make the log for any piece of equipment available to the Department, the Maine Revenue Service or any law enforcement officer for inspection.

3.7 - Requirements Applicable to Testing Facilities

Reserved for routine technical rulemaking as defined in 5 MRS, chapter 375, subchapter 2-A.

3.8 - Requirements Applicable to Products Manufacturing Facilities

3.8.1 General Product Safety. In addition to other provisions in this Rule, 28-B MRS and all other applicable rules and laws, a marijuana products manufacturing facility must:

- A. Ensure that all equipment and surfaces that come into contact with any marijuana or other ingredients are food grade and made of materials that do not react adversely with marijuana, any ingredient, chemical or solvent being used;
- B. Construct, install and maintain all counters and surface areas in a manner that reduces the potential for development of microbials, molds, mildew, fungi and other contaminants and that can be easily cleaned;
- C. Maintain the premises in a manner that is:
 - (1) Free from conditions that may result in contamination; and
 - (2) Suitable to facilitate safe and sanitary operations;
- D. Provide adequate refrigeration for perishable marijuana products that will be consumed and utilize adequate storage facilities and transport methods;
- E. Ensure that all electrical equipment, including but not limited to equipment used for extraction, mixing, cutting and packaging; refrigerators; ventilation; and lights, is agency approved including UL, ETL, and CSA.
- F. Ensure that all chemicals and substances used in the manufacturing process are stored in a safe location on the premises and in a manner to prevent contamination of any marijuana or marijuana products; and
- G. Submit samples of product in accordance with operating plans of a certified laboratory, if required to test.

3.8.2 Prohibited Conduct. In addition to any other restrictions or prohibitions contained in this Rule, 28-B MRS and any other applicable rules or laws, a marijuana products manufacturing establishment may not:

- A. Manufacture a marijuana product that by its shape or design is likely to appeal to minors, including without limitation:
 - (1) Products that are modeled after non-cannabis products commonly consumed by and marketed to children; or
 - (2) Products in the shape of an animal, vehicle, person or character;
- B. Manufacture a marijuana product by adding or infusing marijuana into a commercially available non-cannabis end product;
- C. Manufacture any product that does not contain marijuana;
- D. Manufacture any edible marijuana product that has more than 10 milligrams of THC per serving;
- E. Package together for sale an edible marijuana product that has more than 100 milligrams of total THC; or
- F. Engage in the sale of marijuana, if required testing is not verified/verifiable with certificate of analysis, or if testing reports unsafe levels of potentially harmful substances.

3.8.3 Tracking. A marijuana products manufacturing facility must enter into the tracking system all required information each time a batch is created.

3.8.4 Extraction. A marijuana products manufacturing facility must conform with the standard operating procedures for extraction methods described in its operating plan of record for any extraction to be performed on the premises.

- A. **Generally safe extraction methods.** The Department permits the following generally safe extraction methods, so long as they are listed in the operating plan of record:
 - (1) Mechanical extraction using:
 - (a) Potable water and ice made from potable water;
 - (b) Dry screening or sieving;
 - (c) Cryogenic or subzero processing not involving a solvent; or
 - (d) Pressure and temperature.
 - (2) Infusion of marijuana in food grade fats or synthetic food additives:
 - (a) Propylene glycol;
 - (b) Glycerin;
 - (c) Butter;
 - (d) Olive Oil; or
 - (e) Other typical cooking fats.
- B. **Potentially hazardous extraction methods.** The Department will permit potentially hazardous solvent extraction using a 99 percent or greater purity of the following solvents, using storage, preparation, electrical, gas monitoring, fire suppression and exhaust systems methods approved in the operating plan of record, so long as the solvents are listed in the operating plan of record and the end result does not exceed allowable limits specified by the Department:
 - (a) CO₂;
 - (b) Ethanol, including solutions of ethanol and potable water;
 - (c) A liquid chemical, compressed gas or commercial product that has a flashpoint above 38 degrees Celsius or 100 degrees Fahrenheit
- C. **Inherently hazardous extraction methods.** Upon certification by a certified industrial hygienist or professional engineer licensed in Maine that the manufacturing facility's storage, preparation, electrical, gas monitoring, fire suppression and exhaust systems are adequate, the Department will permit inherently hazardous solvent extraction using a 99 percent or greater purity of the following solvents, so long as the solvents are listed in the operating plan of record and the end result does not exceed allowable limits specified by the Department:
 - (a) Butane;
 - (b) Propane;
 - (c) Acetone;
 - (d) Heptane;
 - (e) Pentane; or

- (f) Any other chemicals approved by the Department in writing.
- D. All flammable gas must be odorized in compliance with state and federal regulations.
- E. Pressurized canned flammable fuel, including without limitation butane or propane in containers intended for camp stoves, handheld torch devices, refillable cigarette lighters and similar consumer products are prohibited for use in extraction.
- F. As applicable, all licensees and employees must:
 - (1) Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present;
 - (2) Use proper eye protection, respiratory protection and gloves;
 - (3) Use only potable water and ice made from potable water in processing; and
 - (4) Undergo safety training on fire prevention and safe operation of equipment used for manufacturing.
- G. A marijuana products manufacturing facility performing extraction may be subject to inspection by the state fire marshal, local fire department, building inspector or code enforcement officer to confirm that no health or safety concerns are present, and that the facility is in compliance with all applicable standards contained in the NFPA model fire code.

3.8.5 Edible Marijuana Products Manufacturing. In addition to all other provisions of this Rule, 28-B MRS and all other applicable rules or laws, a marijuana products manufacturing facility that has declared edible marijuana products as part of their operating plan of record may manufacture edible marijuana products in accordance with the following:

- A. Must obtain a food establishment license from the State of Maine pursuant to 22 MRS§2167.
 - B. Must employ a Certified Food Protection Manager, pursuant to State of Maine Food Code Section 2-102.12, who has attained certification by a program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs;
 - C. May not:
 - (1) Manufacture edible marijuana products intended for non-human consumption;
 - (2) Manufacture edible marijuana products within the same licensed food establishment that operates as a restaurant or that prepares non-cannabis food to be served to order;
 - (3) Share a food establishment with a person or entity not licensed as a marijuana products manufacturing establishment; or
 - (4) Process or prepare food intended for commercial sale that does not contain marijuana;
 - D. Shall be subject to inspection by state or local regulatory authorities including but not limited to the local fire department, building inspector or code enforcement officer to confirm that no health, safety or threats to the public welfare are present; and
 - E. Shall comply with all applicable standards of the relevant local jurisdiction and the Maine Food Code.
- In the event of a conflict between this Rule and the Maine Food Code, this Rule shall control.

3.8.6 Manufacturing of Medical Marijuana Products and Adult Use Marijuana Products on Same Premises.

- A. A products manufacturing facility may possess medical marijuana or medical marijuana concentrate only if it has received the Department's approval of an operating plan to extract from medical marijuana or produce medical marijuana products. The products manufacturing facility must:
 - (1) Track all medical marijuana, medical marijuana concentrate and medical marijuana products separately from adult use marijuana, adult use marijuana concentrate and adult use marijuana products in the tracking system.
 - (2) Store all medical marijuana, medical marijuana concentrate and medical marijuana products separately from adult use marijuana, medical marijuana concentrate and medical marijuana products.
 - (3) Ensure that medical marijuana or medical marijuana concentrate is never processed simultaneously or contemporaneously with adult use marijuana or marijuana concentrate on the same piece of equipment.

- (4) Keep a log of the following information for all equipment used to extract from both medical marijuana and adult use marijuana or to manufacture both medical marijuana products and adult use marijuana products:
 - (a) The name of the licensee or employee who operated the equipment;
 - (b) The tracking information for the marijuana or marijuana concentrate that was processed using the equipment;
 - (c) The exact date, time and duration the equipment was used; and
 - (d) The tracking information for the resulting marijuana concentrate or marijuana product.
- B. A log for any piece of equipment used to process or manufacture marijuana must be made available to the Department, the Maine Revenue Service or any law enforcement officer for inspection.

3.8.7 Reference Testing Requirements for Manufactured Marijuana.

Reserved for routine technical rulemaking as defined in 5 MRS, chapter 375, subchapter 2-A.

3.9 - Requirements Applicable to Marijuana Stores and Nursery Cultivation Facilities

3.9.1 Authorized Conduct. In accordance with the requirements and restrictions of 28-B MRS, this Rule and any other applicable laws or rules, a marijuana store licensee or nursery cultivation facility may:

- A. Between the hours of 7:00 AM and 10:00 PM local time or the hours approved in its operating plan:
 - (1) Sell or transfer permitted items on the licensed premises to consumers age 21 or older, within the limits described in this Section:
 - (a) Marijuana stores may sell marijuana seedlings, immature marijuana plants, marijuana or marijuana products, along with marijuana paraphernalia, non-marijuana food and non-alcoholic beverages, clothing and other generally permissible retail items.
 - (b) Nursery cultivation facilities may sell marijuana seeds, marijuana seedlings, immature marijuana plants, gardening or agriculture supplies and tools and safety-listed electrical equipment.
 - (2) Accept returns of products sold by the licensee at the same premises to the person making the return and offer a refund or exchange of equal or lesser value;
 - (3) Refuse to sell any item to any person; or
 - (4) Provide consultations between employees and adult consumers
- B. During the hours stated on the operating plan:
 - (1) Prepare and transport permitted items to another licensee;
 - (2) Accept deliveries of permitted items and manage its inventory;
 - (3) Enter transfers or deliveries into the tracking system;
 - (4) Dispose of marijuana waste;
 - (5) Conduct employee training; or
 - (6) Perform administrative work, cleaning or maintenance.

3.9.2 Sales Limits.

- A. A marijuana store may not knowingly sell more than the following amounts to an individual at any one time or within one day:
 - (1) Two and one-half ounces of marijuana; or
 - (2) Two and one-half ounces of marijuana and marijuana concentrate that includes no more than five grams of marijuana concentrate, whether sold alone, contained in an inhalant delivery system, or contained in edible marijuana products.
- B. A nursery cultivation facility may not sell more than a sum total of 12 seedlings or immature plants to an individual at any one time or within one day.
- C. A marijuana store or nursery cultivation facility is required to report to law enforcement the identity of any individual who explicitly communicates the intent to divert adult use marijuana to individuals under the age of 21, across state lines or to be engaging in the unlicensed sale of marijuana.
- D. A licensee shall report any criminal activity of which it is aware related to the unlicensed sale or diversion of marijuana, marijuana products or marijuana plants. Failure to report such activity to appropriate law enforcement entities may result in penalties up to and including license revocation and monetary fines.

- E. A licensee shall report all transactions into the tracking system.

3.9.3 Prohibited Conduct. In addition to any other prohibitions and restrictions of 28-B MRS, this Rule or any other applicable laws or rules, a marijuana store or nursery cultivation facility must not:

- A. Conduct any transaction without face-to-face verification of the purchaser's identity and age of 21 or older on an approved form of government-issued identification;
- B. Sell a marijuana item that has not passed quality testing;
- C. Sell a marijuana item that is not properly packaged or labeled in accordance with Section 11 of this Rule;
- D. Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana concentrate, except that a marijuana store or nursery cultivation facility may sell or give away disposable butane lighters;
- E. Sell or give away any non-marijuana items that are attractive to minors as defined in Section 3.8.2 of this Rule;
- F. Sell an edible marijuana product that according to its label, exceeds 10 milligrams of THC per serving and 100 milligrams of THC in the total product;
- G. Discount a marijuana item if the retail sale of the marijuana item is made in conjunction with the retail sale of any other items, including other marijuana items;
- H. Sell a marijuana item at a nominal price for promotional purposes;
- I. Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day or any hours not permitted on the operating plan;
- J. Conduct any activities during hours or on days not authorized in the licensee's operating plan;
- K. Sell or transfer a returned marijuana item to another consumer;
- L. Permit a consumer to open or alter a package containing a marijuana item or otherwise remove a marijuana item from packaging required by this Rule within the premises or in an area that the licensee controls;
- M. Permit a consumer to bring marijuana items onto the premises except for marijuana items being returned for refund or exchange as allowed by this rule;
- N. Sell any item not allowed under this Rule or any of the following items:
 - (1) Pet or animal food, treats or other pet or animal products containing marijuana;
 - (2) Injectable marijuana; or
 - (3) Any other marijuana items not meant for human consumption or use;
- O. Sell mature marijuana plants or tissue cultures;
- P. Use any electrical equipment, including but not limited to display lighting, not listed as approved by a nationally recognized testing laboratory or not approved by the authority having jurisdiction; or
- Q. Engage in the sale of marijuana seeds, marijuana plants, marijuana or marijuana products if required testing is not verified/verifiable with certificate of analysis, or if testing reports unsafe levels of potentially harmful substances.

3.9.4 Monitoring of Public Access Areas. The marijuana store or nursery cultivation facility shall maintain control of public access areas.

- A. A marijuana store or nursery cultivation facility shall use one of the following means to monitor a public access area (Section 3.2) to ensure that no person under the age of 21 enters an age restricted retail area:
 - (1) **Stationing a licensee or employee during all hours of public operation in the public access area.** The licensee or employee shall check for valid identification and control entry to the age restricted retail area; or
 - (2) **Keeping entry doors locked.** The establishment shall use a door buzzer or other means to alert employees that a person wants to enter the public access area. A licensee or employee shall admit the person to the public access area and check for valid identification before allowing entry into the age restricted retail area.
 - (3) **Keeping entry doors open but keeping a door between the public access area and age restricted retail area locked.** The establishment shall use a door buzzer or other means to alert employees that a person wants to enter the age restricted retail area. A licensee or employee shall meet the person in the public access area and check for valid identification before allowing entry into the age restricted retail area.

- B. A marijuana store or nursery cultivation facility shall keep public access areas free of marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana and marijuana products except those exiting the premises in the possession of persons who have legally acquired them during that visit.

3.9.5 Display of Seeds, Seedlings, Immature Marijuana Plants, Marijuana and Marijuana Products.

Marijuana items may only be displayed in such a way that prevents access to persons who are not licensees or employees.

- A. As permitted under the class of license, marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana and marijuana products may be displayed in such ways that prevents access to persons who are not licensees or employees.
- B. As permitted under the class of license, displays accessible by persons other than licensees and employees may include packaging and marketing materials for marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana or marijuana products and mock examples, provided that no actual marijuana seedlings, immature marijuana plants, marijuana or marijuana products are present.

3.9.6 Point of Sale Areas. A marijuana store or nursery cultivation facility must keep all permitted marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana and marijuana products in limited access areas where access is restricted to licensees and employees.

- A. No person 21 years of age or older who is not a licensee or employee may handle marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana and marijuana products in the point of sale area unless a licensee or its employee supervises the person at all times.
- B. A person 21 years of age or older who is not a licensee or employee may only handle marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana or marijuana products without the supervision of a licensee or employee only following the completion of a sale and once the purchased items are placed into exit packaging.

3.9.7 Exit Packaging. A marijuana store or nursery cultivation facility, after a retail sale, must place all items purchased fully within appropriate exit packaging prior to a customer leaving the premises.

- A. A licensee may charge a fee to consumers for exit packaging.
- B. A licensee may sell reusable exit packaging that meets all other requirements, except that the package need not be tamper-evident.
- C. A customer may supply reusable exit packaging, so long as:
 - (1) The reusable packaging is of a type sold by the licensee, and the licensee or employee verifies that it is legal exit packaging; and
 - (2) The licensee or employee verifies that the reusable exit packaging is in sound condition.
- D. The exit packaging must be free of any words, images, markings or design that in anyway indicate or suggest that its contents are of the exit package are marijuana, marijuana concentrate or marijuana products.
- E. For all items other than seedlings, immature plants, non-marijuana food, or non-marijuana drinks:
 - (1) The exit packaging must be enclosed, sealed, opaque, tamper-evident (unless approved reusable packing under this subsection), and child resistant.
 - (2) A licensee shall maintain a copy of the certificate showing that all types of exit packaging into which the licensee places marijuana or marijuana products is child-resistant and complies with the requirements of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995).

3.9.8 Sales Tax. A marijuana store or marijuana cultivation facility must track sales and remit sales taxes according to 36 MRS and the rules of the Maine Revenue Service.

Section 4 - Tracking

4.1 - General Tracking Requirements

In addition to any requirements specific to tracking within each license class, all licensees of marijuana establishments must meet minimum requirements.

- A. Marijuana establishment licensees must track, using the inventory tracking system specified by the Department, marijuana, marijuana concentrates and marijuana products from immature plant to point of sale.
- B. In addition to any license class specific tracking requirements, a licensee must record the following data in the tracking system:
 - (1) A complete inventory of all marijuana, marijuana concentrate and marijuana products in the possession, control or ownership of the licensee;
 - (2) Any changes to the marijuana establishment's inventory of any marijuana;
 - (3) When plants are partially or fully harvested or destroyed;
 - (4) When marijuana waste is destroyed;
 - (5) When an authorized transfer occurs;
 - (6) Any theft of marijuana;
 - (7) All sales records;
 - (8) Marijuana excise tax records;
 - (9) Marijuana sales tax records;
 - (10) All mandatory testing results;
 - (11) The municipality or municipalities where the product was harvested, processed (if applicable), sold to other licensees, and sold to consumers; and
 - (12) Other information required by the tracking system or specified by the Department.

4.1.1 Implementation and Administration of Tracking System.

- A. Unless excused by the Department, in writing, a marijuana establishment must have an inventory tracking system account activated and functional prior to operating or exercising any privileges of a license. The licensee shall keep and maintain comprehensive records to ensure adequate inventory tracking of any marijuana, marijuana concentrates and marijuana products during the period the licensee is not otherwise using the inventory tracking system.
- B. Each marijuana establishment must designate at least one licensee as an inventory tracking system administrator.
- C. In order to obtain an inventory tracking system administrator account, a licensee must attend and successfully complete all required inventory tracking system training. A licensee may apply for an account and training once they receive a conditional license from the Department.
- D. The Department may also require additional ongoing, continuing education for an individual to retain his or her inventory tracking system administrator account.
- E. Each licensee is responsible for all costs associated with its use of the tracking system and any associated vendor fees.
- F. A marijuana establishment may designate additional licensees as inventory tracking system users. The establishment shall ensure that all licensees who are granted inventory tracking system user account access for the purposes of conducting inventory tracking functions in the system are trained by inventory tracking system administrators in the proper and lawful use of the inventory tracking system.

4.1.2 General Inventory Tracking System Use.

- A. All inventory tracking activities at a marijuana establishment licensee must be tracked through use of the inventory tracking system. A licensee must reconcile all on-premises and in-transit marijuana, marijuana concentrates and marijuana product inventories each day in the inventory tracking system by 11:59 p.m. that same day.
- B. A marijuana store establishment must utilize a standard of weights and measures that is supported by the inventory tracking system to track all marijuana, concentrate and marijuana product. A scale used to weigh

product prior to entry into the inventory tracking system shall be tested and approved in accordance with 10 MRS, chapter 501.

- C. A licensee shall maintain the security of the inventory tracking system, as follows:
 - (1) A marijuana establishment licensee shall maintain and provide to the Department an accurate and complete list of all inventory tracking system administrators and inventory tracking system users for each licensed premises.
 - (2) A marijuana establishment licensee shall update this list and provide the updated list to the Department when a new inventory tracking system user is trained or when an existing user is removed.
 - (3) A marijuana establishment licensee must train and authorize any new inventory tracking system users before they may access inventory tracking system or input, modify or delete any information in the inventory tracking system.
 - (4) A marijuana establishment licensee must cancel any inventory tracking system administrators and inventory tracking system users from their associated inventory tracking system accounts once any such individuals are no longer employed by the licensee or at the licensed premises.
 - (5) A marijuana establishment licensee is accountable for all actions employees take while logged into the inventory tracking system or otherwise conducting marijuana, marijuana concentrates and marijuana product inventory tracking activities.
 - (6) Each individual user is also accountable for all of his or her actions while logged into the inventory tracking system or otherwise conducting marijuana, marijuana concentrates or marijuana product inventory tracking activities, and shall maintain compliance with all relevant laws.
 - (7) Each individual user shall only log activities in the inventory tracking system under the user's own unique inventory tracking system user account.
- D. A marijuana establishment may use separate software applications to collect information to be used by the business, including secondary inventory tracking or point of sale systems.
 - (1) A licensee must ensure that all relevant inventory tracking system data is accurately transferred to and from the inventory tracking system for the purposes of reconciliations with any secondary systems.
 - (2) A marijuana establishment must preserve original inventory tracking system data when transferred to and from a secondary application(s). Secondary software applications must use the inventory tracking system data as the primary source of data and must be compatible with updating to the inventory tracking system.

4.1.3 Conduct While Using Inventory Tracking System.

- A. A marijuana establishment and its designated inventory tracking system administrator(s) and inventory tracking system user(s) shall enter data into the inventory tracking system that fully and transparently accounts for all inventory tracking activities and authorized transfers. Both the marijuana establishment and the individuals using the inventory tracking system are responsible for the accuracy of all information entered into the inventory tracking system. Any misstatements or omissions may be considered a license violation affecting public safety.
- B. Individuals entering data into the inventory tracking system shall only use that individual's inventory tracking system account.
- C. If at any point a marijuana establishment loses access to the inventory tracking system for any reason:
 - (1) The marijuana establishment shall immediately notify the Department and shall keep and maintain comprehensive records detailing all marijuana, marijuana concentrates and marijuana product tracking inventory activities that were conducted during the loss of access;
 - (2) Once access is restored, all marijuana, marijuana concentrates and marijuana product inventory tracking activities that occurred during the loss of access must be entered into the inventory tracking system and the Department shall be notified that access has been restored;
 - (3) A marijuana establishment must document when access to the system was lost, the cause of system loss and when it was restored; and
 - (4) A marijuana establishment shall not transport or receive any marijuana, or marijuana product to or from another marijuana establishment until such time as access is restored and all information is recorded into the inventory tracking system.

4.1.4 System Notifications.

- A. A marijuana establishment must monitor all compliance notifications from the inventory tracking system. The licensee must resolve the issues detailed in the compliance notification in a timely fashion. Compliance notifications shall not be dismissed in the inventory tracking system until the marijuana establishment resolves the compliance issues detailed in the notification.
- B. A marijuana establishment must take appropriate action in response to informational notifications received through the inventory tracking system including but not limited to notifications related to enforcement alerts and other pertinent information.

4.1.5 Lawful Activity Required. Proper use of the inventory tracking system does not relieve a licensee of its responsibility to maintain compliance with all laws, rules and other requirements at all times.

4.1.6 Inventory Tracking System Procedures Must Be Followed. A marijuana establishment must utilize the inventory tracking system in conformance with these rules and inventory tracking system procedures, including but not limited to:

- A. Properly indicating the creation of a harvest batch or production batch including the assigned harvest batch or production batch number;
- B. Accurately identifying the cultivation rooms where each plant is located on the licensed premises;
- C. Accurately identifying when inventory is no longer on the licensed premises or is part of an authorized transfer;
- D. Properly indicating that a test batch is being used as part of achieving process validation;
- E. Properly indicate test results from a marijuana testing facility;
- F. Accurately indicating the inventory tracking system category for all marijuana and marijuana products; and
- G. Accurately including a note explaining the reason for any destruction of marijuana and/or marijuana products, and reason for any adjustment of weights to inventory tracking system packages.

4.2 - Transportation

4.2.1 Transport Manifest. A transport manifest, generated by the tracking system, is required for all authorized transfer of marijuana or marijuana products. The transport manifest does not take the place of a chain-of-custody form that may be required of the licensee. Transport authorized by these rules shall be by motor vehicle only.

- A. The licensee transporting marijuana or marijuana products is responsible for entering all required information in the tracking system for the generation of a transport manifest, including without limitation, the following information:
 - (1) The name, contact information, licensed premises address and license number of the licensee transporting the marijuana or marijuana products;
 - (2) The name, contact information, licensed premises address and license number of the licensee receiving the transported marijuana;
 - (3) Product name and quantities (by weight or unit) of each marijuana or marijuana product contained in each transport;
 - (4) The date of transport and approximate time of departure;
 - (5) Arrival date and estimated time of arrival;
 - (6) Delivery vehicle make and model and license plate number;
 - (7) Name and signature of the licensee or individual identification card holder and their identification card number accompanying the transport;
 - (8) Name and signature of the licensee or individual identification card holder and their identification card number receiving the authorized transfer;
 - (9) The correct Sales Tax Identification Number or Excise Tax Identification Number for the transferor and the transferee; and
 - (10) Damaged or refused marijuana or marijuana products being returned to the original seller.
- B. A transport manifest must be prepared for each marijuana establishment that will receive marijuana or marijuana products.

- C. A licensee may not void or change a transportation manifest after departing from the originating premises.

4.2.2 Transport Manifest Exception. When marijuana items are transferred by way of authorized transfer between two licenses controlled by the same licensee, and which do not require the transport of the marijuana or marijuana products outside the boundaries of the premises, then a transport manifest is not required. In these cases, the licensee must still follow all requirements of the tracking system.

4.2.3 Transportation of Marijuana and Marijuana Products. Marijuana and marijuana products may be transported subject to the following requirements:

- A. Marijuana or marijuana products may be transported only from one licensed marijuana establishment to another licensed marijuana establishment;
- B. All marijuana or marijuana products being transported must be included in and accompanied by a transport manifest generated by the tracking system;
- C. All marijuana or marijuana products being transported must be contained within an enclosed, locked area in the transport vehicle;
- D. A marijuana products manufacturing facility must provide adequate refrigeration for perishable marijuana product that will be consumed and shall utilize adequate storage facilities and transport methods. This shall include, but not be limited to, potentially hazardous food as defined under the State of Maine Food Code.
- E. The licensee transporting the marijuana or marijuana products must:
 - (1) Keep marijuana or marijuana products in transit shielded from public view;
 - (2) Use a vehicle for transport that is:
 - (a) Insured at or above the legal requirements in Maine; and
 - (b) Equipped with, at a minimum, a functional, manufacturer-installed alarm system; and
- F. All marijuana or marijuana products must be contained within wholesale containers in the transport vehicle
- G. A licensee or individual identification card holder transporting marijuana or marijuana products must carry three copies of each transport manifest during the transportation of marijuana or marijuana products and must:
 - (1) Give one copy to the receiving licensee following the verification of the transport manifest and transfer of the marijuana or marijuana products;
 - (2) Possess one copy that is to be provided to a law enforcement officer or government agent upon request, as follows:
 - (a) A licensee or individual identification card holder who has given a transport manifest to a law enforcement officer or government agent shall obtain the name, rank and agency of the law enforcement officer;
 - (b) The licensee or individual identification card holder who has given a transport manifest to a law enforcement officer or government agent must retain the name and identification number of the law enforcement officer or government agent for the duration of the transport; and
 - (3) Maintain a copy of the transport manifest that must be returned to the marijuana establishment for record-keeping purposes;
- H. A licensee must notify law enforcement and the Department immediately, or as soon as possible given the circumstances, if a vehicle transporting marijuana or marijuana products is involved in a vehicular accident or theft resulting in the loss of marijuana or marijuana products;
- I. Any vehicle transporting marijuana or marijuana products must travel directly from the shipping licensee to the receiving licensee and the licensee or individual identification card holder transporting marijuana or marijuana products must not:
 - (1) Make any stops in between except:
 - (a) to other licensed premises listed on a transport manifest,
 - (b) to accommodate meal and rest periods required by law; or
 - (c) in the case of an emergency, in which case the shipping licensee shall promptly report, or cause to be reported, the stop and the reasons for the stop to the Department and note the same on the transport manifest;
 - (2) Remove the marijuana or marijuana products from the vehicle until arrival at the destination;
 - (3) Transfer marijuana or marijuana products to, nor store marijuana or marijuana products in any unlicensed premises; or

- (4) Travel with any persons not listed on the transport manifest.
- J. A licensee must notify the Department in advance of the location of every stop at an unlicensed location that exceeds two hours in duration.
- K. A licensee or individual identification card holder must make a vehicle used for the transport of marijuana or marijuana products immediately available for inspection upon request of the Department.
- L. Upon law enforcement stop or other contact the marijuana licensee or its agent shall identify themselves with their Department-issued individual identification card and all transportation manifests.

4.2.4 Receiving Party. The marijuana establishment receiving marijuana or marijuana products pursuant to an authorized transfer must:

- A. Verify the condition and quantity of marijuana or marijuana products included in the transport manifest;
- B. Record in the tracking system and any other relevant business records any damaged or refused marijuana or marijuana products, or other discrepancies found between the marijuana or marijuana products delivered and the marijuana items stated on the transport manifest;
- C. Enter the received marijuana or marijuana products in the tracking system of the receiving party prior to end of business on the day that they are received; and
- D. Provide an authorized signature and individual identification card number of the person receiving the authorized transport on the transport manifest belonging to the party transporting the marijuana or marijuana products, which must be kept by the transporting party for their records.

Section 5 - Advertising

5.1 - Definitions

For the purposes of this subsection, the following terms are defined as:

- A. "Advertising" means publicizing the trade name of a licensee together with words or symbols referring to marijuana or publicizing the brand name of marijuana items.
- B. "Handbill" is a flyer, leaflet or sheet that advertises marijuana.
- C. "Radio" means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite or internet programming. Radio includes any audio programming downloaded or streamed via the internet.
- D. "Television" means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the internet.

5.2 - Prohibitions

- A. In the course of promoting their brand or marijuana items, a marijuana establishment or licensee may not advertise in a manner:
 - (1) That is attractive to minors;
 - (2) That promotes irresponsible use;
 - (3) That promotes activity that is illegal under Maine law;
 - (4) That is contrary to or in direct violation of state or federal consumer protections; or
 - (5) That otherwise presents a significant risk to public health and safety.
- B. Advertising for a marijuana establishment may not:
 - (1) Contain statements that are deceptive, false or misleading;
 - (2) Display consumption of marijuana or marijuana products;
 - (3) Include claims related to potency (beyond listing of cannabinoid content);
 - (4) Depict activities or conditions considered risky when under the influence of marijuana, such as operating a motorized vehicle, boat or machinery, being pregnant or breastfeeding;
 - (5) Contain any content that can reasonably be considered to target individuals under the age of 21, including but not limited to images of minors, cartoons, toys or similar images and items typically marketed towards minors or references to products that are commonly associated with minors or marketed by minors;
 - (6) Contain any imitation of candy advertising;
 - (7) Include the term "candy" or "candies";
 - (8) Encourage the transportation of marijuana items across state lines or otherwise encourage illegal activity;
 - (9) Assert that marijuana items are safe because they are regulated by the Department or have been tested by a certified laboratory or otherwise make claims that any government agency endorses or supports marijuana;
 - (10) Make claims that marijuana has curative or therapeutic effects;
 - (11) Contain any health or physical benefit claims, including but not limited to health or physical benefit claims on labels or packaging; or
 - (12) Contain material that encourages excessive or rapid consumption.
- C. No licensee or agent of a licensee may:
 - (1) Make any deceptive, false or misleading assertions or statements on any informational material, any sign or any document provided to a consumer;
 - (2) Distribute handbills in public areas or on publicly owned property;
 - (3) Utilize television, radio, print media or internet advertising in cases where there is a reasonable expectation that more than 30 percent of the audience for the program, publication or internet web

- site in or on which the advertising is to air or appear is reasonably expected to be under the age of 21;
- (4) A licensee may not engage in advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature; or
 - (5) Permit use of the licensee's trademarks, brands, names, locations or other distinguishing characteristics for third-party use on advertising in a manner that does not comply with this Section or any other statute, rule or regulation.
- D. In the event a third-party has used licensee brand, trademarks, brands, names, locations or other distinguishing characteristics in an advertisement that does not comply with this Section or any other statute, rule or regulation, the licensee must immediately notify the Department, issue a cease-and-desist order to the third-party and pursue appropriate legal action.

5.3 - Websites

In addition to complying with the advertisement criteria and prohibitions outlined in Section 5.2, a marijuana establishment advertising on a website must:

- A. Utilize appropriate measures to ensure that individuals visiting the web page are over 21 years of age;
- B. Not utilize unsolicited pop-up or banner advertising on the internet other than on age-restricted websites for people 21 and over who consent to view marijuana-related material.

5.4 - Required Statements

A licensee must include the following statements, either in print or audio, on all print, television, radio and internet advertising in font size legible to the viewer or at a volume and speed that is readily understandable by the average listener:

- A. "For use only by adults twenty-one years of age and older."
- B. The license number of the marijuana establishment.

5.5 - Objectionable and Non-Conforming Advertising

The Department reserves the right to take action, including the use of punitive measures, against any licensee who fails to comply with the advertising provisions of this Rule, including, without limitation, specifying a period of time by which the licensee shall cease the non-compliant advertising and remove any advertising still being published or displayed.

Section 6 - Licensee Samples

6.1 - Trade Samples

6.1.1 Regulation of Trade Samples. Licensees may not provide samples of seeds, seedlings, immature marijuana plants or mature marijuana plants to other licensees. As authorized in this section, trade samples may be provided only by cultivation facilities and product manufacturing facilities and:

- A. Must be provided solely for the purposes of business to business marketing;
- B. Must be conveyed by way of authorized transfer in accordance with all tracking requirements;
- C. Must be packaged and labeled in accordance with Section 11 of this Rule;
- D. Must be placed in exit packaging in accordance with Section 11 of this Rule;
- E. May not be consumed on the premises of the licensee providing or receiving the sample;
- F. May not be sold or conveyed to another licensee or consumer; and
- G. May not be provided for any payment or consideration in contravention of sales and excise tax requirements.

6.1.2 Cultivation Facilities. Cultivation facilities, with the exception of nursery cultivation facilities, may provide trade samples of marijuana grown at the facility to licensed products manufacturing facilities or marijuana stores.

6.1.3 Products Manufacturing Facilities. Products manufacturing facilities may provide trade samples of marijuana products to licensed marijuana stores in accordance with this subsection.

6.1.4 Trade Sample Limits. No samples of marijuana or marijuana products shall be permitted to consumers or to other licensees, except as outlined in Section 6.1. A licensee is limited to providing the following aggregate amounts of trade samples to an authorized individual recipient licensee in a calendar month period:

- A. Edible containing products containing less than five grams of THC, which is easily divisible into servings of 10 mg of THC per serving;
- B. Marijuana concentrate containing five grams of THC;
- C. Two- and one-half ounces of marijuana.

6.2 - Samples for Testing and Research

Reserved for routine technical rulemaking as defined in Title 5 Chapter 375 Subchapter 2-A.

Section 7 - Authorized Transfers

A marijuana establishment licensee may transfer, within its licensed authority, marijuana seeds, seedlings, immature plants; marijuana; marijuana concentrate; other marijuana products; marijuana trade samples or marijuana samples for testing to other marijuana establishment licensees pursuant to the tracking system requirements described in 28-B MRS, this Rule and all other applicable laws and rules.

7.1.1 Compliance with Tracking System Requirements. A marijuana establishment must enter any marijuana seeds, seedlings or immature plants; marijuana; marijuana concentrate; other marijuana products; marijuana trade samples or marijuana samples for testing into the tracking system.

- A. The correct Excise Tax Identification Number or Sales Tax Identification Number for the transferor and the transferee must be entered into the tracking system.
- B. Tracking requirements apply to any transfer between two licensees, regardless of common ownership or co-location.
- C. Tracking requirements apply to any transfer between the designated cultivation area of a nursery cultivation facility to the area of a nursery cultivation facility designated for consumer sales.

7.1.2 Compliance with Transportation Requirements. All authorized transfers shall be by motor vehicle only and comply with the transportation requirements of Section 4.2 and 29-A MRS.

Section 8 - Product Safety

In an effort to assure the safety of all marijuana, marijuana concentrate and marijuana products, marijuana establishment licensees must follow, and the Department may act in accordance with, in addition to all other applicable laws and rules, the following provisions in this Section.

8.1 - General Sanitary Requirements

In addition to the requirements found in Maine Food Code Chapter 33, this Rule and all other applicable rules and laws, a marijuana establishment licensee must:

- A. Prohibit an individual from working on a licensed premises, until the condition is corrected, who has or appears to have:
 - (1) An open or draining skin lesion unless the individual wears an absorbent dressing and protective gloves; or
 - (2) Any illness accompanied by diarrhea or vomiting if the individual has a reasonable possibility of contact with marijuana items on the licensed premises;
- B. Require all persons who work in direct contact with marijuana items conform to hygienic practices while on duty, including but not limited to:
 - (1) Maintaining adequate personal cleanliness; and
 - (2) Washing hands thoroughly in an adequate hand-washing area before starting work, prior to having contact with a marijuana item and at any other time when the hands may have become soiled or contaminated;
- C. Provide adequate and convenient hand-washing facilities, furnished with potable running water at a suitable temperature, effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying device;
- D. Properly remove all litter and waste from the licensed premises and maintain the operating systems for waste disposal in an adequate manner so that they do not constitute a source of contamination in areas where marijuana items are exposed;
- E. Provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and
- F. Hold marijuana items in a manner that prevents pathogenic microorganism growth or toxin formation.

8.2 - Marijuana Products Manufacturing Facility Product Safety

- A. A marijuana products manufacturing facility that manufactures edible marijuana products must create and maintain standard production procedures and detailed manufacturing processes for each edible marijuana product it manufactures. These procedures and processes must be documented and made available on the licensed premises for inspection by the Department and local authorities.
- B. The following information must be documented in the standard production procedures for each edible Marijuana product:
 - (1) The amount in milligrams of standardized serving of marijuana;
 - (2) The total number of standardized serving of marijuana; and
 - (3) The total amount of active THC contained within the product.
- C. Marijuana and cannabinoid content must be homogeneous throughout:
 - (1) The product, or that portion of the product that contains THC; and
 - (2) Each serving.
- D. Serving sizes must be standardized.
 - (1) The size of a standardized serving of marijuana shall be no more than 10mg of active THC.
 - (2) A marijuana products manufacturing facility that manufactures edible marijuana product shall determine the total number of standardized serving of marijuana for each product that it manufactures.

- (3) No individual edible marijuana product unit for sale shall contain more than 100 milligrams of active THC, which must be readily divisible into individual servings containing no more than 10 milligrams of THC per serving.
 - (4) Determinations of cannabinoid content must comply with the testing requirements of this Rule.
- E. Unless impracticable, each single standardized serving of marijuana shall be marked, stamped or otherwise imprinted with the Department-approved universal symbol directly on at least one side of the edible marijuana product in a manner to cause the universal symbol to be distinguishable and easily recognizable. The universal symbol marking shall:
 - (1) Be centered either horizontally or vertically on each standardized serving of marijuana; and
 - (2) If centered horizontally on a serving, the height and width of the universal symbol shall be of a size that is at least 25% of the serving's width, but not less than ¼ inch by ¼ inch; or
 - (3) If centered vertically on a serving, the height and width of the universal symbol shall be of a size that is at least 25% of the serving's height, but not less than ¼ inch by ¼ inch.
- F. The following categories of edible marijuana product are considered to be per se practicable to mark with the universal symbol:
 - (1) Chocolate
 - (2) Soft confections
 - (3) Hard confections or lozenges
 - (4) Consolidated baked goods (e.g. cookie, brownie, cupcake, granola bar)
 - (5) Pressed pills and capsules

Section 9 - Waste Management

All wastes must be managed in accordance with federal, state and local requirements. The Department of Environmental Protection regulates the management and discharge of wastes pursuant to 38 MRS, chapter 13. Applicants should contact the Department of Environmental Protection for guidance on applicable regulations.

9.1 - Hazardous Waste

Discharges of hazardous waste or other matter in any quantity and under any circumstances must be reported in accordance with this Section.

- A. Licensees must immediately report discharges to the Department of Public Safety (State Police) unless exempted pursuant to Chapters 800 and 850 of the Department of Environmental Protection's regulations:
 - (1) Licensees must call 1-800-452-4664 or 207-624-7000 to notify the Department of Public Safety of a discharge.
 - (2) Public Safety officials will notify the Department of Environmental Protection; the responsible party is not required to do so.
- B. Licensees must also report any discharges of hazardous matter exceeding the federal reportable quantities in Appendix A to Chapters 800 and 850 of the Department of Environmental Protection's regulations as follows:
 - (1) The licensee must call the National Response Center at 1-800-424-8802; and
 - (2) If the spill goes beyond the boundary of the facility, the licensee must call the local fire department and the local community emergency coordinator.

9.2 - Marijuana Waste

In addition to any other provisions of 28-B MRS, this Rule or other applicable laws or rules, non-hazardous marijuana wastes shall be managed in accordance with the following:

- A. A marijuana plant, useable marijuana, trim and other plant material in itself is not considered hazardous waste unless it has been treated or contaminated with a solvent (other than water).
- B. Non-hazardous marijuana waste that is to be disposed of must be rendered unusable prior to leaving a marijuana establishment by one of the following methods:
 - (1) Grinding and incorporating the marijuana waste with other ground materials so the resulting mixture is at least fifty percent non-marijuana waste by volume, including:
 - (a) Food waste;
 - (b) Yard waste; or
 - (c) Other wastes approved by the Department; or
 - (2) Using another method approved by the Department and recorded in the licensee's operating plan of record before implementation.
- C. Composting of marijuana wastes may be subject to the Department of Environmental Protection's Solid Waste Management Rules: Composting Facilities rule, 06-096 C.M.R., chapter 410.

9.2.1 Marijuana Waste Exceptions. The following materials shall not be considered to be marijuana waste requiring treatment to be rendered unusable, provided that they are completely free of all marijuana flowers and leaves with any visible trichomes, and may be disposed of, provided that they are non-hazardous, in accordance with standard waste disposal regulations:

- A. Root balls, soil or growing media;
- B. Stalks of marijuana plants; and
- C. Leaves and branches removed from marijuana clones, seedlings and marijuana plants.

Section 10 - Wastewater

Wastewater generated during the cultivation, processing or manufacturing of marijuana must be disposed of in compliance with all applicable state and local laws and regulations.

Section 11 - Package and Labeling

All marijuana, marijuana concentrate and marijuana products received by a marijuana store from an authorized transfer, and offered for retail sale at a marijuana store must be packaged and labeled, including all required health and safety warnings, in accordance with the following section, in addition to any other provisions of this Rule, 28-B MRS and any other applicable laws and rules.

A licensee may not label or package for sale adult use marijuana or an adult use marijuana product under this chapter unless the marijuana or marijuana product has been analyzed by a certified testing laboratory, if such facility is in operation, for minimally the following test matrices:

- A. Residual solvents, poisons and toxins;
- B. Harmful chemicals;
- C. Dangerous molds and mildew;
- D. Harmful microbes, including, but not limited to, *Escherichia coli* and salmonella;
- E. Pesticides, fungicides and insecticides; and
- F. THC potency, homogeneity and cannabinoid profiles to ensure correct labeling.

The Department may waive testing requirements specified above, for any contaminant or factor for which the Department has determined that there exists no licensed testing facility in Maine certified to perform such testing, except that, in the interest of assuring public health and safety, the anticipated or reported timeliness of return of Certificate of Analysis for product testing conducted by a certified, licensed testing facility or the urgency expressed by a licensee may not be a basis for waiving required testing.

11.1 - General Packaging and Labeling Requirements for Retail Sale

11.1.1 General Packaging for Retail Sale Requirements. All marijuana items must be packaged in containers that:

- A. Are fully enclosable;
- B. Are resealable;
- C. Protect the packaged item from contamination; and
- D. Do not impart any toxic or deleterious substance to the packaged item.

11.1.2 General Labeling for Retail Sale Requirements. In addition to any other requirements pursuant to this Rule and 28-B MRS, all marijuana item labels must comply with the following:

- A. All required information must be printed directly on, or on a label or sticker affixed directly to, the marketing layer.
- B. Labeling text on any marketing layer must be no smaller than size 6 font or 1/12 inch.
- C. All information included in the labeling requirements, or any other provision of this Rule, must be clearly written or printed and in the English language. In addition to the required English label, licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these rules.
- D. All information included in the labeling requirements, or any other provision of this Rule, must be displayed on the marketing layer and must be unobstructed and conspicuous. A marijuana establishment licensee may affix multiple labels to the marketing layer, provided that none of the information required by this Rule is obstructed.
- E. The marijuana store that conducted the retail sale of the marijuana, marijuana concentrate or marijuana product must affix its license number to the marketing layer of the marijuana, marijuana concentrate or marijuana product on a separate label or sticker that may be applied following the retail sale but before placing the marijuana, marijuana concentrate or marijuana product in an exit package.

- F. The label must include:
 - (1) The unique identification number of the final batch from which the testing sample for the mandatory testing of the contents of the marijuana item was taken.
 - (2) Mandatory testing results from the licensed testing facility that tested the sample of the batch from which the marijuana item was taken.
- G. The label's statement of net contents must identify the net weight of the marijuana, marijuana concentrate or marijuana product prior to its placement in the container, using a standard of measure compatible with the tracking system.
- H. The Department-approved universal symbol, as made available by the department, must appear on the front or most predominantly displayed area of the marketing layer, no smaller than $\frac{1}{2}$ of an inch by $\frac{1}{2}$ of an inch.
- I. The label must include, as a production date:
 - (1) For marijuana and marijuana products consisting in whole or in part of marijuana flower or marijuana trim, the date of the harvest batch; or
 - (2) For marijuana concentrate or marijuana products that were manufactured, the date on which the manufacturing batch was created.
- J. Required information may be stated in a peel-back accordion style, expandable, extendable or layered label, so long as the label can be easily identified by a consumer as containing important information.
- K. Cannabinoid content and statements regarding contaminants and use of solvents or absence thereof may not conflict results reported in an approved marijuana testing facility's Certificate of Analysis.

11.1.3 General Labeling Prohibitions. The label for retail sale of marijuana, marijuana concentrate or marijuana products may not:

- A. Use the word(s) "candy" and/or "candies" on the label of any marketing layer, container holding marijuana, marijuana concentrate or marijuana product or intermediate packaging;
- B. Display any content on a container, marketing layer or intermediate packaging making any claims regarding health or physical benefits to the consumer;
- C. Cause a reasonable consumer confusion as to whether the marijuana, marijuana concentrate or marijuana product is a trademarked product;
- D. Violate any state or federal trademark law or regulation;
- E. Include any false or misleading statements;
- F. Reasonably appear to target individuals under the age of 21, including but not limited to, cartoon characters or similar images; or
- G. Report information regarding the quality or potency of the enclosed product, except as reported by a certified third-party laboratory, unless the label clearly indicates that testing regarding the claim is not required or conducted by a certified third-party laboratory.

11.2 - Packaging and Labeling of Trade Samples

Along with all requirements pursuant to this Rule and 28-B MRS, marijuana cultivation and marijuana products manufacturing establishments shall comply with the following minimum packaging and labeling requirements prior to authorized transfer of any trade sample to a licensed marijuana establishment.

- A. Prior to authorized transfer, a trade sample must be placed in a container that is compliant with the packaging for retail sale requirements of this Rule.
- B. Prior to authorized transfer to a licensed marijuana establishment, every container containing a trade sample shall be affixed with a label that includes at least the following information:
 - (1) The license number for the marijuana cultivation or marijuana products manufacturing establishment transferring the trade sample;
 - (2) The relevant batch from which the trade sample was selected;
 - (3) The universal symbol on the front of the marketing layer, no smaller than $\frac{1}{2}$ of an inch by $\frac{1}{2}$ of an inch;
 - (4) A potency statement, either in a font that is bold and enclosed within an outlined shape such as a circle or square or highlighted with a bright color such as yellow:
 - (a) For a sampling unit composed of marijuana or marijuana concentrate, the potency of the sampling unit's active THC and CBD expressed as a percentage;

- (b) For a sampling unit composed of marijuana product, the potency of the sampling unit's active THC and CBD expressed in milligrams; and
- (5) The date and identification number of the transport manifest pursuant to which the trade sample was transferred.
- C. Any statement as to cannabinoid profile or presence/absence of contaminants may require testing and label verification by a certified third-party testing facility
- D. Either the label affixed to the container or the marketing layer shall include the statement: "Trade Sample. Not for Sale."

11.3 - Packaging and Labeling for Retail Sale of Inhaled Marijuana Products

11.3.1 Retail Sale Packaging for Inhaled Marijuana Products. Prior to authorized transfer to a marijuana store, all inhaled marijuana products shall be packaged in accordance with the following:

- A. The container must be fully enclosed on all sides, as follows:
 - (1) If container is soft sided, it must be four mil or greater in thickness; or
 - (2) If container has rigid sides, it must have a lid or enclosure that can be placed tightly and securely on the container.
- B. The container must be tamper evident:
 - (1) If the container is soft sided, the opening must be sealed by some means in a manner which would indicate if the container had been opened or tampered with. The tamper evident indicating feature of the opening must not be resealable, and once opened must remain clearly evident that the package has previously been opened; or
 - (2) If the container is rigid, the opening must contain a tamper evident seal, or the lid or enclosure must have an adhesive band or seal that once opened must remain clearly evident that the package has previously been opened.

The packaging must contain a marketing layer, on which required labeling information can be printed.

11.3.2 Labeling for Retail Sale Requirements for Inhaled Marijuana Products. In addition to Section 11.1.2 any other provisions of this Rule and 28-B MRS, all inhaled marijuana products must clearly display the following information on the marketing layer of the package for retail sale:

- A. The applicable license number as follows:
 - (1) For inhaled marijuana products consisting in whole or in part of marijuana flower or trim, the license number of marijuana cultivation establishment that most recently cultivated or processed the inhaled marijuana product; or
 - (2) For inhaled marijuana products consisting in whole or in part of marijuana concentrate, or products manufactured by a marijuana products manufacturing establishment, the license number of the marijuana products manufacturing establishment which manufactured the inhaled marijuana products;
- B. The potency of inhaled marijuana products, expressed as the percentage total of THC and CBD and based on the results of analysis reported by a certified testing laboratory and as:
 - (1) A range of percentages of total THC and CBD that extends from the lowest percentage to the highest percentage for each cannabinoid listed that may be found in the inhaled marijuana product, so long as the lowest percentage and the highest percentage of total THC and CBD do not differ by more than 20% of the lowest percentage stated; or
 - (2) The average percentage total of THC and CBD found in the inhaled marijuana product, so long as the actual percentage totals of the inhaled marijuana product does not vary by more than 15% higher or 15% lower than the potency statement stated on the label;
- C. If applicable, a list of any solvent(s) used to produce any marijuana concentrate that was used in the manufacturing of the inhaled marijuana product;
- D. If applicable, a list of all ingredients used to manufacture the inhaled marijuana products, including identification of any major allergens contained in the marijuana concentrate in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010), specifically milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybeans; and
- E. Net content, according to the following:

- (1) For inhaled marijuana products, net contents shall be stated in grams, except that inhaled marijuana products containing less than one gram of net content may state the net contents in milligrams.
- (2) Variance is allowed as follows:
 - (a) For inhaled marijuana products composed primarily of marijuana flower or trim, the actual net contents by weight may be as much as 0.1 grams less or 0.5 grams greater than the statement of net content on the label;
 - (b) For inhaled marijuana products that are pre-rolled marijuana cigarettes, the actual net contents by weight may be as much as 5% less than or 15% greater than the statement of net content;
 - (c) For inhaled marijuana products composed primarily of marijuana extract, the actual net contents by weight may be as much as 5% less or 10% more than the statement of net content.
- (3) Inhaled marijuana product labels may state the net contents in ounces in addition to stating the net contents in grams.
- (4) In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredients combined with marijuana or marijuana concentrate to prepare the marijuana products may not be included.

11.4 - Packaging and Labeling for Retail Sale of Edible Marijuana Products

11.4.1 Retail Sale Packaging Requirements for Edible Marijuana Products. Prior to authorized transfer to a marijuana store, all edible marijuana products shall, unless otherwise specified, be packaged in child-resistant containers in accordance with 16 C.F.R. Part 1700 (2018) as follows:

- A. For single-serving edible marijuana products:
 - (1) Single-serving edible marijuana products must be placed into a child-resistant container that may or may not be resealable.
 - (2) Single-serving edible marijuana products that are placed into a child-resistant container may be bundled into a larger marketing layer so long as the total amount of active THC per marketing layer does not exceed 100 milligrams.
- B. For multiple-serving edible marijuana products:
 - (1) Every multiple-serving edible marijuana product must be placed into a child-resistant container that is resealable or made of plastic four mil or greater in thickness and heat sealed with no easy-open tab, dimple, corner or flap, as to make it difficult for a child to open.
 - (2) A multiple-serving edible marijuana product must not exceed 100 milligrams of total THC per multiple-serving container.
 - (3) The packaging shall clearly indicate the size of a serving if the edible product is not in a form that indicates a serving.
- C. A single-serving tincture may contain no more than 10 milligrams of THC and must be placed into a child-resistant container that may or may not be resealable.
- D. Single-serving marijuana drinks that do not contain more than 10 milligrams of THC may be packaged in:
 - (1) A child-resistant container; or
 - (2) An aluminum or metal can with a stay tab mechanism opening; or
 - (3) A bottle with a metal crown cork style bottle cap.
- E. Multiple-serving marijuana drinks that contain more than 10 milligrams of THC but no more than 100 milligrams of THC must:
 - (1) Be packaged in a child-resistant container compliant with 16 C.F.R. Part 1700 (2018) that has a resealing cap or closure; and
 - (2) Include a measuring device such as a measuring cap or dropper with the package containing the marijuana-infused liquid edible product; hash marks on the bottle or package do not qualify as a measuring device.
- F. Marijuana drinks packaged according to this section may be bundled into a larger marketing layer so long as the total amount of THC per marketing layer does not exceed 100 milligrams.

11.4.2 Labeling for Retail Sale Requirements for Edible Marijuana Products. In addition to Section 11.1.2, any other provisions of this Rule and Maine Title 28-B, all edible marijuana products must clearly display the following information on the marketing layer of the package for retail sale:

- A. Total contents of THC and CBD, stated in milligrams and not more than 10% less or 10% greater than the actual THC and CBD content, including:
 - (1) The total contents of THC and CBD per serving unit; and
 - (2) If the label is on the marketing layer of a package containing more than one serving unit, the total contents of THC and CBD contained within the entire package;
- B. The serving size, which may contain no more than 10 milligrams of THC;
- C. The number of servings per container or marketing layer;
- D. Total net weight of the edible marijuana product separate from the package and label;
- E. A statement in font no smaller than 6 point: “This product contains marijuana. Keep away from children”;
- F. If applicable, a list of all ingredients used to manufacture the Edible Marijuana Product, including identification of any major allergens contained in the product in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010), specifically milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybeans;
- G. A nutritional fact panel in accordance with 21 C.F.R. Part 101 (2018); and
- H. A statement in font no smaller than 6 point: “Effects of this product may not be felt for up to 4 hours.”

11.5 - Packaging and Labeling for Retail Sale of Topical Marijuana Products

11.5.1 Retail Sale Packaging for Topical Marijuana Products. Prior to authorized transfer to a marijuana store, all topical marijuana products shall be packaged in a child-resistant container in accordance with the following:

- A. Salves, creams, lotions and balms shall be packaged in a child-resistant container that has a resealing cap or closure compliant with 16 C.F.R. 1700 (2018).
- B. Transdermal patches shall be packaged in a plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner or flap, as to make it difficult for a child to open.

11.5.2 Labeling for Retail Sale of Topical Marijuana Products. In addition to Section 11.1.1, any other provisions of this Rule and Maine Title 28-B, all topical marijuana products must clearly display the following information on the marketing layer of the package for retail sale:

- A. A potency statement for topical marijuana products stating the total content of THC and CBD in milligrams in the container, and for transdermal products the total content of THC and CBD in milligrams contained in each transdermal product;
- B. A list of all ingredients in descending order of predominance by weight or volume as applicable;
- C. The amount recommended for use at any one time; and
- D. The following warning statement: “For Topical Application – Do Not Eat or Smoke.”

11.6 - Packaging and Labeling for Storage by a Marijuana Establishment

11.6.1 Storage Prior to Testing. Following samples being taken from a batch of marijuana, a licensee must:

- A. Store the batch in one or more sealed containers enclosed on all sides, so as to:
 - (1) Prevent the product from being tampered with or transferred or sold prior to test results being reported; and
 - (2) Be able to be easily located;
- B. Affix to the container(s) in which the marijuana is stored a label including the following information:
 - (1) The marijuana establishment license number;
 - (2) The batch number;

- (3) Name and number of the individual identification card holder number of the person who took the samples;
 - (4) Name and license number of the testing facility that will perform the tests;
 - (5) The test sample(s) unique identification number;
 - (6) The date the samples were taken; and
 - (7) In bold, capital letters, no smaller than 12-point font, “PRODUCT NOT TESTED”;
- C. Report the transfer of the sample into the tracking system and the batch number being sampled.

11.6.2 Storage of Marijuana Not Labeled for Retail Sale. All marijuana or marijuana products stored on the licensed premise must be secured in a limited access area and tracked consistently with the inventory tracking rules.

11.6.3 Health and Safety Standards for Storage. Storage of marijuana and marijuana products shall be under conditions that will protect products against physical, chemical and microbial contamination, as well as against deterioration of any container.

Section 12 - Enforcement

12.1 - Department Enforcement Authority

12.1.1 Inspection of Marijuana Establishments and Premises. A marijuana establishment licensee must provide the Department, or agent thereof, access to inspect a marijuana establishment and premises at any time during the operating hours stated on the operating plan of record of the marijuana establishment or during apparent activity. Licensees shall not deny entrance for inspection, upon demand and without notice required, during any operating hours and other times of apparent activity, or at any other time upon reasonable notice. In any case, the licensee shall assure there is an individual identification card holder on premise to accompany the agent of the Department during the inspection. Licensees shall permit staff or agents of the Department, law enforcement officers and employees or agents of local or state agencies with regulatory authority access to inspect the marijuana establishment and premises in accordance with the statutes, regulations and operating procedures employed by those regulatory bodies.

- A. If a licensee denies the agent of the Department access to a licensed premises, the Department may put an administrative hold on the marijuana establishment license and may impose fines, suspensions or revocation of that license.
- B. If the Department seizes marijuana, the Department shall not cultivate nor preserve any seized marijuana, marijuana plants or marijuana products.
- C. Unless notified by a criminal justice agency of pending investigation of the licensee, the Department may, in its final order, specify the destruction of the seized marijuana, marijuana plants or marijuana products.

12.1.2 Investigation. The Department may, as a result of a complaint filed with the Department, or as a result of its administration of the program, investigate suspected infractions by licensees to any provision of 28-B MRS or this Rule. Infractions that may be investigated include, without limitation:

- A. Failure to comply with operating plan of record;
- B. Failure to properly report inventory in the inventory tracking system;
- C. Unauthorized transfers of marijuana;
- D. Failure to disclose or properly report changes to the record of true parties of interest, parties of control or other interested parties listed in section 3.1.3 of these rules;
- E. Failure to report and submit tax payments;
- F. Failure to comply with the Maine's Electrical Code;
- G. Failure to comply with any conditions required by a municipality, town, plantation, township or county commission for approval of the license;
- H. Any violation of the rules and regulations as set forth by the Department; or
- I. Any conduct by a marijuana establishment licensee not authorized by 28-B MRS or this Rule.

12.1.3 Enforcement Actions. The Department, on its own initiative or on complaint and after investigation, notice and the opportunity for a public hearing, by written order may impose a monetary penalty on a licensee or suspend or revoke the licensee's license for a violation by the licensee or by an agent or employee of the licensee of the provisions of this chapter, the rules adopted pursuant to this chapter or the terms, conditions or provisions of the licensee's license. Additionally, the Department may also revoke an individual identification card for any violation of the Maine Revised Statutes or these rules. Terms, conditions or provisions of the licensee's license shall include all licensing criteria required to be granted a conditional or active license.

- A. Notwithstanding any other criminal, civil or administrative proceedings against the licensee, the Department may take the following actions against licensees, alone or in combination, subject to the requirements of this Section:
 - (1) Impose monetary penalties;
 - (2) Restrict a license;
 - (3) Suspend a license;
 - (4) Revoke a license;
 - (5) Revoke an individual identification card;
 - (6) Accept the voluntary surrender of a license;

- (7) Confiscate or seize marijuana plants, marijuana or marijuana products;
- (8) Destroy marijuana plants, marijuana or marijuana products;
- (9) Recall marijuana or marijuana products; or
- (10) Accept the voluntary surrender of marijuana plants, marijuana or marijuana products;

12.1.4 Procedures for Enforcement Actions. Any enforcement action by the Department shall be made only on the basis of relevant evidence and shall be communicated in writing to the licensee, along with a notice of the licensee's right to appeal, consistent with the Maine Administrative Procedures Act, 5 MRS, chapter 375.

12.2 - Administrative Monetary Penalties

A monetary penalty imposed by the Department on a licensee pursuant to this subchapter may not exceed \$100,000 per license violation. Penalties to be imposed on a licensee based upon specific categories of unauthorized conduct by the licensee, including major and minor license violations, as follows:

- A. Not more than \$100,000 per major license violation affecting public safety
- B. Not more than \$50,000 per other major license violation; and
- C. Not more than \$10,000 per minor license violation.

12.2.1 Major License Violations Affecting Public Safety

- A. The Department may impose a fine of up to \$100,000 for each major license violation affecting public safety.
- B. Such violations include, but are not limited to:
 - (1) Intentionally or recklessly selling marijuana or marijuana products containing any other federally controlled substance, including but not limited to opioids, stimulants or hallucinogens;
 - (2) Intentionally or recklessly using prohibited agricultural chemicals that pose a threat to public health and concealing their use from the Department, other licensees or consumers;
 - (3) Engaging in a deliberate pattern of 2 or more instances of marketing or selling marijuana plants, marijuana or marijuana products to individuals who are younger than 21 years old;
 - (4) Intentionally destroying, damaging, altering, removing or concealing potential evidence of a violation under this subsection, attempting to do so or asking or encouraging another person to do so;
 - (5) Misleading the Department for the purposes of involving a person with a disqualifying drug offense in the operation of a marijuana establishment;
 - (6) Knowingly diverting marijuana or marijuana products to the illicit market;
 - (7) Three or more instances of a licensee failing to have on the premises, at all times during the hours of operation and periods of apparent activity, an individual identification card holder who is authorized to allow and cooperate with Department requests to inspect the premises;
 - (8) Two or more instances of a licensee refusing to permit the Department to inspect the premises during hours of operation or periods of apparent activity; or
 - (9) Other conduct that shows willful or reckless disregard for health and safety.

12.2.2 Major License Violations

- A. The Department may impose a fine of up to \$50,000 for each other major license violation.
- B. Such violations include, but are not limited to:
 - (1) Deliberately making a false statement to the Department, the Maine Revenue Service, the Maine Land Use Planning Council, or any law enforcement officer for the purpose of evading responsibility for any requirements of the Maine Revised Statutes, this Rule, or the license;
 - (2) Deliberately purchasing marijuana plants, marijuana or marijuana products from out of state or outside of the licensed and tracked adult use system;
 - (3) Engaging in a pattern of reporting adult use marijuana plants, marijuana or marijuana products as medical marijuana for the purposes of avoiding taxation or regulation;
 - (4) Selling marijuana plants, marijuana or marijuana products to anyone under the age of 18 by failing to take all necessary steps to verify age;

- (5) Allowing any individual under the age of 21 to engage in any marijuana-related activity.
- (6) Engaging in a pattern of selling or transferring marijuana plants, marijuana or marijuana products outside of the tracking system;
- (7) Supporting, facilitating or willfully or recklessly ignoring suspicious purchasing patterns that suggest a customer is in possession of illegal amounts of marijuana plants, marijuana or marijuana products or is diverting marijuana or marijuana products them to minors or out of state;
- (8) Engaging in a deliberate pattern of minor license violations;
- (9) Intentionally destroying, damaging, altering, removing or concealing potential evidence of a violation that does not threaten public safety, attempting to do so or asking or encouraging another person to do so;
- (10) Two instances of a licensee failing to have on the premises, at all times during the hours of operation and periods of apparent activity, an individual identification card holder who is authorized to allow and cooperate with Department requests to inspect the premises;
- (11) Refusal to permit the Department to inspect the premises during hours of operation or periods of apparent activity; and
- (12) Other conduct that shows a pattern of willful or reckless disregard for the tracking system requirements, sales tax obligations, excise tax obligations, mandatory testing obligations, facility requirements or other provisions of 28-B MRS, 36 MRS, this Rule or other laws or rules.

12.2.3 Minor License Violations

- A. The Department may impose a fine of up to \$10,000 for each minor license violation.
 - B. Such violations include, but are not limited to:
 - (1) Knowingly buying, selling, transferring or receiving any marijuana, marijuana plant or marijuana product that was illegally entered into the tracking system;
 - (2) Allowing anyone without a valid individual identification card to engage in any marijuana-related activity;
 - (3) Selling marijuana plants, marijuana or marijuana products to anyone under the age of 21, but over the age of 18, by failing to take all necessary steps to verify age;
 - (4) Misrepresenting any marijuana product to a consumer, licensee or the public, including:
 - (a) Its contents;
 - (b) Its testing results; or
 - (c) Its potency;
 - (5) Making representations or claims that the marijuana or marijuana product has curative or therapeutic effects;
 - (6) Treating or otherwise adulterating marijuana with any chemical (excluding a controlled substance or prohibited agricultural chemical but including nicotine) that has the effect or intent of altering the usable marijuana's color, appearance, weight or smell or that has the effect or intent of increasing potency, toxicity or addictiveness;
 - (7) Supplying adulterated marijuana items;
 - (8) Failing to report suspicious purchasing patterns that suggest a customer is in possession of illegal amounts of marijuana plants, marijuana or marijuana products or is diverting marijuana or marijuana products to minors or out of state;
 - (9) Refusing to give, or failing to promptly give, a Department regulatory specialist, representative of the State Tax Assessor, or law enforcement officer evidence when lawfully requested to do so.
 - (10) Subletting any portion of the premises;
 - (11) Except by way of authorized transfer of trade samples or testing samples, giving away or otherwise transferring marijuana in exchange for a monetary sum less than the licensee has paid for the marijuana by way of authorized transfer or less than the value the licensee has invested, in labor and materials, in the marijuana;
 - (12) Allowing consumption of marijuana on a marijuana establishment premises, except as allowed by this Rule;
 - (13) Failure to have on the premises, at all times during the hours of operation and periods of apparent activity, an individual identification card holder who is authorized to allow and cooperate with Department requests to inspect the premises;
- or

- (14) Not operating in accordance with the current operations, cultivation or facility plan of record with the Department; or
- (15) Any other violation of the Maine Revised Statutes or these rules.

12.3 - License Restriction, Suspension, Revocation and Voluntary Surrender

The Department shall have the authority to suspend or revoke licenses subject to Title 28-B, Section 802.

12.3.1 Certain Restrictions. The Department may place certain restrictions on licenses in cases where the restrictions may, in addition to other civil or administrative penalties, prevent recurring violations or conflicts with this Rule.

- A. The Department will provide written notice to a licensee if a license is to be restricted and a licensee will be given an opportunity to appeal pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 307;
- B. A marijuana establishment with a restricted license may only exercise license privileges in compliance with the restrictions of the license;
- C. Failure to comply with restrictions will be a violation of this Rule;
- D. A restriction remains in effect until the Department removes it.

12.3.2 Suspension.

- A. Upon the finding of any license violation described in subsection 12.2, in addition to any monetary penalties, the Department may suspend for a period of up to one year, any or all marijuana establishment licenses held by the licensee found in violation, including any other licenses with a shared party of control or true party of interest.
- B. A licensee whose license has been suspended pursuant to this subchapter may not, for the duration of the period of suspension, engage in any activities relating to the operation of the marijuana establishment the licensee is licensed to operate.
- C. The Department retains discretion as to whether to allow a transfer of license for a suspended license and shall be permitted but not required to allow new owners to begin some or all operations prior to the end of the suspension.

12.3.3 Summary Suspension.

- A. The Department may order summary suspension of a marijuana establishment license for up to 30 days under the following circumstances:
 - (1) The Department concludes, based upon a physical test, inspection or examination conducted by a state-certified inspector, that allowing the licensee to continue operations would not adequately protect public health or public safety; or
 - (2) The Department has other objective and reasonable grounds to believe that public health, public safety or significant natural resources are in immediate jeopardy.
- B. The Department may order summary suspension of a marijuana establishment license if a court issues a ruling that indicates the licensee has committed a major license violation.

12.3.4 Revocation.

- A. Upon the finding of any license violation described in subsection 12.2, in addition to any monetary penalties, the Department may permanently revoke, any or all marijuana establishment licenses held by the licensee found in violation, including any other licenses with a shared party of control or true party of interest.
- B. A licensee whose license has been revoked pursuant to this subchapter shall cease immediately all activities relating to the operation of the marijuana establishment the licensee was previously licensed to operate and shall ensure that all adult use marijuana and adult use marijuana products in the possession of the licensee are forfeited to the Department for destruction in accordance with 28-B MRS§803.
- C. A license that is revoked may not be transferred or renewed.

12.3.5 Voluntary Surrender of License. A licensee facing penalties under this Section may offer to voluntarily surrender its license, meaning that the licensee must cease operations and may not renew or transfer the license. In such cases, the Department has the discretion:

- A. To reject voluntary surrender of license and pursue penalties under this Section;
- B. To accept the voluntary surrender of license made without conditions; or
- C. To negotiate conditions of a voluntary surrender, including but not limited to the following:
 - (1) The amount of monetary penalties, if any are to be imposed;
 - (2) The effect of the voluntary surrender on any other adult use marijuana or medical marijuana licenses with which the licensee is associated;
 - (3) The amount of time before which the licensee or any true party of interest of the licensee may apply for an adult use marijuana or medical marijuana license; and
 - (4) The waiver of appeal.

12.4 - Destruction and Voluntary Surrender of Marijuana Plants, Marijuana and Marijuana Products

12.4.1 Order by the Department.

- A. If the Department issues a final order imposing a monetary penalty on or a license suspension or revocation against a licensee pursuant to this subchapter, the Department may specify in the order, in addition to any other penalties imposed in the order, that all or a portion of the marijuana or marijuana products in the possession of the licensee are not authorized under this chapter and are subject to destruction. A licensee subject to a final order directing the destruction of marijuana or marijuana products in its possession shall forfeit the marijuana and marijuana products described in the order to the Department for destruction.
- B. If the Department is notified by a criminal justice agency that there is a pending investigation of a licensee subject to an order imposed under subsection A, as set forth in 28-B MRS§803, the Department may not destroy any marijuana or marijuana products of that licensee until the destruction is approved by the criminal justice agency.

12.4.2 Voluntary Surrender of Marijuana Plants, Marijuana or Marijuana Products

- A. A Licensee may elect, upon mutual agreement with the Department, to voluntarily surrender any marijuana plants, marijuana or marijuana products to the Department. Such voluntary surrender:
 - (1) Must be made on a form supplied by the Department;
 - (2) Must be signed by an individual who certifies that he or she has authority to represent and bind the licensee; and
 - (3) May require destruction of any marijuana plants, marijuana or marijuana products in the presence of a Department employee or agent and at the licensee's expense; except that no marijuana plants, marijuana or marijuana products may be destroyed until the Department confirms with law enforcement that the marijuana plants, marijuana or marijuana products to be destroyed are not necessary to any ongoing investigation or prosecution.
- B. Such a voluntary surrender may be made:
 - (1) Prior to a final order and upon mutual agreement with the Department;
 - (2) In connection with a stipulated order through which the Licensee waives the right to hearing and any associated rights;
 - (3) In conjunction with a pending action even if the licensee does not waive the right to hearing and any associated rights, with the understanding that the outcome of the hearing does not impact the validity of the voluntary surrender; or
 - (4) After a final order.
- C. If a voluntary surrender is made in conjunction with a final order, including a stipulated order, the Licensee must complete and return the Department's voluntary surrender form within 15 calendar days of the date of the final order.

12.5 - Audit, Compliance and Random Testing

- A. The Department may require a marijuana establishment licensee to submit samples identified by the Department to a laboratory of the licensee's choosing to be tested in order to determine whether a licensee is in compliance with mandatory testing standards and may require additional testing that is conducted at laboratory of the Department's choosing.
- B. A laboratory doing audit testing must comply with applicable provisions of this Rule, and if conducting testing not required by this Rule, may only use Department approved methods.
- C. The Department may require a licensee to submit samples to the Department for any mandatory or additional testing to be conducted by a testing facility.
- D. The Department may order the removal from retail sale of any marijuana items for which a licensee has intentionally misrepresented testing results.
- E. The Department may exempt a product at its sole discretion.

12.6 - Seizure or Confiscation of Marijuana, Marijuana Concentrate or Marijuana Products

12.6.1. Authority. The Department may seize, destroy, confiscate or place an administrative hold on any marijuana or marijuana products under, but not limited to, the following circumstances:

- A. Any marijuana or marijuana products not properly logged in inventory records or the tracking system;
- B. Any marijuana or marijuana products that are altered or not properly packaged and labeled in accordance with this Rule in general and Section 11 specifically;
- C. Any marijuana or marijuana products that has been cultivated, harvested, processed or transferred in a manner, or otherwise in a form, not compliant with 28-B MRS, this Rule or rules governing the Maine Medical Use of Marijuana Program.

12.6.2. Administrative Holds. Department officers may order an administrative hold of marijuana or marijuana products to prevent destruction of evidence, diversion or other threats to public safety, while permitting a licensee to retain its inventory pending further investigation, pursuant to the following procedure:

- A. If during an investigation or inspection of a licensee, an employee or agent of the Department develops reasonable grounds to believe certain marijuana plants, marijuana or marijuana products constitute evidence of acts in violation of 28-B MRS or this Rule or constitute a threat to the public health or safety, the employee or agent may issue a notice of administrative hold of any such marijuana plants, marijuana or marijuana products. The notice of administrative hold shall provide a documented description of the marijuana plants, marijuana or marijuana products to be subject to the administrative hold and a concise statement that is promptly issued and approved by the director of the Office of Marijuana Policy or a designee regarding the reasons for issuing the administrative hold.
- B. Following the issuance of a notice of administrative hold, the Department will identify the marijuana plants, marijuana or marijuana products subject to the administrative hold in the tracking system. The licensee shall continue to comply with all tracking requirements.
- C. The licensee shall completely and physically segregate the marijuana plants, marijuana or marijuana products subject to the administrative hold in a limited access area of the licensed premises under investigation, where it shall be safeguarded by the licensee.
- D. While the administrative hold is in effect, the licensee is prohibited from selling, giving away, transferring, transporting or destroying the marijuana plants, marijuana or marijuana products subject to the administrative hold, except as otherwise authorized by these rules.
- E. While the administrative hold is in effect, the licensee must safeguard the marijuana plants, marijuana or marijuana products subject to the administrative hold, must maintain the licensed premises in reasonable condition according to health, safety and sanitary standards, and must fully comply with all security requirements, including but not limited to all surveillance, lock and alarm requirements detailed in the security plans, 28-B MRS or this Rule.
- F. Nothing herein shall prevent a licensee from voluntarily surrendering marijuana plants, marijuana or marijuana products that is subject to an administrative hold, except that the licensee must follow the procedures set forth in Section 12.4.
- G. Nothing herein shall prevent a licensee from the continued possession, cultivation or harvesting of the marijuana plants, marijuana or marijuana products subject to the administrative hold.

- H. At any time after the initiation of the administrative hold, the Department may lift the administrative hold, order the continuation of the administrative hold pending the administrative process or seek other appropriate relief.

12.7 - Marijuana Recalls

The Department may require a licensee to recall any marijuana and marijuana product that the licensee has sold or transferred upon a finding that circumstances exist that pose a risk to public health and safety.

- A. A recall may be based on, without limitation, evidence that:
 - (1) Marijuana or marijuana product contains an unauthorized pesticide(s);
 - (2) Marijuana or marijuana product failed a mandatory test and was not mitigated pursuant to testing protocols;
 - (3) Marijuana or marijuana product is contaminated or otherwise unfit for human use, consumption or application;
 - (4) Marijuana or marijuana product is not properly packaged or labeled; or
 - (5) Marijuana or marijuana product was not cultivated, processed or manufactured by a marijuana establishment.
- B. If the Department finds that a recall is required, the Department:
 - (1) Must notify the public and licensees of the recall;
 - (2) Must administratively hold all affected marijuana items in the tracking system;
 - (3) May require a licensee to notify an individual to whom a marijuana item was sold; and
 - (4) May require that the licensee destroy the recalled product.

Section 13 - Fee Schedule

13.1 - Payment of Fees

13.1.1 Application Fees. An applicant shall pay the application fee required by the Department at the time that the applicant submits an application for licensure to the Department for processing.

13.1.2 License Fees. Before issuing an active license, the Department shall invoice the conditional licensee for the applicable fee as determined by the Department pursuant to Title 28-B and this Rule. The Department shall not accept any license fees except pursuant to such invoice.

13.2 - Return of Fees Prohibited

Pursuant to 28-B MRS§207(5), the Department may not return to an applicant or licensee or reimburse an applicant or licensee for any portion of an application or license fee paid by the applicant or licensee, regardless of whether the applicant withdraws its application prior to a final decision of the Department on the application, the licensee voluntarily terminates its license pursuant to 28-B MRS and this Rule or the Department suspends or revokes the licensee's license in accordance with the provisions of 28-B MRS and this Rule.

13.3 - Individual Identification Card Fees

<u>Card Type</u>	<u>Fee</u>
Original Issuance	\$50.00 plus cost of fingerprinting and criminal history record check
Annual Renewal	\$50.00
Reissuance (lost, stolen, damaged, info change)	\$50.00

13.4 - Fingerprinting and Criminal History Record Check Fee

The fee for the fingerprinting and criminal history record checks shall be set by the State Police and/or State Bureau of Identification, in accordance with its usual operations.

13.5 - Tracking System Fees

Each licensee is responsible for all costs associated with its use of the tracking system and any associated vendor fees.

13.6 - Cultivation Facility Application and License Fees

<u>License Class</u>	<u>Application Fee</u>	<u>Annual License Fee</u> <u>Outdoor Only</u>	<u>Indoor/Both</u>
Tier 1 Cultivation Facility			
Plant-Count-Based	\$100.00	\$9.00/mature plant	\$17/mature plant
Plant-Canopy-Based	\$100.00	\$250.00	\$500.00
Tier 2 Cultivation Facility	\$500.00	\$1,500.00	\$3,000.00
Tier 3 Cultivation Facility	\$500.00	\$5,000.00	\$10,000.00
Tier 4 Cultivation Facility	\$500.00	\$15,000.00	\$30,000.00
Nursery Cultivation Facility	\$60.00	\$350.00	\$350.00

13.7 - Other Marijuana Establishment Application and License Fees

<u>License Class</u>	<u>Application Fee</u>	<u>License Fee</u>
Products Manufacturing Facility	\$250.00	\$2,500.00
Marijuana Store	\$250.00	\$2,500.00
Testing Facility	\$250.00	\$1,000.00

13.8 - Other Marijuana Establishment Fees

<u>Fee Type</u>	<u>Application Fee</u>
Transfer of Ownership	\$250.00
Relocation	\$250.00

13.9 - Annual Renewal and Late Renewal Application and License Fees

All renewal application and license fees shall be due annually in the amounts listed above in Section 13 of this Rule and submitted in accordance with Section 13.1 of this Rule, except that the Department may require payment of \$2,500.00 in addition to the relevant application fee for renewal applications received less than 30 days prior to the date of expiration of the license. The Department may not accept an application for renewal of a license after the date of expiration of that license.