



# **RULES FOR THE ADMINISTRATION OF THE ADULT USE CANNABIS PROGRAM**

18-691 C.M.R., Chapter 10

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

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## Chapter 10 - Adult Use Cannabis Program

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## Chapter 10 - Adult Use Cannabis Program

This rule governs the administration of the rules that govern the Adult Use Cannabis Program. The terms defined in this rule are applicable to all rules governing the Adult Use Cannabis Program. All applicants, licensees and individual identification cardholders that are authorized to conduct activities pursuant to licenses or individual identification cards issued pursuant to *Rules for the Licensure of Adult Use Cannabis Establishments*, 18-691 CMR, ch. 20 must also at all times comply with the requirements of that rule and of Title 28-B of the Maine Revised Statutes and the *Compliance Rules for Adult Use Cannabis Establishments*, 18-691 CMR, ch. 30, the *Rules for the Testing of Adult Use Cannabis*, 18-691 CMR, ch. 40, as well as the *Rules for the Certification of Cannabis Testing Facilities*, 18-691 CMR, ch. 5 and any other applicable local, state or federal laws or regulations. Collectively, 18-691 CMR, chapters 5, 10, 20, 30, and 40 are the “rules governing the adult use cannabis program”.

**§1 - Administrative.** The rules governing the adult use cannabis program establish the requirements for becoming a licensed cannabis establishment, including fees, application and licensing processes and procedures for cultivation, manufacture, sample collection, testing and retail sale of adult use cannabis and adult use cannabis products. The activities described in the rules governing the adult use cannabis program may be considered a violation of federal law. Persons cultivating, manufacturing, collecting samples of, testing, selling, purchasing or otherwise receiving adult use cannabis or adult use cannabis products may be subject to federal sanctions for what may otherwise be considered authorized conduct in the State of Maine, and compliance with the rules governing the adult use cannabis program does not exempt licensees, their employees or customers from possible federal prosecution. The Department is not responsible or liable for the actions of licensed cannabis establishments under the rule.

**(1) Statutory Authority.** The Department of Administrative and Financial Services (referred heretofore as the Department), acting through its Office of Cannabis Policy, has developed the rules governing the adult use cannabis program in accordance with the statutory authority provided in Title 28-B, § 104 for the purpose of implementing, administering and enforcing the provisions of 28-B MRS, chapter 1.

**(2) Department Authority.** The Department may enforce this rule and all other rules governing the adult use program and any relevant provisions of 4 MRS, 5 MRS, 28-B MRS and other general statutes, laws, executive orders or subsequently passed legislation. The Department shall set licensing fees in accordance with 28-B MRS § 207. As applicable, the Department may delegate authority to appropriate state and local agencies. The Department, or an agent thereof, shall have the authority to inspect, during business hours, times of apparent activity or other reasonable time, any cannabis establishment, vehicles used to transport cannabis or cannabis products or business records.

### **(3) Communication with Department.**

**(A) 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:

- (1) Mail;
- (2) In-person delivery;
- (3) Facsimile; or
- (4) E-mail.

**(B) 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.

#### (4) Definitions.

**Action level:** “Action level” means the threshold value for determining whether a sample passes or fails an analytical test.

**Active license:** “Active license” means a license issued by the Department that authorizes cultivation, sample collection, testing, manufacture or sale of cannabis or cannabis products in accordance with 28-B MRS and the rules governing the adult use cannabis program, including a provisional active license to operate a cannabis testing facility.

**Adult use cannabis:** “Adult use cannabis” means cannabis cultivated, manufactured, tested, distributed or sold by a cannabis establishment.

**Adult use cannabis product:** “Adult use cannabis product” means a cannabis product that is manufactured, distributed or sold by a cannabis establishment.

**Advertising:** “Advertising” means publicizing the trade name of a licensee together with words or symbols referring to cannabis or publicizing the brand or logo of cannabis or cannabis products.

**Analyst:** “Analyst” means the designated individual who tests the samples by performing the “hands-on” analytical methods and associated techniques. The analyst is responsible for applying required testing facility practices and other pertinent quality controls to meet the required level of quality.

**Analyte:** “Analyte” means a chemical, compound, element, bacteria, yeast, fungus or toxin that is identified or measured.

**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.

**Apparent activity:** “Apparent activity” is any sights, sounds, smells or other indications that persons are present at a cannabis establishment.

**Appealing to individuals under 21 years of age:** “Appealing to individuals under 21 years of age” means having the characteristics of media, advertising or marketing typically used to engage individuals under the age of 21 including the use of, or explicit or implicit reference to images, fonts, bright colors, cartoons, characters, creatures, humans, animals, fruit, themes, social media platforms, music, sports, literature, educational institutions, games, activities or businesses or professions that are commonly marketed to, associated with, or otherwise primarily engaged in by individuals under 21 years of age.

**Applicant:** “Applicant” means a person who submits an application for a license under the rules governing the adult use cannabis program to the Department for review that the Department has not yet approved or denied.

**Batch:** “Batch” means:

- (1) A harvest batch; or
- (2) A production batch.

**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 cannabis by a cultivation facility, sample collector, testing facility, or a cannabis store or to a specific batch of adult use cannabis or adult use cannabis products by a products manufacturing facility, sample collector, testing facility or a cannabis store.

**Best Practices Guide:** “Best Practices Guide” means the *Best Practices for the Sampling of Adult Use Cannabis*, Version 3.1, dated September 11, 2020, published by the Department available at:

[https://www.maine.gov/dafs/ocp/sites/maine.gov.dafs.ocp/files/inline-files/AUMP\\_Mandatory\\_Testing-Best\\_Practice\\_Guide\\_Sample\\_Collection.pdf](https://www.maine.gov/dafs/ocp/sites/maine.gov.dafs.ocp/files/inline-files/AUMP_Mandatory_Testing-Best_Practice_Guide_Sample_Collection.pdf) which is incorporated herein by reference. All licensees and any employee of a licensee collecting samples of cannabis, cannabis concentrate, or cannabis products for mandatory testing must collect samples in accordance with the best practices described in the guide.

**Brand:** “Brand” means a name, term, design or symbol that identifies a licensee’s or licensed goods or services as distinct from those of other licensees or brands.

**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.

**Business hours:** “Business hours” means 9 A.M. to 5 P.M. Monday through Friday.

**Cannabinoid:** “Cannabinoid” means a chemical compound that is unique to, and derived from, cannabis.

**Cannabis:** “Cannabis” means the leaves, stems, flowers and seeds of a cannabis plant, whether growing or not. “Cannabis” includes cannabis concentrate, except where context indicates otherwise, but does not include hemp as defined in 7 MRS §2231, or a cannabis product.

**Cannabis concentrate:** “Cannabis concentrate” means the resin extracted from any part of a cannabis plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of cannabis concentrate in a cannabis product, the weight of any other ingredient combined with cannabis or cannabis concentrate to prepare the cannabis product may not be included.

**Cannabis drink:** “Cannabis drink” means a liquid edible cannabis product with a concentration of less than 1 mg of THC per ounce of liquid.

**Cannabis establishment:** “Cannabis establishment” means a cultivation facility, a products manufacturing facility, a testing facility, a sample collector or a cannabis store licensed under 28-B MRS and the rules governing the adult use cannabis program.

**Cannabis extraction:** “Cannabis extraction” means the process of extracting cannabis concentrate from cannabis using water, lipids, gases, solvents or other chemicals or chemical processes.

**Cannabis flower:** “Cannabis flower” means the pistillate reproductive organs of a mature cannabis plant, whether processed or unprocessed, including the flowers and buds of the plant. “Cannabis flower” does not include cannabis trim or whole mature cannabis plants, but does include kief.

**Cannabis plant:** “Cannabis plant” means all species of the plant genus cannabis, including, but not limited to, a mother plant, a mature cannabis plant, an immature cannabis plant or a seedling but it does not include a cannabis product or “hemp” as defined in 7 MRS § 2231.

**Cannabis product:** “Cannabis product” means a product composed of cannabis or cannabis concentrate and other ingredients that is intended for use or consumption. “Cannabis product” includes, but is not limited to, an edible cannabis product, a cannabis ointment and a cannabis tincture. “Cannabis product” does not include cannabis concentrate.

**Cannabis store:** “Cannabis store” means a facility licensed under the rules governing the adult use cannabis program to purchase adult use cannabis, immature cannabis plants and seedlings from a cultivation facility, to purchase adult use cannabis and adult use cannabis products from a products manufacturing facility, to collect and transport samples of cannabis, cannabis concentrate and cannabis products in that cannabis store’s possession for mandatory testing, and to sell adult use cannabis, adult use cannabis products, immature cannabis plants and seedlings to consumers.

**Cannabis Testing Facility or Testing Facility:** “Cannabis testing facility” or “testing facility” means an entity licensed according to 28-B MRS §503, including those also registered as cannabis testing facilities in accordance with 22 MRS §2423-A, to test cannabis, cannabis products and other substances for research and development and to analyze contaminants in and the potency and cannabinoid profile of samples in an approved location. A cannabis testing facility is authorized to collect samples of cannabis, cannabis concentrate and cannabis products without a separate sample collector license in accordance with *Rules for the Certification of Cannabis Testing Facilities*, 18-691 CMR, ch. 5.

**Cannabis trim:** “Cannabis trim” means any part of a cannabis plant, whether processed or unprocessed, that is not cannabis flower or a cannabis seed, except that “cannabis trim” does not include the stalks or roots of the cannabis plant.

**Cannabis waste:** “Cannabis waste” means cannabis, cannabis plants or cannabis products that are unfit for retail sale for reasons including, without limitation, failed mandatory testing, expired products or crop failure.

**Caregiver:** “Caregiver” has the same meaning as in 22 MRS §2422(8-A).

**Certificate of analysis:** “Certificate of analysis” means the report prepared for the party requesting testing and the Department about the analytical testing performed and results obtained by the cannabis testing facility.

**Certification:** “Certification” means the process by which an agency or organization evaluates and recognizes a cannabis testing facility as meeting certain predetermined qualifications or standards, thereby certifying the cannabis testing facility. The Department of Health and Human Services (DHHS), Center for Disease Control and Prevention (CDC), is responsible for certification of all cannabis testing facilities.

**Chain of custody form:** “Chain of custody form” means a record, either paper-based or electronic, that documents the possession of the samples at the time of receipt by the cannabis testing facility, in accordance with chain of custody protocol prescribed by the cannabis testing facility. This record, at a minimum, must include the sample location, the number and types of containers, the mode of collection, the authorized individual who collected the sample, the date and time of collection, preservation and requested analyses.

**Chain of custody protocols:** “Chain of custody protocols” means the procedures developed and employed by the cannabis testing facility to record the possession of samples from the time of sampling through the retention time specified by the client or program. These procedures are performed at the special request of the client and include the use of a chain of custody form that documents the collection, transport and receipt of compliance samples by the cannabis testing facility. In addition, these protocols document all handling of the samples within the cannabis testing facility and, if applicable, by the sample collector or self-sampler.

**CBD:** “CBD” means cannabidiol.

**Child-resistant:** “Child-resistant” means, with respect to packaging or a container:

- (1) 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
- (2) With respect to any product intended for more than a single use or that contains multiple servings, resealable.

**Co-location:** “Co-location” means the siting of multiple adult use licensees or an adult use licensee with a registered caregiver or registered dispensary within a licensed premises.

**Conditional license:** “Conditional license” is a license issued by the Department that authorizes the licensee to seek local authorization to operate a cultivation facility, testing facility, products manufacturing facility or cannabis store. The conditional license does not authorize possession, transfer, cultivation, testing, manufacture or sale of cannabis or cannabis products.

**Contaminant:** “Contaminant” means an unacceptable level of an unwanted or objectionable substance, toxin, pollution or foreign material that causes impurity in a product. Contaminants include, but are not limited to, pesticides, microbiology, filth, heavy metals and residual chemical solvents.

**Container:** “Container” means a sealed package in which adult use cannabis or an adult use cannabis product is placed that meets all applicable packaging, labeling and health and safety requirements of the rules governing the adult use cannabis program.

**Controlled entry area:** “Controlled entry area” means an indoor entry area directly inside the licensed premises of a cannabis store, containing the door leading to a public right of way that is used for the purpose of verifying the identification and age of an adult use consumer prior to the consumer’s entry to the sales area of the cannabis store. The controlled entry area shall be conspicuous and make it apparent to consumers that entry to the retail sales area is not permitted until identification is verified.

**Criminal justice agency:** “Criminal justice agency” has the same meaning as in 16 MRS §803(4).

**Cultivation:** “Cultivation” or “cultivate” means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of cannabis for use or sale. “Cultivation” or “cultivate” does not include manufacturing, testing or cannabis extraction.

**Cultivation facility:** “Cultivation facility” means a facility licensed under the rules governing the adult use cannabis program to purchase cannabis plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use cannabis; to collect and transport samples of cannabis cultivated by that facility for mandatory testing; to sell adult use cannabis to products manufacturing facilities, to cannabis stores and to other cultivation facilities; to sell cannabis plants and seeds to other cultivation facilities and immature cannabis plants and seedlings to cannabis stores; and as applicable, to conduct sales to consumers by delivery. A cultivation facility includes a nursery cultivation facility. Licensees that cultivate cannabis in a nursery cultivation facility may sell an unlimited number of cannabis seeds and a sum total of 12 seedlings and immature plants to a consumer 21 years of age or older.

**Cultivation plan:** “Cultivation plan” means the information regarding an applicant’s cultivation activities listed in a conditional application for a license to operate a cultivation facility and facility plan required for an active license to operate a cultivation facility, including a nursery cultivation facility.

**Curbside pickup:** “Curbside pickup” means retrieval of a sales order containing adult use cannabis and/or adult use cannabis products at an outdoor area, included within the licensed premises of a cannabis store or immediately adjacent to the primary public ingress and egress of the cannabis store, designated for curbside pickup by a consumer 21 years of age or older.

**Delivery:** “Delivery” means the transportation by a cannabis store licensee, from the licensed premises of the cannabis store to private residences, of sales orders of adult use cannabis and cannabis products to consumers 21 years of age or older who request such sales orders through a telephonic or internet-based platform.

**Department:** “Department” means the Department of Administrative and Financial Services.

**Department of Health and Human Services (DHHS):** “Department of Health and Human Services (DHHS)” means the Maine Department of Health and Human Services. DHHS includes the Maine Center for Disease Control and Prevention (CDC), which certifies, through its Maine Cannabis Testing Facility Certification Program, the



technology and testing methods used by cannabis testing facilities under the rules governing the adult use cannabis program.

**Direct or Indirect Financial Interest:** “Direct or Indirect Financial Interest” means any interest in a sole proprietorship or business entity that is applying for or holds a cannabis establishment license, including without limitation:

**(1) Equity Owners.** Proprietors, partners, shareholders, persons with membership interests, and persons with any other equity ownership interests such as purchase warrants or options, whether whole or partial. If a business entity, all natural persons who have a financial interest in that business entity or any business entity owners of that business entity, shall be deemed to have a direct or indirect financial interest, unless those natural persons own less than 5% of the total shares in a publicly traded company.

**(2) Other Equity Ownership.** Any employee, independent contractor, professional, or other person who/which has an agreement with the licensee that provides for their attaining any form of equity ownership. Except that employee equity ownership vested pursuant to an employee stock ownership program is governed by paragraph 4. If a business entity, all natural persons who have a financial interest in that business entity or any business entity owners of that business entity, shall be deemed to have a direct or indirect financial interest, unless those natural persons own less than 5% of the total shares in a publicly traded company.

**(3) Non-Owner Interests.** All persons who expect to receive financial payment in the form of royalty payments, profit sharing, revenue sharing, or similar payment, such as, but not limited to royalty license partners, parties to profit sharing agreements, capital investors, lenders, management contractors or consultants. If a business entity, all natural persons who have a financial interest in that business entity or any business entity owners of that business entity, shall be deemed to have a direct or indirect financial interest, unless those natural persons own less than 5% of the total shares in a publicly traded company.

**(4) Employee Stock Ownership Program (ESOP).** Any shares designated solely for inclusion in a portion of shares reserved for employees of the licensee for the purpose of vesting an equity ownership interest in an employee or employees of the licensee. A licensee offering an ESOP must designate a percentage of equity ownership interests for the ESOP and must report annually the identity of any person holding an equity interest in the licensee through the ESOP.

**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:

**(1)** An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 5 or more years prior to the submission of an application for a license under the rules governing the adult use cannabis program; or

(2) An offense that consisted of conduct that is authorized under 28-B MRS, chapter 3.

**Edible cannabis product:** “Edible cannabis product” means a cannabis product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing cannabis or cannabis concentrate.

**Exit packaging:** “Exit packaging” means an opaque bag, pouch or other container that cannabis and/or cannabis products are placed in by a licensee after a retail sale to a consumer and before the purchased items leave the licensed premise.

**Facility director:** “Facility director” means the individual who is legally authorized to direct the activities of a cannabis testing facility and who commits the appropriate resources to comply with the rules governing the adult use cannabis program.

**Facility plan:** “Facility plan” means the comprehensive plan submitted by an applicant for an active cannabis establishment, and amendments thereto submitted after licensure, that includes all information regarding the physical location where the cannabis establishment is located, the operation of the cannabis establishment, the security measures utilized by the cannabis establishment, and as applicable, the cultivation activities of the cannabis establishment. A facility plan includes, as applicable, the operating, cultivation, and security plans of a licensee.

**Final form:** “Final form” means for the purpose of mandatory testing, adult use cannabis or an adult use cannabis product that is in the form that will be sold to an adult use cannabis consumer; except that the adult use cannabis or adult use cannabis product need not be prepackaged into individual retail units to be considered in its “final form”.

**Flowering:** “Flowering” means, with respect to a cannabis plant, the gametophytic or reproductive state of a female cannabis plant during which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of cannabis.

**Full active license:** “Full active license” means a license issued by the Department to a cannabis testing facility that has received full certification from the CDC and ISO/IEC 17025:2017 accreditation for all required technologies and analytes, that authorizes testing of cannabis or cannabis products in accordance with 28-B MRS, Chapter 1, subchapters 2 and 6 and the rules governing the adult use cannabis program.

**Full certification:** “Full certification” means certification granted by the CDC pursuant to *Rules for the Certification of Cannabis Testing Facilities*, 18-691 CMR, ch. 5, to a cannabis testing facility that has received ISO/IEC 17025:2017 accreditation for all required technologies and analytes and meets all other requirements of the rules governing the adult use cannabis program. Full certification is a prerequisite for the issuance of a full active license by the Department pursuant to the rules governing the adult use cannabis program.

**Group of cannabis plants:** “Group of cannabis plants” means cannabis plants at the same stage of growth, that are intended to be harvested at the same time, and that are the same varietal or cultivar of the plant genus *Cannabis* that:

- (1) Are planted in the same specific area at the same time;
- (2) Are transplanted to the same specific area at the same time; or
- (3) Include cannabis plants that were planted in a specific area and cannabis plants that were transplanted to the same specific area.

**Handbill:** "Handbill" is a flyer, leaflet or sheet that advertises cannabis.

**Harvest batch:** "Harvest batch" means a specific quantity of adult use cannabis harvested from adult use cannabis plants of the same strain, grown under the same conditions, and harvested during a specified period of time from a specified cultivation area within a cultivation facility.

**Homogeneity:** "Homogeneity" means the amount of cannabis or cannabis concentrate and cannabinoids within the product being consistent and reasonably equally dispersed throughout the product or each portion of the product or concentrate, or a representative sample.

**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.

**Immature cannabis plant:** "Immature cannabis plant" means a cannabis plant that is not a mature cannabis plant or a seedling.

**Indoor:** "Indoor" means, for the purpose of cultivating cannabis, cultivation of mature cannabis plants using artificial light or light deprivation in an enclosed structure.

**Infused cannabis product:** "Infused cannabis product" means a product or compound that includes one or more cannabis concentrate along with other materials or ingredients, including without limitation, edible cannabis products and topical cannabis products.

**Inhaled cannabis product:** "Inhaled cannabis product" means cannabis, cannabis concentrate or cannabis products that are intended to be consumed by inhalation, including, without limitation: cannabis flower or trim, pre-rolled cannabis cigarettes, vaporizer cartridges and vaporizer pens.

**Inherently hazardous substance:** "Inherently hazardous substance" 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 substance" does not include any form of alcohol or ethanol.

**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.

**Intoxication:** "Intoxication" means a substantial impairment of an individual's mental or physical faculties as a result of drug or alcohol use.

**ISO/IEC 17025:2017:** “ISO/IEC 17025:2017” means the general requirements for the competence of testing and calibration laboratories issued in 2017 joint technical committee of the International Organization for Standardization and the International Electrotechnical Commission, and any subsequent revision or version thereof.

**Kief:** “Kief” means the dried or drying resinous trichomes of cannabis plant that have separated from cannabis flower or have been separated from cannabis flower by processes other than extraction. Kief is cannabis flower.

**Law enforcement officer:** “Law enforcement officer” has the same meaning as in 17-A MRS §2(17).

**Licensed premises:** “Licensed premises” means the premises specified in a license to operate a cannabis establishment within which the licensee is authorized under the rules governing the adult use cannabis program to cultivate, manufacture, distribute, sample, test or sell adult use cannabis or adult use cannabis products.

**Licensee:** “Licensee” means a natural person or business entity licensed pursuant to 28-B MRS to operate a cannabis establishment.

**Limited access area:** “Limited access area” means a building, room or other area within the licensed premises of a cannabis establishment, or as applicable for cannabis stores conducting sales at a specified event, the permitted premises for a specified event, where a licensee is authorized to cultivate, store, weigh, manufacture, sample, package or otherwise prepare for testing, transfer or retail sale, cannabis and cannabis products. A “limited access area” can only be accessed by authorized persons displaying individual identification cards or authorized contractors of the licensee aged 21 and older displaying a visitor identification badge.

**Liquid:** “Liquid” means a substance that flows freely but is of constant volume, having a consistency like that of water or oil.

**Local authorization:** “Local authorization” means authorization from a municipality in accordance with 28-B MRS §402 or authorization from the Maine Land Use Planning Commission and either a town, plantation, or county commission in accordance with 28-B MRS §403. Local authorization is not required for sample collector licenses.

**Logo:** “Logo” means a graphic mark, emblem or symbol used by a licensee to promote consumer identification and recognition of the licensee.

**Manufacture:** “Manufacture” or “manufacturing” means the production, blending, infusing, compounding or other preparation of cannabis and cannabis products, including but not limited to cannabis extraction or preparation by means of chemical synthesis. “Manufacture” or “manufacturing” does not include cultivation or testing.

**Marijuana:** “Marijuana” has the same meaning as “cannabis” as defined in this rule. In accordance with P.L. 2021, ch. 669, *An Act To Promote Equity and Increase Opportunities in the Cannabis Industry by Reducing Restrictions Related to Convictions for Drug Offenses and To Replace the Term “Marijuana” with the Term “Cannabis” in the Maine Revised Statute*, this rule reflects the replacement of the term “marijuana” with the term “cannabis” throughout. Where the term “marijuana” appears in other written

documents maintained or used by the Office of Cannabis Policy and regarding the Adult Use Cannabis Program, that term should be interpreted to have the same meaning as “cannabis” as defined herein.

**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 cannabis, cannabis plants, cannabis concentrate, or cannabis products are within. If the container consists of only a single layer, then the outer surface of the container is the marketing layer.

**Matrix or matrices:** “Matrix” or “matrices” means the component or substrate that contains the analyte of interest (e.g. cannabis flower, trim, cannabis cigarettes, types of cannabis concentrate, types of cannabis products, etc.).

**Mature cannabis plant:** “Mature cannabis plant” means a cannabis plant that is flowering.

**Method:** “Method” means a body of procedures and techniques for performing an activity (e.g., sampling, chemical analysis or quantification), systematically presented in the order in which they are to be executed.

**Mother plant:** “Mother plant” means a cannabis plant that is used solely for the taking of seedling cuttings.

**Municipality:** “Municipality” means a city, town or plantation in this State that is not located within the unorganized and deorganized areas.

**Mycotoxin:** “Mycotoxin” means any toxic substance produced by a fungus and especially a mold.

**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.

**Operating plan:** “Operating plan” means information regarding the operating requirements listed in an application for a conditional license and included in the facility plan submitted for an active license to operate a cannabis establishment.

**Outdoor:** “Outdoor” means, for the purpose of cultivating cannabis, a cultivation area that is not enclosed in a building or structure that is permanently fixed to the ground or a foundation that is used to create cultivation conditions that are not materially impacted by the ambient atmospheric conditions of the area where the licensed premises is located. An outdoor cultivation area is one where mature cannabis plants cannot be cultivated between the months of November and March without being materially impacted by atmospheric conditions.

**Permitted premises for a specified event:** “Permitted premises for a specified event” means the premises at a specified event location described in a specified event permit issued to a cannabis store pursuant to 28-B MRS § 504-A where a cannabis store is authorized to sell adult use cannabis and adult use cannabis products.

**Person:** “Person” means a natural person or a business entity.

**Plan of record:** “Plan of record” means, as applicable, a licensee’s current facility plan and the operating, cultivation and security information listed in the licensee’s applications for a conditional or active license on file with and approved by the Department.

**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 cannabis 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 identifiable 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 calculating 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 cannabis plants and seedlings and that are not used by the licensee at any time to cultivate mature cannabis plants.

**Plant regulator:** “Plant regulator” means any substance or mixture of substances intended through physiological action for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of plants or the produce thereof. “Plant regulator” does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments.

**Principal:** “Principal” means all natural persons having a controlling authority or leading position in the applicant’s or licensee’s operations, including, but not limited to officers, directors, members, managers, partners and employees or other natural persons given such controlling authority or leading position. “Manager” for the purpose s of this definition does not include an employee of the licensee whose managerial responsibilities are limited to staff supervision related to the day-to-day operations of a cannabis establishment.

**Premises:** “Premises” means the designated area within a structure or structures and land specified in a license application that is owned, leased or otherwise held under the control of the applicant or licensee where conduct related to the cultivation, manufacture, sampling, testing or sale of adult use cannabis and cannabis products occurs. The premises must be a contiguous area and may be occupied only by one establishment, unless otherwise permitted by statute or the rules governing the adult use cannabis program, except that nothing in this definition may be construed to prohibit the siting of multiple cannabis establishments in the same building or property so long as each establishment operates in a physically distinct space from any other establishment. Premises may also mean “permitted premises for a specified event” for appropriately permitted cannabis stores conducting sales of cannabis and cannabis products at specified event off of the licensed premises of the cannabis store.

**Pre-packaged retail unit:** “Pre-packaged retail unit” means adult use cannabis or a cannabis product that has passed all mandatory testing and is packaged into an individual child-resistant, tamper evident container for retail sale to a consumer 21 years of age or older.

**Private residence:** “Private residence” means that part of a structure with a fixed location used as a dwelling, including without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin or cottage.

**Production batch:** “Production batch” means a specific quantity of cannabis concentrate or a cannabis product that is produced during a specified period of time using the same extraction and/or manufacturing method, formulation and/or recipe and standard operating procedure. “Production batch” also includes the combination of two or more harvest batches of cannabis trim or kief.

**Products manufacturing facility:** “Products manufacturing facility” means a facility licensed under the rules governing the adult use cannabis program to purchase adult use cannabis from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use cannabis and adult use cannabis products; to collect and transport samples of cannabis, cannabis concentrate and cannabis products manufactured by that facility for mandatory testing; to sell adult use cannabis and adult use cannabis products to cannabis stores and to other products manufacturing facilities; and as applicable, to conduct sales to consumers by delivery.

**Propagation:** “Propagation” means the process of reproducing cannabis plants through the use of cannabis seeds, cuttings or grafting.

**Provisional active license:** “Provisional active license” means a license issued by the Department to a cannabis testing facility that has received provisional certification from the CDC and has applied for, but not yet received, ISO/IEC 17025:2017 accreditation for all required technologies and analytes, that authorizes testing of cannabis or cannabis products in accordance with 28-B MRS, Chapter 1, subchapter 2 and 6 and the rules governing the adult use cannabis program.

**Provisional certification:** “Provisional certification” means certification granted by the CDC pursuant to *Rules for the Certification of Cannabis Testing Facilities*, 18-691 CMR, ch. 5, to a cannabis testing facility that has not yet received ISO/IEC 17025 accreditation for all required technologies and analytes, but for which an application is pending, and that meets all other requirements of the rules governing the adult use cannabis program. Provisional certification is a prerequisite for the issuance of a provisional active license by the Department pursuant to the rules governing the adult use cannabis program.

**Qualifying patient:** “Qualifying patient” means a person who possesses a valid certification for the medical use of cannabis pursuant to 22 MRS § 2423-B.

**Quality assurance (QA):** “Quality assurance (QA)” means a set of operating principles that enable testing facilities to produce defensible data of known accuracy and precision. Quality assurance includes without limitation employee training, equipment preventative maintenance procedures, calibration procedures and quality control testing.

**Quality control (QC):** “Quality control (QC)” means the overall system of technical activities that measures the attributes and performance of a process, item or service against defined standards to verify that they meet the stated requirements established by the client; operational techniques and activities that are used to fulfill requirements for quality; also the system of activities and checks used to ensure that measurement systems

are maintained within prescribed limits, providing protection against “out of control” conditions and ensuring that the results are of acceptable quality.

**Quality assurance manual:** “Quality assurance manual” means a document stating the management policies, objectives, principles, organizational structure and authority, responsibilities, accountability and implementation of an agency, organization or a cannabis testing facility, to ensure the quality of its product and the utility of its product to its users.

**Quality system:** “Quality system” means a structured and documented management system describing the policies, objectives, principles, organizational authority, responsibilities, accountability and implementation plan of an organization for ensuring quality in its work processes, products (items) and services. The quality system provides the framework for planning, implementing and assessing work performed by the organization and for carrying out required QA and QC activities. A cannabis testing facility’s quality system must account for anomalies arising from the collection and transport of samples for mandatory testing conducted by a self-sampler or a sample collector licensee, including provisions regarding the use of blanks.

**Radio:** “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.

**Registered caregiver:** “Registered caregiver” means a caregiver who is registered by the department pursuant to 22 MRS §2425-A.

**Registered dispensary:** “Registered dispensary” or “dispensary” means an entity registered under 22 MRS §2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses cannabis or related supplies and educational materials to qualifying patients and the caregivers of those patients.

**Requester:** “Requester” means a person who submits a request to a licensed cannabis testing facility for State-mandated testing of cannabis or cannabis products.

**Retail sale hours:** “Retail sale hours” means the hours during which a cannabis store licensee is open to the public to conduct sales to consumers.

**Sale:** “Sale” or “sell” means a transfer of cannabis or cannabis products for consideration.

**Sales delivery manifest:** “Sales delivery manifest” means a record required by the Department for a licensed cannabis store to document the possession, transportation and delivery of sales orders of adult use cannabis and/or cannabis products to adult use consumers at a private residence.

**Sales Order:** “Sales Order” means adult use cannabis or adult use cannabis product, or a combination of adult use cannabis and/or cannabis products, requested by an adult use consumer, through a telephonic or internet-based platform, to be conveyed to the consumer via curbside pickup at a cannabis store or via delivery to a private residence by an employee of the cannabis store.



**Sample:** “Sample” means, as applicable, an amount of:

- (1) Cannabis, cannabis concentrate or cannabis product collected from an adult use cannabis establishment for mandatory testing:
  - (a) By an employee of a testing facility in accordance with 28-B MRS § 604 and the rules governing the adult use cannabis program;
  - (b) By a sample collector, in accordance with 28-B MRS § 604 and the rules governing the adult use cannabis program; or
  - (c) By a self-sampler in accordance with 28-B MRS § 604-A and the rules governing the adult use cannabis program;
- (2) Cannabis, cannabis concentrate or cannabis product provided to a testing facility by a cannabis establishment or other person for mandatory testing or testing for research and development purposes in accordance with 28-B MRS, chapter 1;
- (3) Adult use cannabis or adult use cannabis product collected from a licensee by the Department for the purposes of testing the cannabis or cannabis product for quality control purposes pursuant to 28-B MRS §512(2);
- (4) Adult use cannabis provided by a cultivation facility to another licensee for business or marketing purposes pursuant to 28-B MRS §501(8) (trade samples); or
- (5) Adult use cannabis or adult use cannabis product provided to another licensee by a products manufacturing facility for business or marketing purposes pursuant to 28-B MRS §502(6) (trade samples).

**Sample collection SOP:** “Sample collection SOP” means a standard operating procedure for the collection of samples of cannabis, cannabis concentrate and cannabis products for mandatory testing published by the Department that must be used by all licensees collecting, transporting and transferring samples for mandatory testing. The current sample collection SOP is Appendix A of 18-691 CMR, ch. 40.

**Sample collector:** “Sample collector” means a person licensed pursuant to the rules governing the adult use cannabis program and 28-B MRS, ch. 1 to collect samples of cannabis and cannabis products for testing and to transport and deliver those samples to a testing facility. A sample collector must hold a valid individual identification card (“IIC”).

**Seedling:** “Seedling” means a cannabis plant that is:

- (1) Not flowering;
- (2) Less than 24 inches in height; and
- (3) Less than 24 inches in width.

“Seedling” includes clones and tissue cultures.

**Self-sampler or Self-sampling licensee:** “Self-sampler” or “self-sampling licensee” means a cultivation facility, products manufacturing facility or cannabis store licensee that collects samples of cannabis, cannabis concentrate and cannabis products for mandatory testing or an employee of a cultivation facility, products manufacturing facility or cannabis store licensee who collects samples of cannabis, cannabis concentrate and cannabis products for that licensee for mandatory testing. Any individual collecting samples for mandatory testing must hold a valid individual identification card (“IIC”).

**Specified event:** "Specified event" means an event that occurs outside the licensed premises of a cannabis store that is not conducted primarily for the benefit or enjoyment of individuals under 21 years of age and that is not more than 10 consecutive days in duration or 10 occurrences in duration. For purposes of this definition, "occurrence" means an event that is less than 24 hours in duration and that occurs during the same calendar year as another occurrence.

**Specified event permit:** "Specified event permit" means a temporary authorization for a cannabis store to conduct sales of adult use cannabis and adult use cannabis products on the permitted premises for a specified event in accordance with 28-B MRS § 504-A.

**Standard operating procedure (SOP):** “Standard operating procedure (SOP)” means a written document that details the method for an operation, analysis or action, with thoroughly prescribed techniques and steps.

**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.

**Target organism:** “Target organism” means an organism that is being tested for in an analytical procedure or test method.

**Television:** "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.

**Testing or Test:** “Testing” or “test” means the research and analysis of cannabis, cannabis products or other substances for contaminants, safety or potency. “Testing” or “test” includes the collection of samples of cannabis and cannabis products for testing purposes but does not include cultivation or manufacturing. Nothing in this definition shall be construed to permit any licensee except a cannabis testing facility to perform analyses of cannabis, cannabis concentrate or cannabis products for mandatory testing without a separate cannabis testing facility license issued by the Department.

**Testing facility:** “Testing facility” means a facility licensed under the rules governing the adult use cannabis program to develop, research and test cannabis, cannabis products and other substances.

**Testing facility director:** “Testing facility director” means the cannabis testing facility director who is legally authorized to direct the activities of a cannabis testing facility and who commits the appropriate resources to comply with the rules governing the adult use cannabis program.

**THC:** “THC” means tetrahydrocannabinol.

**Tincture:** “Tincture” means a liquid edible cannabis product with a concentration of greater than 1 mg of THC per ounce of liquid.

**Topical cannabis product:** “Topical cannabis product” means non-edible cannabis or cannabis products that are intended to be applied topically and absorbed transdermal, including without limitation salves, creams, lotions, transdermal patches or balms.

**Total CBD:** “Total CBD” means the sum of CBD and CBDA. Total CBD is calculated by a cannabis testing facility using the following equation:  $\text{Total CBD} = \text{CBD} + (\text{CBDA} * 0.877)$ .

**Total THC:** “Total THC” means the sum of THC and THCA. Total THC is calculated by a cannabis testing facility using the following equation:  $\text{Total THC} = \text{delta-9 THC} + (\text{THCA} * 0.877)$ .

**Transport manifest:** “Transport manifest” means a record, either paper or electronic, required by the Department for a licensed facility to document the possession of the cannabis or cannabis product on the premises, tracking all inventory, acquisition, and sales as well as the transfer of any cannabis or cannabis product to another facility, including for the purposes of testing or provision of trade samples to another licensee.

**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 cannabis or contains or is a cannabis product.<sup>1</sup>

**Unorganized and deorganized areas:** “Unorganized and deorganized areas” has the same meaning as in 12 MRS § 682(1).

**Unpackaged cannabis or cannabis products:** “Unpackaged cannabis or cannabis products” means cannabis or a cannabis product that has not been packaged into an individual child-resistant, tamper evident container for retail sale to a consumer 21 years of age or older.

**Unusable:** “Unusable” means that the cannabis can no longer be smoked, eaten, ingested, topically applied or otherwise ingested. Nor can the cannabis be further manipulated in a manner to extract more than a trace amount of cannabinoid.

**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.

**Water activity:** “Water activity” means a measure of the quantity of water in a product that is available, and therefore capable of, supporting bacteria, yeasts and fungi. Water activity is reported in the unit  $A_w$ .

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<sup>1</sup> Office of Cannabis Policy, *Universal Symbol*, OCP Website: Resources, <https://www.maine.gov/dafs/ocp/resources/universal-symbol> (accessed August 18, 2021).

**Wholesale container:** “Wholesale container” means a sealed package in which adult use cannabis, cannabis concentrate and cannabis products are conveyed during an authorized transfer.

## §2 - Fee Schedule.

### (1) Payment of Fees.

**(A) 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.

**(B) 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 the rules governing the adult use cannabis program. The Department shall not accept any license fees except pursuant to such invoice.

**(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 the rules governing the adult use cannabis program or the Department suspends or revokes the licensee’s license in accordance with the provisions of 28-B MRS and the rules governing the adult use cannabis program.

### (3) Individual Identification Card Fees.

<u>Card Type</u>	<u>Fee</u>
Original Issuance history record check	\$50.00 plus cost of fingerprinting and criminal
Annual Renewal	\$50.00
Reissuance (lost, stolen, damaged, info change)	\$10.00

**(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.

**(5) Tracking System Fees.** Each licensee is responsible for all costs associated with its use of the tracking system and any associated vendor fees.

### (6) Cultivation Facility Application and License Fees.

<u>License Type</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		\$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
For each increase in canopy size		+\$5,000	+\$10,000
Nursery Cultivation Facility	\$60.00	\$350.00	\$350.00

**(7) Other Cannabis Establishment Application and License Fees.**

<u>License Type</u>	<u>Application Fee</u>	<u>License Fee</u>
Products Manufacturing Facility	\$250.00	\$2,500.00
Cannabis Store	\$250.00	\$2,500.00
Testing Facility	\$250.00	\$1,000.00
Sample Collector	\$100.00	\$250.00

**(8) Other Cannabis Establishment Fees.**

<u>Fee Type</u>	<u>Application Fee</u>
Specified event permit (per event)	\$200.00
Transfer of Ownership/Change of Principals	\$250.00
Relocation	\$250.00

**(9) Annual Renewal and Late Renewal Application and License Fees.** All renewal application and license fees shall be due annually in the amounts listed in this rule and submitted in accordance the rules governing the adult use cannabis program, 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.

Fiscal impact note, included pursuant to 5 MRS § 8063: The Department estimates that the changes implemented by this rulemaking will have a de minimus fiscal impact on municipalities and counties.