



COMPLIANCE RULES FOR ADULT USE CANNABIS ESTABLISHMENTS

18-691 C.M.R., Chapter 30

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

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Chapter 30 – Compliance and Enforcement

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The terms used in this rule are defined in and governed by the *Rules for the Administration of the Adult Use Cannabis Program*, 18-691 CMR, ch. 10. The administration of this rule and the other rules governing the Adult Use Cannabis Program are also governed by 18-691 CMR, ch. 10. All applicants, licensees and individual identification cardholders that are authorized to conduct activities pursuant to licenses or individual identification cards issued pursuant to the *Rules for the Licensure of Adult Use Cannabis Establishments*, 18-691 CMR, ch. 20, shall also at all times comply with the requirements of Title 28-B of the Maine Revised Statutes and this, and 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 - General Compliance.

(1) Premises. Only activities authorized by the rules governing the adult use cannabis program, 18-691 CMR, chapters 5, 10, 20, 30, and 40, and 28-B MRS may be conducted on the licensed, or as applicable permitted, premises. No other activities besides those authorized by the rules governing the adult use cannabis program and 28-B MRS may be conducted at any time on the licensed or permitted premises, including without limitation: sampling events, catered events, specified events, retail sales by delivery to consumers, or parties.

(A) Controlling Entry to Cannabis Establishments and Permitted Premises for a Specified Event.

(1) Cannabis establishments must design entry points so that no person under 21 years of age is allowed entry to the premises.

(a) All establishment types must designate specific places at which an employee or licensee will:

(i) Verify the age and identity of all persons entering the premises;

(b) Require authorized contractors or other visitors to sign the visitor entry log before entering limited access areas; and

(c) Receive mail and other deliveries.

(2) Nursery cultivation facilities and cannabis stores must designate specific places at which an employee or licensee will check for a valid government-issued form of identification and controlling access to areas of the licensed or permitted premises designated for retail sales, in compliance with §1, sub-§ 8 of this rule.

(3) Entry points must be designed so as not to enable a person under 21 years of age to handle cannabis or cannabis products.

(B) Access to Adults Aged 21 or Older.

(1) Cannabis stores and nursery cultivation may allow access to individuals who are at least 21 years of age, after verifying their age on a valid government-issued form of identification, for the following purposes:

(a) Consultations between employees and adult customers;

- (b) Distribution of printed materials about cannabis;
- (c) Sales or returns of products that may be legally sold by the licensee;
- and
- (d) Customer restrooms, if provided.

(2) A cannabis store conducting sales to consumers of adult use cannabis or cannabis products at a specified event may allow access to the permitted premises for a specified event by individuals at least 21 years of age, after verifying their age on a valid government-issued form of identification, for the following purposes:

- (a) Consultations between employees and adult customers;
- (b) Distribution of printed materials about cannabis; and
- (c) Sales or returns of products that may be legally sold by the licensee.

(3) A cannabis establishment may not allow the purchaser of cannabis or cannabis products to consume them on the premises.

(4) A cannabis testing facility may designate on its facility plan a portion of the premises where it will receive samples for non-mandatory testing from licensees, persons 21 years of age or older, and/or qualifying patients, caregivers, registered caregivers or registered dispensaries in accordance with 28-B MRS §§ 503 and 503-A and the rules governing the adult use cannabis program.

(C) Limited Access Areas.

(1) Limited access areas include, but are not limited to:

- (a) Areas in cultivation facilities in which mature cannabis plants, mother plants, immature plants or seedlings are grown; or cannabis is cut, stored, trimmed, cured or otherwise cultivated; cannabis is packaged for transfer; cannabis or cannabis products for retail sale to consumers by delivery is stored or prepared for delivery; or cannabis waste is stored or processed.
- (b) Areas in testing facilities in which cannabis or cannabis products are received, stored, handled, tested, transferred or discarded.
- (c) Areas in cannabis product manufacturing facilities in which cannabis or cannabis concentrate is received, stored, combined with other ingredients or otherwise manufactured; cannabis products are stored, cooled, cut, packaged or labeled; cannabis or cannabis products are refrigerated; cannabis or cannabis products for retail sale to consumers by delivery is stored or prepared for delivery; or cannabis waste is discarded or destroyed.
- (d) Areas in cannabis stores in which a person would be able to touch or handle cannabis or cannabis products, including point of sale areas intended for employees only.

(2) Any other area that is used to cultivate, store, weigh, manufacture, package or otherwise prepare for sale adult use cannabis and adult use cannabis products is also considered a limited access area.

(3) It is the sole responsibility of the licensee to control access to limited access areas and limit access only to the following persons:

(a) The establishment's owners, managers or employees who are displaying a valid individual identification card issued to that person; and valid individual identification card holders making deliveries to or receiving transfers of cannabis or cannabis products from the licensee; and registry identification cardholders making deliveries to or receiving transfers from the licensee as authorized for co-located adult use cultivation or products manufacturing facilities;

(b) Sample collectors who are displaying a valid individual identification card issued to that person;

(c) Employees of a testing facility who are displaying a valid individual identification card issued to that person;

(d) Contractors aged 21 or older (including, but not limited to, electricians, plumbers, engineers, alarm technicians or attorneys) and local, state or federal elected officials who will not handle cannabis plants, cannabis or cannabis products, in compliance with this subsection;

(e) Staff or agents of the Department;

(f) Law enforcement officers; and

(g) 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.

(4) Staff or agents of the Department, 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.

(5) Security.

(a) Nurseries and cannabis stores that admit persons 21 years of age or older for the purpose of purchasing cannabis plants, cannabis, or cannabis products shall use identification checks, locked doors, video surveillance, counters, and locked displays, in accordance with their Department-approved security plan and as applicable, a cannabis store licensee's application for a specified event permit, to prevent unauthorized entry to limited access areas

(b) Other 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.

(c) Any security breaches must be reported within 24 hours, in writing, to the Department.

(6) Required Signage.

(a) 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.”

(b) 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.

(7) Contractors and other authorized visitors.

(a) Contractors and other authorized visitors who will not handle cannabis plants, cannabis or cannabis products, including but not limited to electricians, plumbers, engineers, alarm technicians, attorneys, and local, state or federal elected officials, do not require an individual identification card.

(b) A contractor or other authorized visitor may enter a limited access area only if wearing a visitor identification badge, signed in and recorded on a visitor entry log.

(c) At all times while in a limited access area, the visitor shall display in a conspicuous place on their person a visitor identification badge.

(i) The visitor identification badge must display an identifying mark, which may be a clearly identifiable letter, number or symbol or combination thereof.

(ii) 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.

(d) A visitor entry log must include, at a minimum:

(i) The date and time of the visitor’s entry;

(ii) The date and time of the visitor’s departure;

(iii) The full name of the visitor;

(iv) The identifying number of the visitor’s state- or federally-issued identification;

(v) The identifying mark on the visitor identification badge; and

(vi) The purpose for which the visitor is accessing the limited access area[s].

(2) Security. Cultivation facilities, testing facilities, products manufacturing facilities, and cannabis stores must provide adequate security at the licensed premises, and as applicable for sales at a specified event, the permitted premises. This section does not apply to sample collectors.

(A) Mandatory Requirements for Cultivation Facilities, Testing Facilities, Products Manufacturing Facilities and Cannabis Stores. As applicable, cannabis establishments must enact security measures to prevent the diversion of cannabis or cannabis products that are being cultivated, manufactured, tested, packaged, stored, displayed or transported.

(1) Lighting.

(a) Any gate or perimeter entry point of a cannabis establishment, and the entirety of the permitted premises for a specified event, must have lighting sufficient for observers to see, and cameras to record, any activity within 10 feet of the gate or entry and within the permitted premises for the specified event.

(b) A motion detection lighting system may be employed to light required areas in low-light conditions.

(2) Doors and windows.

(a) 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.

(b) All external entrances to indoor facilities on the licensed premises must be able to be locked.

(c) All perimeter windows must be in good condition and lockable.

(3) Alarm system.

(a) Monitored sensors are required on all perimeter entry points and perimeter windows, except that perimeter windows may be protected by appropriately located motion sensors.

(b) Alarm systems must be monitored by a licensed security company capable of contacting the licensee and, if necessary, law enforcement.

(c) The system must include an audible alarm, which must be capable of being disabled remotely by the security company.

(4) Video surveillance.

(a) Placement and coverage of cameras shall be sufficient:

(i) Cameras must be permanently fixed inside each entry/exit point (perimeter and limited access area) to allow identification of persons entering the licensed or permitted premises and limited access areas, except that all required cameras for a specified event shall be securely affixed to any structure used to fully enclose the perimeter of the permitted premises.

(ii) Cameras must be permanently fixed outside each entry/exit point (perimeter and limited access area) to allow identification of persons exiting the licensed or permitted premises and limited access areas, except that all required cameras for a specified event shall be securely affixed to any structure used to fully enclose the perimeter of the permitted premises.

(iii) A sufficient number of cameras must be permanently fixed to allow the viewing, in its entirety, of any area where cannabis, cannabis plants, immature cannabis plants, seedlings, seeds, cannabis concentrate or cannabis products are cultivated, manufactured, stored or prepared for transfer or sale or where samples for mandatory testing are collected, and prepared and sealed for transport to a cannabis testing facility;

(1) Except that outdoor cultivation areas must have only a sufficient number of cameras permanently fixed to allow the viewing of the entirety of the perimeter of the cultivation area inside of the exterior fence;

(2) Indoor cultivation areas, including each grow room and each drying room, must have only a sufficient number of cameras permanently fixed to allow the viewing of all points of ingress and egress to and from the cultivation area; and

(3) All required cameras for a specified event shall be securely affixed to any structure used to fully enclose the perimeter of the permitted premises

(iv) A sufficient number of cameras must be permanently fixed to allow the viewing, in its entirety, of any area where cannabis waste is stored before being made unusable, or where cannabis waste is made unusable, except that all required cameras for a specified event shall be securely affixed to any structure used to fully enclose the perimeter of the permitted premises.

(v) A camera must be permanently fixed at each point of sale to ensure identity of the purchaser, except that all required cameras for a specified event shall be securely affixed to any structure used to fully enclose the perimeter of the permitted premises.

(vi) A sufficient number of cameras shall be permanently fixed to allow recording of all transactions conducted in areas designated by a cannabis store for curbside pickup by customers, including any areas not included in the licensed premises of the cannabis store but immediately adjacent to the primary public ingress and egress of the cannabis store where the cannabis store intends to conduct curbside pickup by consumers.

(1) Any curbside pickup location outside the licensed premises must be in a place designated for parking or standing and capable of being entirely within the view of cameras permanently fixed to the exterior of the licensed premises where such cameras can clearly capture the entirety of the transaction conducted via curbside pickup.

(vii) 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.

(viii) Cameras, either mobile or fixed, must be maintained to allow recording of all transactions conducted via delivery. Cameras recording sales via delivery must be sufficient to record the entirety of the transaction and to ensure identity of the purchaser.

(b) Video surveillance shall meet the following minimum requirements:

(i) Minimum camera resolution is 720p.

(ii) System storage and cameras are internet protocol (IP) compatible.

(iii) All cameras must record continuously twenty-four hours per day or be motion activated and at a minimum of 15 frames per second.

(1) Motion activated video storage must capture and store footage for no less than 120 seconds prior to

motion activation and 120 second following the cessation of motion.

(iv) 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.

(v) The surveillance system storage device must be secured on the licensed premises of a cannabis establishment 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.

(vi) Surveillance equipment used to record deliveries or permitted premises at a specified event shall be secured when not in use and recordings shall be uploaded to the surveillance system server, including if applicable, a third-party cloud-based server, within 24 hours of the recording.

(vii) Video surveillance is not intended to include the use of any computer software or application that performs facial surveillance as defined by 25 MRS § 6001 (1) (D) and (E).

(c) All surveillance recordings, including recordings made of deliveries and the permitted premises at a specified event, must be kept for a minimum of 45 days on the licensee's recording device.

(d) All videos are subject to inspection by any Department employee and must be copied and provided to the Department upon request.

(e) Licensees shall maintain a list of all persons with access to video surveillance recording and procedures for controlling access to recordings.

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

(1) 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. Such fencing must be commercial or security grade, not agricultural or residential grade, and designed to prevent access to the cultivation area by unauthorized persons.

(2) Lighting shall be designed to sufficiently illuminate a perimeter of at least 10 feet around any point of entry, whether it is a gate or access from a building. A licensee may use motion sensor lighting in cultivation areas.

(C) Additional Security Measures. The licensee may choose to enact additional security measures to enhance the safety of the cannabis establishment and any permitted premises for a specified event. Any additional security measures implemented by a licensee are subject to the following requirements:

(1) Measures to prevent employee or contractor theft:

- (a) Licensees may designate areas for employee and contractor storage of bags, overcoats and other belongings.
- (b) Licensees may place limits on the size of bags to be brought to the cannabis establishment.
- (c) Licensees may institute other reasonable procedures for checking for stolen cannabis or cannabis products when an employee or contractor leaves the premises.

(2) Security guards:

- (a) Security guards are permitted but not required at cannabis establishments.
- (b) Security guards employed or contracted by a licensee must:
 - (i) Meet all qualifications of 32 MRS, chapter 93;
 - (ii) Be at least 21 years of age;
 - (iii) Comply with all requirements of 32 MRS, chapter 93; and
 - (iv) Obtain and display individual identification cards if they will be in limited access areas or in a vehicle that is transporting cannabis plants, cannabis or cannabis products.
- (c) Security guards must not consume cannabis or cannabis products or be intoxicated while performing any duties for a licensee.
- (d) Licensees, employees and security guards must comply with all laws and regulations related to firearms and other weapons.

(D) Written Security Plan. Before cultivating, manufacturing, testing, selling, storing or transporting cannabis or cannabis products, each licensee shall receive Department approval of a written security plan, included in the licensee's facility plan of record, demonstrating compliance with all requirements of the rules governing the adult use cannabis program.

(1) At a minimum, the security plan shall provide sufficient detail so that the Department may determine whether the following requirements are met:

- (a) Lighting adequately illuminates entry and exit points;
- (b) All doors and windows are lockable;
- (c) Fences (if present) meet height and other requirements;
- (d) Alarm sensors are present on all entry points and windows and are remotely monitored;
- (e) Video cameras are present in all required locations;
- (f) Video cameras and storage meet all required specifications; and
- (g) In areas of the premises (if any) designated for retail sales, lockable and secure display cases or counters of sufficient height to prevent the public from handling or accessing cannabis plants, cannabis or cannabis products without direct supervision of a licensee or employee.

(2) Each licensee shall adhere to the security plan and notify the Department in writing through the submission of a revised security plan 14 days prior to making any material change to security measures. The Department may determine at any time that the revised security plan does not meet minimum requirements. Except in exigent circumstances, which must be communicated to the Department in 24 hours, a licensee may not make any material changes to security measures without prior notice to the Department in writing.

(3) Material changes include, but are not limited to: the addition or removal of sensors or cameras; or changes to the location of sensors, cameras, points of entry or exit or points of sale or authorized transfers; changing security monitoring companies; and changes to lighting.

(4) A cannabis store licensee that applies for a permit to conduct sales of adult use cannabis and cannabis products at a specified event shall include in its application for a specified event permit a diagram and description of the security measures the cannabis store intends to implement on the permitted premises to prevent unauthorized access to adult use cannabis and cannabis products, including measures to prevent unauthorized access to the permitted premises by individuals under 21 years of age and plans for securing cannabis inventory during the specified event, including, but not limited to, sufficient information for the Department to determine whether the following requirements are met:

- (a) A tent or other opaque structure fully encloses the perimeter of the permitted premises and has a single point of entry into the permitted premises;
- (b) Lighting adequately illuminates entry and exit points;
- (c) Video cameras are present in all required locations;
- (d) Video cameras and storage meet all required specifications;
- (e) In areas of the permitted premises designated for retail sales, lockable and secure display cases or counters of sufficient height to prevent the public from handling or accessing cannabis plants, cannabis or cannabis products without direct supervision of a licensee or employee; and
- (f) All cannabis and cannabis products offered for retail sale at the permitted premises are secure for the duration of the specified event and will not be stored at the specified event at any time other than the opening hours of the specified event.

(3) General Conduct.

(A) General Requirements.

(1) Cannabis licensees are responsible for the operation of their licensed business in compliance with Maine Revised Statutes, Titles 28-B, 17-A, 36; the rules governing the adult use cannabis program; and any other applicable state laws and rules.

(2) Licensees and their employees must conduct business and maintain the licensed and any applicable permitted premises, surrounding area, and vehicles transporting product, in compliance with the following laws, as they now exist or may later be amended:

- (a) Falsification in Official Matters, 17-A MRS, chapter 19;
- (b) Offenses against Public Order, 17-A MRS, chapter 21;
- (c) Drugs, 17-A MRS, chapter 45; and
- (d) Motor Vehicles and Traffic, 29-A MRS.

(3) Licensees have the responsibility to control their conduct and the conduct of employees, customers, contractors and visitors on the licensed or permitted premises at all times. Licensees shall ensure that at all times during business hours, as applicable, 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:

(a) Be disorderly or visibly intoxicated by liquor, cannabis or controlled substances on the licensed or permitted premises;

(b) Permit any disorderly or visibly intoxicated person to remain on the licensed or permitted premises;

(c) Engage in or allow behavior on the licensed or permitted premises that provokes conduct which presents a threat to public safety;

(d) Engage in, or permit any employee or other person to engage in, conduct on the licensed or permitted premises that is prohibited by any portion of 28-B MRS, 17-A MRS or 36 MRS; any part of the rules governing the adult use cannabis program; or any other applicable state laws and rules; or

(e) Engage in or permit any employee or other person to engage in the consumption of any type of cannabis, cannabis concentrate or cannabis product on the premises, except:

(i) A licensee may allow an employee who is a qualifying patient to consume legally obtained medical cannabis or cannabis products on the licensed premises. Pursuant to 22 MRS § 2426(2)(B), no employer is required to accommodate the ingestion of medical cannabis in any workplace or any employee working while under the influence of cannabis.

(ii) An employee of a licensee may ingest, consume or apply products for quality control, research or development, or employee educational 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 cannabis product.

(4) Licensees are prohibited by this rule from manufacturing, selling or offering for sale any cannabis product intended for intravenous delivery or that involves any type of injection involving piercing of the skin of a human or animal.

(B) 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 cannabis establishment licensee must:

(1) Prohibit an individual from working at a licensed premise who has or appears to have:

(a) An open or draining skin lesion unless the individual wears an absorbent dressing and protective gloves; or

(b) Any illness accompanied by diarrhea or vomiting if the individual has a reasonable possibility of contact with cannabis or cannabis products on the licensed premises;

(2) Require all persons who work in direct contact with cannabis or cannabis products conform to hygienic practices while on duty, including but not limited to:

(a) Maintaining adequate personal cleanliness; and

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- (b)** Washing hands thoroughly in an adequate hand-washing area before starting work, prior to having contact with cannabis or cannabis products and at any other time when the hands may have become soiled or contaminated;
- (3)** 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;
- (4)** 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 cannabis or cannabis products are exposed;
- (5)** Provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair;
- (6)** Hold cannabis or cannabis products in a manner that prevents pathogenic microorganism growth or toxin formation; and
- (7)** Conduct mandatory testing of cannabis or cannabis products returned to the licensee by another licensee in accordance with the following requirements:
- (a)** A licensee shall not sell or furnish to a licensee for sale to a consumer, cannabis or a cannabis product that has been returned by a consumer, including cannabis or cannabis products that were returned by a consumer in packaging that remains intact and unadulterated. Cannabis or cannabis products that are returned by a consumer shall be destroyed.
 - (b)** A licensee may sell or furnish to a licensee for sale to a consumer, without further testing in accordance with the rules governing the adult use cannabis program, cannabis or cannabis products that have been returned to the licensee from another licensee that is in intact, unadulterated pre-packaged retail units provided that such pre-packaged retail units remain intact and unadulterated upon resale to another licensee.
 - (c)** A licensee may sell or furnish to a licensee for sale to a consumer cannabis or cannabis products that have been returned to a licensee from another licensee. If cannabis or cannabis products are returned to the licensee that originally cultivated or manufactured the cannabis or cannabis product, the licensee shall ensure that the cannabis or cannabis product is subject to all mandatory testing before transfer to another licensee for sale to a consumer. A licensee is not required to test returned cannabis or cannabis products for the following analyte categories, so long as the cannabis or cannabis products previously passed mandatory testing for the following analyte categories and the cannabis or cannabis product is not combined with any other cannabis or cannabis product that has not passed mandatory testing for the analyte categories listed below:
 - (i)** Residual solvents;
 - (ii)** Pesticides; and

(iii) Other harmful chemicals (metals).

(4) Adherence to Written Plans Approved by the Department. Cannabis establishment licensees are required to conduct operations in accordance with all written plans and applications and supplemental materials submitted by the licensee as an applicant, conditional licensee or active licensee and approved by the Department as indicated by the issuance of a cannabis establishment license, or as applicable specified event permit.

(A) Covered Plans. As applicable, a 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 cannabis program in accordance with the 28-B MRS and the rules governing the adult use cannabis program. At minimum:

(1) All cannabis establishments must develop, receive approval for and operate in accordance with its facility plan.

(2) All cannabis establishments must operate in accordance with:

(a) Any applicable written plans of record included in the facility plan of record;

(b) Any other written assurances regarding operations to the Department for the purpose of ensuring health and safety;

(c) Local ordinances, land use standards and/or warrant articles;

(d) Any permits issued, or conditions imposed by a municipality, town, plantation, county commission or the Maine Land Use Planning Commission in connection with local authorization; and

(e) Any plans required by any other federal, state or local regulations.

(3) Licensees collecting their own samples for mandatory testing must comply with all Department-required forms, SOPs and guidance.

(4) Cannabis store licensees conducting sales of cannabis or cannabis products at a specified event shall operate in accordance with all plans, diagrams, descriptions and other permit application materials submitted to the Department and approved by the Department through the issuance of a specified event permit.

(B) Plans of Record. The Department shall keep on file a copy of all facility plans as well as copies of certifications of testing facilities and applications for specified event permits submitted by cannabis store licensees. The most recent plan, whether submitted with the issuance of the cannabis establishment license, or by the subsequent approval of an application to change, shall be the plan of record with which the licensee must comply.

(C) Licensee Responsibility. A cannabis establishment licensee is solely responsible for the operation of the cannabis establishment in accordance with the cannabis establishment facility plan of record on file with the Department. A cannabis store licensee conducting sales of cannabis or cannabis products at a specified event is also responsible for operating in accordance with all information included in its specified event permit application.

(D) Changes to Facility Plan, including changes to operations, cultivation or security information included therein. Any material changes to the facility plan of record of any cannabis establishment must be approved by the Department. A material change includes without limitation: changes to the licensed premises including changes to the floor plan, security equipment, manufacturing equipment, display cases or any other area of the licensed premises where cannabis is cultivated, manufactured, stored or sold, the addition or removal of curbside pickup locations – including those curbside pickup locations outside the licensed premises but immediately adjacent to the primary public ingress and egress of the cannabis store, the commencement or cessation of delivery activities and seasonal or temporary cessation of authorized activities at a licensed cannabis establishment in excess of 30 days.

- (1) An application to materially change the facility plan of a cannabis establishment must be:
 - (a) Submitted on forms made available by the Department;
 - (b) Accompanied by all required fees associated with a change of facility plan; and
 - (c) Consistent with 28-B MRS, the rules governing the adult use cannabis program and any other applicable laws and rules.
- (2) No licensee shall make material changes to operations, including cultivation or security practices, until the application for changes to the facility plan have been approved by the Department.
- (3) Within 30 days of receiving an application for changes to the facility plan, the Department shall:
 - (a) Approve the application for changes to the facility plan and update the facility plan of record on file with the Department; or
 - (b) Deny the application for changes to the facility plan only if the changes requested are in violation of 28-B MRS, the rules governing the adult use cannabis program, conditions required for local approval or other applicable laws or rules.
- (4) The Department may place an application for changes to a facility plan on hold if the cannabis establishment applying for the change of facility plan is currently under investigation for a violation of 28-B MRS, the rules governing the adult use cannabis program or other related laws or rules.
- (5) For purposes of this subsection, a licensee proposing to co-locate a medical cannabis operation not currently operating on the premises shall constitute a material change in the facility plan.

(5) Requirements Applicable to Cultivation Facilities.

(A) General Compliance. In addition to the general compliance requirements of this rule and all requirements pursuant to 28-B MRS, 36 MRS and all other applicable laws and rules, a cannabis cultivation licensee must comply with the requirements of this subsection.

(B) Privileges Granted. A cannabis cultivation licensee shall only exercise those privileges granted to it by the Department. In accordance with 28-B MRS, the rules governing the adult use cannabis program and all other applicable laws and rules, a cannabis cultivation licensee may within limited access areas of the premises as described in the cannabis establishment facility plan of record:

- (1) Propagate and cultivate cannabis plants;
- (2) If appropriately licensed as a pesticide applicator with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control, apply pesticides, fungicides and growth regulators permitted for use on cannabis to cannabis plants;
- (3) Trim, dry, cure and store cannabis;
- (4) Prepare cannabis plants and cannabis for authorized transfer and participate in authorized transfers of cannabis plants and cannabis;
- (5) Package cannabis for retail sale:
 - (a) A cannabis cultivation establishment may package cannabis flower and trim for retail sale; and
 - (b) A cannabis cultivation establishment may produce pre-rolled cannabis cigarettes, so long as the pre-rolled cannabis cigarettes contain only cannabis flower or trim.
- (6) Prepare cannabis waste for disposal and dispose of cannabis waste;
- (7) Transfer cannabis samples to products manufacturing and cannabis store licensees pursuant to 28-B MRS and this rule;
- (8) Collect samples for mandatory testing in compliance with the requirements of 18-691 CMR, ch. 40;
- (9) Transfer cannabis testing samples to a licensed cannabis testing facility;
- (10) For tier 1, tier 2 or nursery cultivation facilities, conduct retail sales of cannabis or cannabis products by delivery to consumers in accordance with the delivery requirements in subsection 9 of this section; except that a nursery cultivation facility may only conduct retail sales by delivery of immature cannabis plants, seedlings, cannabis seeds and agricultural or gardening supplies relating to the cultivation of cannabis;
- (11) Accept returns of cannabis plants or cannabis sold to a consumer from cannabis stores, or as applicable, from consumers, for the purpose of destruction;
- (12) Accept returns of cannabis flower, including kief, and cannabis trim from a products manufacturing facility that received the cannabis flower or trim from the cultivation facility, and then reselling that returned cannabis flower or trim subject to the inventory tracking requirements of this rule and the mandatory testing requirements of the *Rules for the Testing of Adult Use Cannabis*, 18-691 CMR, ch. 40; and

(13) Accept returns of pre-packaged retail units of cannabis flower, including kief, and cannabis trim from another cultivation facility, products manufacturing facility or cannabis store that received the cannabis flower or trim from the cultivation facility, and then reselling that returned cannabis flower or trim subject to the inventory tracking requirements of this rule and the mandatory testing requirements of the *Rules for the Testing of Adult Use Cannabis*, 18-691 CMR, ch. 40.

(C) Authorized Sources of Cannabis Plants and Seeds. A cultivation facility licensee may acquire cannabis plants and seeds by the following processes:

(1) By lawful purchase from another cultivation facility licensee, including a nursery cultivation facility.

(2) By gift from an individual person, who must be a resident of the State of Maine:

(a) A cultivation facility licensee may receive, by gift from an individual, only seedlings pursuant to this rule;

(b) A cultivation facility licensee may not accept, during a 90 day period, more than one transfer of seedlings from each individual gifting seedlings to that licensee;

(c) A cultivation facility licensee may not accept more than 6 seedlings from an individual gifting seedlings to the licensee;

(d) Before accepting a gift of seedlings, the cultivation facility must receive approval from the Department, in writing, to accept the gift of seedlings. A cultivation facility licensee that receives seedlings as a gift from an individual, 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;

(e) The seedlings shall be recorded in the inventory tracking system by 11:59 P.M. on the day the licensee receives the gift of seedlings;

(f) The individual gifting the seedlings to the licensee may not receive remuneration of any kind in return; and

(g) The gift of the seedlings must not be conditional or contingent upon any other terms or requirements of the licensee.

(D) Cannabis Cultivation Establishment Premises.

(1) The premises of a cannabis cultivation establishment must comply with all security requirements described in subsection 2.

(2) All electrical equipment, including but not limited to growing lights, cultivation equipment and packaging equipment, must be agency approved including UL, ETL, and CSA.

(3) Any cultivation of seedlings, immature plants, mother plants or mature plants must take place in:

- (a) A fully enclosed secure indoor facility or secure greenhouse with walls, a roof, lockable doors, and secure windows as described in subsection 2 that prevent entry by unauthorized persons; or
- (b) Within a secured fenced area, as described in subsection 2.

(4) 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.

(a) An outdoor or greenhouse cannabis cultivation facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals.

(b) 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 premise so it can be fully secured and alarmed.

(5) A nursery cultivation facility or a cultivation facility that also holds a cannabis store license on the same premises must use a fence or other adequate security measures to separate areas of the premises designated for retail sales from limited access areas, including any area where samples for mandatory testing are collected, packaged, and sealed for transport to a cannabis testing facility.

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

(F) Cultivation of Medical and Adult Use Cannabis on the Same Premises. A cultivation facility may cultivate both medical cannabis and adult use cannabis only if it has received the Department's approval of a facility plan to cultivate both and it is a registered caregiver or registered dispensary eligible to co-locate in accordance with the rules governing the adult use cannabis program and 28-B MRS, ch. 1. The cultivation facility must:

(1) Cultivate medical cannabis in an area physically and visually separated from the area used to cultivate adult use cannabis;

(2) Maintain all required business and inventory transfer records of medical cannabis separately from adult use cannabis inventory tracking records;

(3) Store all medical cannabis separately from adult use cannabis;

(4) Ensure that medical cannabis is never cultivated simultaneously or contemporaneously with adult use cannabis on the same piece of equipment;

- (5) Keep a log of the following information for all equipment used to cultivate both medical cannabis and adult use cannabis:
- (a) The name of the licensee or employee who operated the equipment;
 - (b) The tracking information for the cannabis or cannabis 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 cannabis concentrate or cannabis product; and
- (6) Make the log for any piece of equipment available to the Department.

(6) Requirements Applicable to Testing Facilities.

(A) General Requirements. Before accepting any cannabis or cannabis products for mandatory testing pursuant to 28-B MRS § 602, a cannabis testing facility must:

(1) Obtain certification from the Department of Health and Human Services, Maine Center for Disease Control and Prevention, in accordance with 18-691 CMR, Ch. 5, at any point during the licensure process, but prior to the issuance of a full or provisional active license by the Department. Approval by the CDC of plans, standard operating procedures, financial and business arrangements, or other documents and information provided for certification by the CDC pursuant to the *Rules for the Certification of Cannabis Testing Facilities*, 18-691 CMR, ch. 5 does not constitute approval by DAFS for the purposes of licensure pursuant to 18-691 CMR, ch. 20; and

(2) In accordance with the requirements of 18-691 CMR, ch. 10, obtain a conditional license from the Department; obtain local authorization to operate a cannabis testing facility; and an active license from the Department.

(B) Prohibited Conduct. In addition to any other restrictions or prohibitions contained in the rules governing the adult use cannabis program, 28-B MRS, any other applicable Federal, State or Local rules or laws or any accreditation requirements, cannabis testing facilities are subject to the following prohibitions.

(1) No testing facility or principal, or employee of a cannabis testing facility may have a direct or indirect financial interest in a cultivation facility, products manufacturing facility, manufacturing facility, cannabis store, registered caregiver or registered dispensary.

(2) No principal of a cannabis testing facility may be a registered caregiver.

(3) No testing facility may conduct testing on behalf of a registered caregiver who is an employee of that testing facility.

(4) Cannabis or cannabis products may not be collected, accepted, transported, purchased, transferred or destroyed without entering the cannabis or cannabis products into the tracking system required by the Department by 11:59 P.M. that same day.

(5) A cannabis testing facility may not transfer any cannabis or cannabis products or samples to any person or entity other than the person or entity who provided the sample, a law enforcement officer authorized to collect the cannabis or cannabis product, another licensed cannabis testing facility with a valid license to perform the testing requested, or the Department.

(6) No principal, contractor or employee of a cannabis testing facility may accept any gifts of goods, services, or money from a cultivation facility, products manufacturing facility, cannabis store, registered caregiver or registered dispensary or a person or an organization representing such entities.

(7) A cannabis testing facility shall maintain the confidentiality of test results and may not report test results with any identifying information to anyone other than the person or entity who submitted the sample, law enforcement officers authorized to collect the information, the CDC, or the Department.

(8) No employee of a cannabis testing facility may alter the results of any test. In cases in which a sample was retested in accordance with 18-691 CMR, ch. 40, both test results shall be maintained.

(9) No employee of a cannabis testing facility may conceal from the Department the results of any mandatory test for cannabinoid content or contamination.

(10) No testing facility may fail to operate within the requirements of the rules governing the adult use cannabis program, any term of certification or any order, or any request or other directive made under authority of or under the statutory authority vested in the Department.

(11) No testing facility may engage in, aid, abet, cause or permit any action prohibited under this the rules governing the adult use cannabis program.

(12) No testing facility may fail to provide timely and accurate data reporting.

(13) No testing facility may engage in false or deceptive advertising.

(14) A cannabis testing facility must maintain its certification at all times for at least one analyte and technology required as part of mandatory testing to remain licensed by the Department.

(15) No testing facility may continue to operate after a municipality or the Maine Land Use Planning Commission informs the Department that it has revoked, suspended or not renewed local authorization.

(C) Personnel Qualifications. A cannabis testing facility must employ at all times qualified staff who meet the requirements of certification by the CDC.

(1) A cannabis testing facility must ensure that a cannabis testing facility director meeting CDC certification requirement is onsite and available during on average, at least 60% of the business hours indicated on the facility plan.

(2) A cannabis testing facility must keep a current record of all individual identification cards, the individual identification card number and date of issuance and expiration for every principal, employee, or any other individual identification card holder of the cannabis testing facility.

(D) Written SOPs are Requirements of Licensing and Must be Followed.

(1) Actual practice must conform to the written procedures required under 18-691 CMR ch.5.

(a) The cannabis testing facility must maintain copies of the methods from which the procedures are developed and must ensure that the applicable requirements are incorporated into each procedure.

(b) A copy of each procedure must be available to all personnel that engage in that activity.

(c) An analyst must use the cannabis testing facility's SOP beginning on its effective date.

(2) It is the exclusive responsibility of the cannabis testing facility to clearly indicate on any SOPs supplied to the Department any content the cannabis testing facility 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) The cannabis testing facility must make the SOPs available to the Department and the CDC upon request.

(E) A Cannabis Testing Facility Must Comply with all Recordkeeping Requirements of 18-691 CMR, Ch. 5 and this Rule.

(1) The cannabis testing facility must maintain analytical records to demonstrate to the Department and the CDC the following: the analyst's name; date of analysis; approver of the certificate of analysis and relevant data package; the test method; and the materials used.

(a) Cannabis testing facility records may be on paper or on electronic, magnetic or optical media and must be stored in such a way that the records are readily retrieved when requested by the Department or the CDC.

(b) If the cannabis testing facility records are not on paper, the cannabis testing facility must be able to produce the records in hard copy for the Department or the CDC, upon request.

(c) All cannabis testing facility records must be kept for a minimum of five years.

(d) The Department and the CDC must be allowed access to all electronic data, including standards records, calibration records, extraction logs, cannabis testing facility notebooks and all other cannabis testing facility-related documents as required by the rules governing the adult use cannabis program.

(2) The cannabis testing facility must maintain all analytical records and documents, forms, records and standard operating procedures associated with the cannabis testing facility's methods as required by the rules governing the adult use cannabis program.

(3) If records are missing or incomplete, or if the cannabis testing facility does not produce records for the Department or the CDC upon request, the Department may take disciplinary or enforcement action against the cannabis testing facility. A cannabis testing facility shall have 7 calendar days from the request to respond.

(F) Electronic Data Storage and Security.

(1) A cannabis testing facility must store all raw unprocessed instrument output data files and processed quantitation output files on some form of electronic, magnetic or optical media. The cannabis testing facility must allow access to these records for inspection and audit by the Department or the CDC.

(2) A cannabis testing facility must install, manage and maintain password-protection for electronically stored data, including any certificate of analysis.

(G) Test Waste Disposal.

(1) A cannabis testing facility must dispose of all unused test samples and waste generated by the testing of samples of cannabis, cannabis concentrate and cannabis products in accordance with the facility's SOPs and this rule.

(2) The cannabis testing facility must discard hazardous waste in accordance with Section 4 of this rule.

(3) The cannabis testing facility must discard cannabis waste in accordance with Section 4 of this rule.

(H) Security.

(1) All cannabis on the premises must be tracked using the chain-of-custody forms and the inventory tracking system in accordance with the rules governing the adult use cannabis program.

(2) The cannabis testing facility must install key-card doors, alarms or other means of detecting entrance and exit to limited access areas and during times that are outside of the business hours of the facility.

(3) The cannabis testing facility must develop and implement security protocols that can prevent diversion, theft and loss of samples.

(4) The security protocol must be documented in writing and available to all testing facility personnel during normal business hours and must be included in training materials. The cannabis testing facility must ensure that personnel have a thorough understanding of the security protocol.

(5) The cannabis testing facility must deter the unauthorized entrance into areas within the cannabis testing facility where samples are present by controlling access to those areas through the following means:

- (a) Limiting access to specific personnel, in order for them to execute their specific job function and duties;
- (b) Implementing an access-control-card system capable of preventing unauthorized access through access control points and recording the transaction history of all entrants;
- (c) Using a monitored security alarm system;
- (d) Maintaining a visitor arrival and departure log, which must contain, at a minimum, the name of the visitor, date and time of arrival and departure, and the purpose of the visit; and
- (e) Installing security cameras at all access points to the premises, in storage areas for samples and where cannabis waste will be destroyed.

(6) The cannabis testing facility must store and secure cannabis with a commercial-grade lock in a room or cabinet capable of preventing diversion, theft, and loss. Secured areas must be locked at all times, except when managing or retrieving a secured item or items. The cannabis testing facility must store cannabis and cannabis product samples apart and away from non-cannabis samples and items. The cannabis testing facility must designate secured areas for storage of the following:

- (a) Test samples of cannabis and cannabis products;
- (b) Waste containing cannabis;
- (c) Reference standards for analysis of cannabinoids; and
- (d) Any controlled substances related to cannabinoids.

(7) Testing facilities must notify the Department within one business day of discovering any of the following:

- (a) An unexplained loss of 5% or more of the inventory of unpackaged and unused production batch samples held at the cannabis testing facility;
- (b) An unexplained loss of one or more units of packaged batch samples held at the cannabis testing facility; or
- (c) Diversion or theft of cannabis, unauthorized or prohibited conduct, or any other criminal activity pertaining to the operation of the cannabis testing facility.

(8) The cannabis testing facility must also comply with security requirements of this rule.

(9) In addition to any samples collected for mandatory testing by the cannabis testing facility, a cannabis testing facility may only accept samples for mandatory testing from:

- (a) Licensed sample collectors; or
- (b) A self-sampler in compliance with this rule.

(7) Requirements Applicable to Products Manufacturing Facilities.

(A) General Product Safety. In addition to other provisions of the rules governing the adult use cannabis program, 28-B MRS and all other applicable rules and laws, a cannabis products manufacturing facility must:

- (1) Ensure that all equipment and surfaces that come into contact with any cannabis or other ingredients are food grade and made of materials that do not react adversely with cannabis, any ingredient, chemical or solvent being used;
- (2) 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;
- (3) Maintain the premises in a manner that is:
 - (a) Free from conditions that may result in contamination; and
 - (b) Suitable to facilitate safe and sanitary operations;
- (4) Provide adequate refrigeration for perishable cannabis products that will be consumed and utilize adequate storage facilities and transport methods;
- (5) Ensure that all electrical equipment used for extraction is agency approved including UL, ETL, and CSA;
- (6) Maintain a log of all maintenance, service and repairs to any equipment used for extraction using inherently hazardous substances;
- (7) 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 cannabis or cannabis products;
- (8) Collect and submit samples of cannabis concentrate and cannabis products for mandatory testing in accordance with all requirements of 18-691 CMR, ch. 40;
- (9) Ensure that any cannabis or cannabis products sold to a consumer and returned by a cannabis store or a consumer for destruction are appropriately stored, tracked and destroyed; and
- (10) Ensure that any pre-packaged or unpackaged cannabis or cannabis products returned from another licensee that received those cannabis or cannabis products from the products manufacturer are appropriately stored, tracked and tested in accordance with the requirements of the rules governing the adult use cannabis program.

(B) Prohibited Conduct. In addition to any other restrictions or prohibitions contained in the rules governing the adult use cannabis program, 28-B MRS and any other applicable rules or laws, a cannabis products manufacturing establishment may not:

- (1) Manufacture a cannabis product that by its shape or design is likely to appeal to persons under 21 years of age, including without limitation:
 - (a) Products that are modeled after non-cannabis products commonly consumed by and marketed to persons under 21 years of age; or
 - (b) Products in the distinct shape of a human, animal or fruit.
- (2) Manufacture a cannabis product that contains additives that are:

- (a) Toxic or harmful to human beings;
- (b) Specifically designed to make the product more addictive or that are misleading to consumers; or
- (c) Specifically designed to make the product appeal particularly to a person under 21 years of age;

(3) Manufacture a cannabis product by adding or infusing cannabis into a commercially available non-cannabis end product;

(4) Manufacture any product that does not contain cannabis;

(5) Manufacture any edible cannabis product that has more than 10 milligrams of THC per serving;

(6) Package together for sale an edible cannabis product that has more than 200 milligrams of total THC;

(7) Sell cannabis or cannabis products that have not passed all mandatory testing as verifiable with a certificate of analysis from a licensed cannabis testing facility; or

(8) Sell cannabis or cannabis products directly to a consumer except through delivery in accordance with subsection 9 of this section.

(C) Tracking. A cannabis products manufacturing facility must enter into the tracking system all required information.

(D) Extraction.

(1) Generally safe extraction methods. The Department permits the following generally safe extraction methods, so long as they are listed in the facility plan of record:

- (a) Mechanical extraction using:
 - (i) Potable water and ice made from potable water;
 - (ii) Dry screening or sieving;
 - (iii) Cryogenic or subzero processing not involving a solvent; or
 - (iv) Pressure and temperature.
- (b) Infusion of cannabis in food grade fats or synthetic food additives:
 - (i) Propylene glycol;
 - (ii) Glycerin;
 - (iii) Butter;
 - (iv) Olive Oil; or
 - (v) Other typical cooking fats.

(2) 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 facility plan of record, so long as the solvents are listed in the facility 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; or
- (c) A liquid chemical, compressed gas or commercial product that has a flashpoint above 38 degrees Celsius or 100 degrees Fahrenheit.

(3) Inherently hazardous extraction methods. Upon certification by a 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 facility 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.

(4) 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.

(5) As applicable, all licensees and employees must:

- (a) Operate all inherently hazardous substance extraction equipment in accordance with the equipment manufacturer's instructions;
- (b) Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present;
- (c) Use proper eye protection, respiratory protection and gloves;
- (d) Use only potable water and ice made from potable water in processing; and
- (e) Undergo safety training on fire prevention and safe operation of equipment used for manufacturing.

(6) A cannabis 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.

(E) Edible Cannabis Products Manufacturing. In addition to all other provisions of the rules governing the adult use cannabis program, 28-B MRS and all other applicable rules or laws, a cannabis products manufacturing facility that has declared edible cannabis products as part of their facility plan of record may manufacturer edible cannabis products in accordance with the following:

(1) Must obtain a food establishment license from the State of Maine pursuant to 22 MRS § 2167.

(2) May not:

- (a) Manufacture edible cannabis products intended for non-human consumption;
- (b) Manufacture edible cannabis products within the same licensed food establishment that operates as a restaurant or that prepares non-cannabis food to be served to order;
- (c) Share a food establishment with a person or entity not licensed as a cannabis products manufacturing establishment; or
- (d) Process or prepare food intended for commercial sale that does not contain cannabis;

(3) 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

(4) Shall comply with all applicable standards of the relevant local jurisdiction and the Maine Food Code.

(a) The addition of cannabis to food is not considered adulteration as provided in 22 MRS §2158-B.

(b) In the event of a conflict between this rule and the Maine Food Code, this rule shall control.

(F) Edible Cannabis Product Safety.

(1) Cannabis and cannabinoid content must be homogeneous throughout:

- (a) The product, or that portion of the product that contains THC; and
- (b) Each serving.

(2) Serving sizes must be standardized.

(a) The size of a standardized serving of cannabis shall be no more than 10mg of total THC.

(b) A cannabis products manufacturing facility that manufactures edible cannabis product shall determine the total number of standardized servings per package of cannabis for each product that it manufactures.

(c) No individual edible cannabis product unit for sale shall contain more than 200 milligrams of total THC, which must be readily divisible into individual servings containing no more than 10 milligrams of THC per serving.

(d) Determinations of cannabinoid content must comply with the testing requirements of 18-691 CMR, ch. 40.

(e) When determining whether a serving of edible cannabis products exceeds the potency limits, a licensee may account for the following variance in the potency in excess of 10 milligrams per serving:

- (i) Testing facility uncertainty, as indicated on the testing facility's certificate of analysis for the mandatory potency test results. A variance for testing facility uncertainty cannot exceed 5% or 0.5 milligrams per serving; and
- (ii) An additional 10% allowable variance for edible cannabis products, which cannot exceed 1 milligram per serving;

- (iii)** For a total maximum allowable potency of 11 milligrams of total THC per serving plus testing facility uncertainty which cannot exceed 5% or 0.5 milligrams per serving.
- (f)** When determining whether a multi-serving package of edible cannabis products exceeds the potency limits, a licensee may account for the following variance in the potency in excess of 200 milligrams per package:
- (i)** Testing facility uncertainty, as indicated on the testing facility's certificate of analysis for the mandatory potency test results. A variance for testing facility uncertainty cannot exceed 5% or 10 milligrams per package; and
 - (ii)** An additional allowable variance of up to 5 milligrams per package;
 - (iii)** For a total maximum potency per multi-serving package of edible cannabis products of 205 milligrams of total THC plus testing facility uncertainty which cannot exceed 5% or 10 milligrams per multi-serving package.
- (g)** Unless impracticable, each single standardized serving of cannabis shall be marked, stamped or otherwise imprinted with the Department-approved universal symbol directly on at least one side of the edible cannabis product in a manner to cause the universal symbol to be distinguishable and easily recognizable. The universal symbol marking shall:
- (i)** Be centered either horizontally or vertically on each standardized serving of cannabis; and
 - (ii)** 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 $\frac{1}{4}$ inch by $\frac{1}{4}$ inch; or
 - (iii)** 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 $\frac{1}{4}$ inch by $\frac{1}{4}$ inch.
- (3)** The following categories of edible cannabis products are considered to be per se practicable to mark with the universal symbol:
- (a)** Chocolate;
 - (b)** Soft confections;
 - (c)** Hard confections or lozenges;
 - (d)** Consolidated baked goods (including without limitation cookies, brownies, cupcakes, and granola bars); and
 - (e)** Pressed pills and capsules.
- (4)** The following categories of edible cannabis products are considered to be per se impracticable to mark with the universal symbol:
- (a)** Potato or corn chips;
 - (b)** Popcorn;
 - (c)** Pretzels; and
 - (d)** Loose granola.
- (5)** Prior to offering an edible cannabis product for sale, a licensee may request in writing from the Department a determination that a particular edible cannabis

product is impracticable to mark with the universal symbol. Such a request shall include a proposal for an alternative means for identifying the edible cannabis product as a product that contains THC.

(G) Manufacturing of Medical Cannabis Products and Adult Use Cannabis Products on Same Premises.

(1) A products manufacturing facility may possess medical cannabis or medical cannabis concentrate only if it has received the Department's approval of a facility plan to extract concentrate from medical cannabis and/or produce medical cannabis products and it is a registered caregiver or registered dispensary eligible to co-locate in accordance with the rules governing the adult use cannabis program and 28-B MRS, ch. 1. The products manufacturing facility must:

- (a)** Maintain all required business and inventory transfer records of medical cannabis, medical cannabis concentrate and medical cannabis products separately from inventory tracking records for adult use cannabis, adult use cannabis concentrate and adult use cannabis products.
- (b)** Store all medical cannabis, medical cannabis concentrate and medical cannabis products separately from adult use cannabis, cannabis concentrate and cannabis products.
- (c)** Ensure that medical cannabis or medical cannabis concentrate is never manufactured simultaneously or contemporaneously with adult use cannabis or cannabis concentrate on the same piece of equipment.
- (d)** Keep a log of the following information for all equipment used to extract from both medical cannabis and adult use cannabis or to manufacture both medical cannabis products and adult use cannabis products:
 - (i)** The name of the licensee or employee who operated the equipment;
 - (ii)** The tracking information for the cannabis or cannabis concentrate that was manufactured using the equipment;
 - (iii)** The exact date, time and duration the equipment was used; and
 - (iv)** The tracking information for the resulting cannabis concentrate or cannabis product.

(2) A log for any piece of equipment used to manufacture cannabis must be made available to the Department or the Maine Revenue Service for inspection.

(8) Requirements Applicable to Cannabis Stores and Nursery Cultivation Facilities.

(A) Authorized Conduct. In accordance with the requirements and restrictions of 28-B MRS, the rules governing the adult use cannabis program and any other applicable laws or rules, a cannabis store licensee or nursery cultivation facility may:

(1) Between the hours of 7:00 A.M. and 10:00 P.M. local time or the retail sales hours permitted by local regulation:

- (a)** Sell or transfer permitted items on the licensed premises, and as applicable to cannabis stores, via curbside pickup, delivery, or sales at a specified event, to consumers age 21 or older, within the limits described in this subsection:

(i) Cannabis stores may sell cannabis seeds, cannabis seedlings, immature cannabis plants, cannabis or cannabis products, along with cannabis paraphernalia, non-cannabis food and non-alcoholic beverages, clothing and other generally permissible retail items.

(ii) Nursery cultivation facilities may sell cannabis seeds, cannabis seedlings, immature cannabis plants and agricultural or gardening supplies relating to the cultivation of cannabis.

(b) 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;

(c) Refuse to sell any item to any person; or

(d) Provide consultations between employees and adult consumers.

(2) At any time, except during those business hours the licensee indicated on its operating plan that it does not intend to conduct authorized activities:

(a) Prepare and transport permitted items to another licensee;

(b) Accept deliveries of permitted items and manage its inventory;

(c) Enter transfers or deliveries into the tracking system;

(d) Dispose of cannabis waste, including returned cannabis and cannabis products;

(e) Conduct employee training; or

(f) Perform administrative work, cleaning or maintenance.

(B) Sales Limits.

(1) A cannabis store conducting sales on the licensed premises of the cannabis store, or by curbside pickup, or delivery, or at a specified event, may not knowingly sell more than the following amounts to an individual at any one time or within one day:

(a) Two and one-half ounces of cannabis; or

(b) Two and one-half ounces of cannabis and cannabis concentrate that includes no more than ten grams of cannabis concentrate, whether sold alone, contained in an inhalant delivery system, or contained in edible cannabis products.

(2) 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.

(3) A nursery cultivation facility may not sell cannabis, cannabis products, cannabis plants or seeds via curbside pickup.

(4) A cannabis 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 cannabis to individuals under the age of 21, across state lines or to be engaging in the unlicensed sale of cannabis.

(5) A licensee shall report any criminal activity of which it is aware related to the unlicensed sale or diversion of cannabis, cannabis products or cannabis plants. Failure to report such activity to appropriate law enforcement entities may result in penalties up to and including license revocation and monetary fines.

(6) A licensee shall report all transactions into the tracking system.

(C) Prohibited Conduct. In addition to any other prohibitions and restrictions of 28-B MRS, the rules governing the adult use cannabis program or any other applicable laws or rules, a cannabis store or nursery cultivation facility must not:

(1) 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;

(2) Sell cannabis or a cannabis product that has not passed mandatory testing;

(3) Accept from another licensee or sell to a consumer cannabis or a cannabis product that is not properly packaged or labeled in accordance with Section 5 of this rule;

(4) Give away adult use cannabis, adult use cannabis products, immature cannabis plants or cannabis seedlings;

(5) Sell or give away:

(a) Mature cannabis plants; or

(b) Consumable products containing tobacco or alcohol that do not contain cannabis.

(6) Except for nonedible adult use cannabis products that do not contain THC, sell to any person in any individual sales transaction an amount of adult use cannabis, adult use cannabis products or immature cannabis plants or seedlings that exceeds the personal adult use limitations of 28-B MRS §1501(1);

(7) Sell adult use cannabis, adult use cannabis products, immature cannabis plants or cannabis seedlings using:

(a) An automated dispensing or vending machine;

(b) A drive-through sales window;

(c) An Internet-based sales platform; or

(d) A third-party delivery service.

(8) Accept payment for a retail sale prior to verifying that the purchaser is at least 21 years of age;

(9) For retail sales occurring via curbside pickup or delivery, transfer a sales order to an individual prior to verifying that the identity of the individual receiving the sales order is the same as the individual who requested the sales order;

(10) Sell adult use cannabis or adult use cannabis products to a person who is visibly intoxicated;

(11) Sell or offer for sale to consumers adult use cannabis and adult use cannabis products within the same facility or building in which the licensee also sells or

offers for sale to qualifying patients cannabis and cannabis products for medical use pursuant to 22 MRS, chapter 558-C.

(12) Sell or give away pressurized containers of butane or other materials that could be used in the home production of cannabis concentrate, except that a cannabis store or nursery cultivation facility may sell or give away disposable butane lighters;

(13) Sell or give away any items that are appealing to individuals under 21 years of age as defined in 18-691 CMR, ch. 10;

(14) Sell an edible cannabis product that according to its label, exceeds 10 milligrams of THC per serving and 200 milligrams of THC in the total product;

(15) Discount cannabis or a cannabis product if the retail sale is made in conjunction with the retail sale of any other items, including other cannabis or cannabis products;

(16) Sell cannabis or cannabis products at a nominal price for promotional purposes;

(17) Permit consumers to be present on the licensed premises or conduct sales, including sales via curbside pickup or delivery, or on the permitted premises at a specified event, between the hours of 10:00 P.M. and 7:00 A.M. local time the following day or any hours not permitted by local regulation;

(18) Conduct curbside pickup of cannabis or cannabis products at a location not approved by OCP on the licensee's facility plan of record;

(19) Conduct any activities during hours or on days not authorized in the licensee's facility plan, except as communicated to and approved by the Department in writing in accordance with the rules governing the adult use cannabis program;

(20) Deliver adult use cannabis or adult use cannabis products to a hotel or other business without first obtaining written consent from an authorized employee or other authorized agent of the business owner;

(21) Deliver adult use cannabis or adult use cannabis products to a private residence, hotel or other business located inside a drug-free safe zone designated by a municipality;

(22) Sell adult use cannabis or adult use cannabis products at a specified event without first obtaining a specified event permit to conduct sales at a particular specified event;

(23) Sell or transfer returned cannabis or cannabis products to another consumer;

(24) Permit a consumer to open or alter a package containing cannabis or a cannabis product or otherwise remove cannabis or a cannabis product from

packaging required by this rule within the premises or in an area that the licensee controls;

(25) Knowingly permit a consumer to bring cannabis or cannabis products onto the premises except for cannabis or cannabis products being returned for refund or exchange as allowed by this rule;

(26) Sell any item not allowed under this rule or any of the following items:

(a) Pet or animal food, treats or other pet or animal products containing cannabis;

(b) Injectable cannabis; or

(c) Any other cannabis products not meant for human consumption or use;

(27) Sell mother plants, mature cannabis plants or tissue cultures;

(28) 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

(29) Engage in the sale of cannabis seeds, cannabis plants, cannabis or cannabis products if mandatory testing is not verified or verifiable with certificate of analysis, or if testing reports unsafe levels of potentially harmful substances.

(D) Controlling Access to Retail Sales Areas. The cannabis store or nursery cultivation facility shall maintain control of areas of the premises designated for retail sales, using one of the following arrangements:

(1) Permitting consumers to enter the controlled entry area for the purpose of verification of their photo identification prior to entry to the retail sales 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 premises. A licensee or employee shall check for valid identification before allowing entry.

(E) Curbside Pickup of Seeds, Seedlings, Immature Cannabis Plants, Cannabis and Cannabis Products. A cannabis store may permit curbside pickup by adult use consumers of adult use cannabis and/or cannabis products if:

(1) The licensee has indicated that it will be conducting curbside pickup on its facility plan of record;

(2) The licensee conducts curbside pickup only in those areas designated for curbside pickup on the licensee's facility plan of record;

(3) The licensee has implemented all required security measures for curbside pickup;

(4) The licensee verifies the age and identity of the purchaser, to confirm that the individual is at least 21 years of age and is the person who initiated the order, prior to conveying to the purchaser any package containing a sales order;

(5) The adult use cannabis and/or cannabis products are appropriately packaged and labeled in accordance with Section 5 of this rule; and

(6) All sales of cannabis and cannabis products conducted via curbside pickup are appropriately tracked in accordance with section 2 of this rule.

(F) Delivery of Seeds, Seedlings, Immature Cannabis Plants, Cannabis and Cannabis Products. A cannabis store may deliver adult use cannabis and/or cannabis products to consumers at a private residence, hotel or other business if the licensee:

(1) Has indicated that it will be conducting delivery of adult use cannabis and/or cannabis products on its facility plan of record;

(2) Has implemented all required security measures for delivery;

(3) Ensures that any employees delivering adult use cannabis and/or cannabis products have been trained to properly verify the age and identity of the adult use consumer purchasing and receiving adult use cannabis or cannabis products.

Such training shall include, at a minimum:

(a) Instruction on how to verify the authenticity of the government-issued, unexpired photo identification produced by a consumer.

(b) Instruction on a policy maintained by the licensee requiring all employees to verify that any adult use consumer receiving a sales order via delivery is:

(i) At least 21 years of age; and

(ii) The individual who initiated the purchase of the cannabis or cannabis products included in the delivery order; and

(c) Instruction requiring the termination of a sale via delivery if the employee conducting the delivery is unable to verify the age or identity of the consumer receiving the cannabis or cannabis products, or if the consumer is visibly intoxicated;

(4) Conducts all deliveries of sales orders by motor vehicle only;

(5) Provides adequate refrigeration for perishable cannabis products in transit;

(6) Ensures that any employee delivering adult use cannabis and/or adult use cannabis products does not convey a sales order to a purchaser if:

(a) The purchaser is not at least 21 years of age;

(b) The purchaser's identity cannot be verified; or

(c) The purchaser is visibly intoxicated;

(7) Ensures that deliveries are made only to private residences, hotels and other businesses that are not located in any drug free safe zone designated by a municipality;

(8) Ensures that the licensee has the express written permission of an authorized employee or other authorized agent of any hotel or business where the licensee makes deliveries to consumers;

- (a) Authorization to make deliveries to a hotel or other business shall be on forms provided by the Department; and
- (b) The licensee shall retain the written authorization and shall provide a copy to the Department, or the hotel or business owner, or other authorized agent of any hotel or business, upon request.

(9) Ensures that the order is appropriately packaged and labeled in accordance with section 5 of this rule;

(10) Ensures that all retail sales of cannabis and cannabis products conducted via delivery are accompanied by a sales delivery manifest and appropriately tracked in accordance with section 2 of this rule.

Nothing in this paragraph shall be construed to require an employee delivering a sales order to a private residence to enter the private residence in order to complete the retail sale.

(G) Sales of Cannabis and Cannabis Products at Specified Events. A cannabis store licensee that has obtained from the Department a permit to conduct sales of adult use cannabis and cannabis products at a specified event outside the licensed premises of a cannabis store may do so only in accordance with the requirements of the rules governing the adult use cannabis program and 28-B MRS, ch. 1.

The licensee shall:

- (1) Operate in accordance with any terms, conditions or limitations included in the written authorization issued by the municipality where the specified event will occur.
- (2) Operate in accordance with any terms, conditions or limitations included in the written authorization issued by the property owner of the property where the specified event will occur, if applicable.
- (3) Implement all security measures required by this rule and indicated in the licensee's application for a specified event permit.
- (4) Ensure that any employees conducting sales at the specified event have been trained to properly verify the age and identity of the adult use consumer purchasing the cannabis and cannabis products. Such training shall include, at a minimum:
 - (a) Instruction on how to verify the authenticity of the government-issued, unexpired photo identification produced by a consumer.
 - (b) Instruction on a policy maintained by the licensee requiring all employees to verify that an adult use consumer purchasing cannabis or cannabis products at a specified event is:
 - (i) At least 21 years of age; and
 - (ii) Not visibly intoxicated.
- (5) Ensure that adequate refrigeration for perishable edible cannabis products is functional and available within the permitted premises.

(6) Ensure that all cannabis and cannabis products available for sale at the specified event are packaged and labeled in accordance with the requirements of this rule.

(7) Ensure that it has obtained all local and state licenses, permits, and certificates necessary for the conduct of sales of cannabis and cannabis products at a location that is not the licensee's licensed premise.

(8) Secure all cannabis and cannabis products offered for sale at the specified event in a limited access area within the permitted premises in a manner that prevents unauthorized access to the cannabis and cannabis products by a consumer or individual under 21 years of age.

(9) Ensure that no cannabis or cannabis products offered for sale at the specified event is stored overnight on the permitted premises or any location other than the licensed premises of the cannabis store.

(10) Ensure that all cannabis and cannabis products offered for sale at a specified event are transported and tracked in accordance with the requirements of 28-B MRS and this rule.

(11) Display signs at the entrance to the permitted premises and at every point of sale notifying consumers that cannabis and cannabis products cannot be consumed on the permitted premises. Such signage shall be at least 8.5 inches high and 11 inches wide, composed of letter not less than a half inch in height that shall state: "Pursuant to State Law: Customers may not use or consume cannabis or cannabis products on these premises."

(12) Ensure that all sales transactions conducted on the permitted premises are recorded on video in a manner that captures, to the extent practicable, only the individual making the purchase.

(13) Ensure that persons under the age of 21 are not permitted inside the permitted premises for the specified event.

(14) Immediately cease any sales of cannabis or cannabis products at the specified event, and immediately notify the Department if either the municipality, or as applicable, the property owner, rescinds or otherwise revokes their written authorization for the licensee to conduct sales at the specified event.

(H) Display of Seeds, Seedlings, Immature Cannabis Plants, Cannabis and Cannabis Products. Cannabis seeds, seedlings, immature cannabis plants, cannabis and cannabis products may only be displayed in such a way that prevents access to persons who are not licensees or employees.

(1) As permitted under the type of license, cannabis seeds, cannabis seedlings, immature cannabis plants, cannabis and cannabis products may be displayed in such ways that prevents access to persons who are not licensees or employees.

(2) As permitted under the type of license, displays accessible by persons other than licensees and employees may include packaging and marketing materials for cannabis seeds, cannabis seedlings, immature cannabis plants, cannabis or cannabis products and mock examples, provided that no actual cannabis seedlings, immature cannabis plants, cannabis or cannabis products are present.

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

(1) No person 21 years of age or older who is not a licensee or employee may handle cannabis seeds, cannabis seedlings, immature cannabis plants, cannabis and cannabis products in the point of sale area unless a licensee or its employee supervises the person at all times.

(2) A person 21 years of age or older who is not a licensee or employee may only handle cannabis seeds, cannabis seedlings, immature cannabis plants, cannabis or cannabis products without the supervision of a licensee or employee following the completion of a sale.

(K) Sales Tax. A cannabis store or cannabis nursery cultivation facility must track sales and remit sales taxes according to 36 MRS and the rules of the Maine Revenue Service.

(9) Requirements Applicable to the Delivery of Adult Use Cannabis or Cannabis Products by Tier 1, Tier 2, or Nursery Cultivation Facilities and Products Manufacturing Facilities. A tier 1, tier 2 or nursery cultivation facility or products manufacturing facility conducting retail sales of adult use cannabis products by delivery shall:

(A) Comply with all applicable requirements of the rules governing the adult use cannabis program and 28-B MRS, including all of the requirements for delivery applicable to cannabis store licensees enumerated in Section 1, sub-§ 8, paragraph F of this rule and all applicable security, recordkeeping, inventory tracking and mandatory testing requirements.

(B) Comply with all applicable requirements, limitations and prohibitions enumerated in §1, sub-§ 8, paragraphs A-C of this rule.

(C) Obtain from the Department of Agriculture, Conservation and Forestry any licenses or certificates necessary to make deliveries of edible cannabis products, if applicable.

(D) Ensure that any cannabis or cannabis products returned by a consumer are destroyed in accordance with this rule.

(E) Remit sales taxes according to 36 MRS and the rules of the Maine Revenue Service.

(F) Only make sales by delivery off the licensed premises to a consumer at a private residence, hotel or other business.

(10) Requirements Applicable to Sample Collectors.

(A) General Requirements. Before collecting samples of cannabis, cannabis concentrate and cannabis products for mandatory testing, a sample collector must:

- (1) Obtain an active sample collector license from the Department;
- (2) Ensure that all individuals employed by the sample collector who will be collecting samples of cannabis, cannabis concentrate or cannabis products are in possession of a valid IIC issued by the Department;
- (3) Ensure that each individual employed by the sample collector who will be collecting samples of cannabis, cannabis concentrate or cannabis products:
 - (a) Is physically able to perform the duties of a sample collector, with or without reasonable accommodations;
 - (b) Is trained and able to pass initial and ongoing demonstrations of sample collection in compliance with the Sample Collection SOP;
 - (c) Completes, when available, 8 hours of initial training on various sampling techniques; and
 - (d) Completes, when available, 8 hours of periodic refresher training annually; and
- (4) Prior to every sample collection for mandatory testing, and in accordance with the sample collection recordkeeping requirements and sample collection SOP published by the Department, contact the cannabis testing facility(ies) conducting the mandatory analyses for instructions regarding the sample collection event, including without limitation:
 - (a) Sample collection tools to be used by the sample collector based upon the matrices to be sampled;
 - (b) Sample collection containers necessary to store the samples collected based on the analyses to be conducted;
 - (c) Sample storage and transportation requirements based upon the matrices sampled and analyses to be conducted; and
 - (d) Any additional considerations regarding sample collection, transportation, storage or receipt of the samples by the cannabis testing facility(ies) conducting the mandatory analyses.

(B) Prohibited Conduct. In addition to any other restrictions or prohibitions contained in the rules governing the adult use cannabis program, 28-B MRS and any other applicable Federal, State or Local rules or laws, sample collectors are subject to the following prohibitions:

- (1) No sample collector or principal or employee of a sample collector may have a direct or indirect financial interest in a cultivation facility, products manufacturing facility, manufacturing facility, cannabis store, registered caregiver or registered dispensary.
- (2) No principal of a sample collector may be a registered caregiver.
- (3) No sample collector may collect samples for a registered caregiver that is an employee of that sample collector.

(4) Samples of cannabis, cannabis concentrate and cannabis products may not be collected, transported, transferred or destroyed without entering the samples of cannabis, cannabis concentrate or cannabis products into the tracking system required by the Department by 11:59 that same day.

(5) Samples of cannabis, cannabis concentrate and cannabis products may not be stored by the sample collector except during transport from the site where the samples were collected to the cannabis testing facility(ies) conducting mandatory analyses.

(6) Samples of cannabis, cannabis concentrate and cannabis products may not be stored overnight by a sample collector except in exigent circumstances as described in §2 of this rule.

(C) Use of Sample Collection SOP and Best Practices Guide Published by the Department Required. A sample collector must collect samples of cannabis, cannabis concentrate and cannabis products using the Sample Collection SOP and Best Practices Guide published by the Department when collecting samples of cannabis, cannabis concentrate or cannabis products for mandatory testing. A sample collector must document the sample collection event in accordance with the requirements of the rules governing the adult use cannabis program.

(1) The sample collector must keep complete records for each sample collection event conducted.

(2) The sample collector must collect samples in accordance with the Sample Collection SOP published by the Department. The Department may require a sample collector to demonstrate to the Department proper sample collection technique in accordance with the Sample Collection SOP at the request of the Department.

(3) The sample collector must collect samples in accordance with the Best Practices Guide published by the Department.

(4) The sample collector must ensure that at all times the sample collector and its employees are using the correct version of the Sample Collection SOP (Appendix A of 18-691 CMR, ch. 40) and Best Practices Guide available on the Department's website at: <https://www.maine.gov/dafs/ocp/adult-use/applications-forms>.

(D) Record Keeping. A sample collector must maintain records in accordance with this rule.

(1) A sample collector must track all samples collected in the inventory tracking system required by the Department.

(2) A sample collector must keep for five years from the date of a sample collection event a copy all records generated by sample collection event conducted by the sample collector and its employees in accordance with this rule.

(3) A sample collector must keep personnel records that include information on any training on sample collection received by its employees and a copy of the Department's *Sample Collection Standard Operating Procedure for Mandatory Testing* (Appendix A) signed by each IIC holder who will be collecting samples.

(4) A sample collector must keep an up-to-date list of all personnel and vehicles used to conduct sample collection or the transport of samples from the site where the samples are collected to cannabis testing facilities for analyses.

(5) A sample collector must make all required records available to the Department at its request. A sample collector must allow access to the Department to any premises where records are kept, including without limitation all vehicles used to transport samples of cannabis, cannabis concentrate and cannabis products and any physical or electronic location used to store all documents required by this rule.

(E) Waste Disposal. A sample collector may not dispose of waste generated by the collection, storage or transport of samples.

(1) Waste generated by the collection, storage or transport of samples must be disposed of by the licensee from which the samples were collected.

(2) If samples of cannabis, cannabis concentrate or cannabis products collected and transported by a sample collector are rejected by a cannabis testing facility, the sample collector will return the samples of cannabis, cannabis concentrate or cannabis products to the licensee from which the samples were collected.

(F) Security. A sample collector will employ security measures adequate to ensure that samples of cannabis, cannabis concentrate and cannabis products are not stolen or otherwise diverted during the course of sample collection, transport and as necessary due to exigent circumstances, storage.

(11) Recordkeeping Requirements for Sample Collection, Transport and Receipt.

(A) Sample Collection Records. Licensees collecting samples for mandatory testing, including self-sampling licensees, sample collectors, and cannabis testing facility staff collecting samples for mandatory testing must retain records of every sample collection event in accordance with this subsection. Licensees may use their own sample collection form, a form provided by the cannabis testing facility conducting the mandatory analyses or a sample collection log or any other format that the licensee can make available to the Department upon request, so long as such records include all information required by this rule. A licensee who is not a self-sampling licensee shall provide the licensee for whom the licensee is collecting samples for mandatory testing with a copy of all sample collection records generated by the sample collection event.

All sample collection records shall be retained for a minimum of 5 years and shall include, for every sample collection event, all information required by this rule and the Sample Collection SOP in Appendix A of 18-691 CMR, ch. 40, including without limitation:

- (1)** The name and individual identification card number of the individual identification cardholder collecting samples for mandatory testing;
- (2)** Instructions, if any, provided to the self-sampling licensee or sample collector licensee by the cannabis testing facility conducting the mandatory analyses regarding the following:
 - (a)** Sample collection tools to be used to collect samples of cannabis, cannabis concentrate or cannabis products, based upon matrix type sampled and mandatory analyses required;
 - (b)** Sample storage containers to be used to collect and store the samples of cannabis, concentrate or cannabis products, based upon matrix type sample and mandatory analyses required;
 - (c)** Special instructions regarding sample storage and transport, including without limitation:
 - (i)** The temperature at which the samples should be stored and transported;
 - (ii)** The environmental humidity at which the samples should be stored and transported;
 - (iii)** Any instructions regarding sample storage and transport required to maintain the integrity of the samples during storage and transport; and
 - (iv)** Any other instructions regarding sample receipt by the cannabis testing facility;
- (3)** Any anomalies noted by the sample collector in the batch sampled at the time of the sample collection event;
- (4)** The type, number and weight of each sample storage container used to store sample increments collected;
- (5)** The total weight of the composite sample and the weight of any additional sample increments collected for homogeneity testing;
- (6)** The seal numbers for every tamper evident seal affixed to a sample container used in the sample collection event;
- (7)** An attestation signed by the individual identification cardholder who collected the samples for mandatory testing and affixed tamper evident seals to every sample container in accordance with the Department's Sample Collection SOP, that is also signed by an individual identification cardholder who witnessed the tamper evident seals being affixed to the sample containers. All signatures must be either wet or digital. The attestation must include, without limitation, the following:
 - (a)** A statement attesting that the self-sampler or sample collector:
 - (i)** Collected all samples in accordance with the Department's Sample Collection SOP, Best Practices Guide and any instructions provided by the cannabis testing facility conducting the mandatory analyses;
 - (ii)** Collected all sample increments randomly and that the self-sampler or sample collector did not intentionally enrich, alter,

tamper with, degrade or otherwise alter the sample increments collected;

(iii) Was not asked by, nor allowed, another individual identification cardholder to enrich, alter, tamper with, degrade or otherwise alter the sample increments collected;

(iv) Sealed the sample collection containers with tamper evident seals in the presence of the witness countersigning the attestation; and

(v) Acknowledges that any intentional misrepresentation in the sample collection records or any attempt at tampering with the samples collected is grounds for revocation of the individual's individual identification card and/or revocation, suspension or limitation of the sampling licensee's license; and

(b) A statement attesting that the witness:

(i) Was present for the sealing of the sample containers with the tamper evident seal;

(ii) Did not witness the sample collector enrich, alter, tamper with, degrade or otherwise alter the sample increments when affixing the tamper evident seals to the sample containers;

(iii) Did not enrich, alter, tamper with, degrade or otherwise alter the sample increments when the tamper evident seals were affixed to the sample containers; and

(iv) Acknowledges that any intentional misrepresentation by the witness is grounds for revocation of the witness' individual identification card and/or revocation, suspension or limitation of the sampling licensee's license.

(B) Sample Transportation Records. Except as permitted by this rule, the licensee that collected samples of cannabis, cannabis concentrate and cannabis products for mandatory testing must transport those samples to the cannabis testing facility conducting the mandatory analyses. A cannabis testing facility that did not collect the samples for mandatory testing, but that offers a service to transport samples collected by self-sampling licensees to its testing facility for mandatory testing, may offer to transport samples from self-sampling licensees to the cannabis testing facility for mandatory analyses. A cannabis testing facility may not transport samples to any other licensee unless otherwise authorized by this rule or 18-691 CMR, ch. 5. All samples of cannabis, cannabis concentrate and cannabis products must be appropriately tracked in the Department's inventory tracking system and accompanied by a transport manifest in accordance with this rule.

(C) Sample Receipt Records. A cannabis testing facility must maintain sample receipt records in accordance with the cannabis testing facility's quality system and must at all times maintain chain-of-custody records for all samples of cannabis, cannabis concentrate and cannabis products received by the cannabis testing facility from the time of receipt through storage, analysis and destruction. A cannabis testing facility may require any licensee delivering samples to the cannabis testing facility to record sample information on a form created by or in a database maintained by the cannabis testing facility, in addition to any sample collection records maintained by the licensee. The cannabis testing facility conducting mandatory analyses is responsible for maintaining all sample receipt records and must make those records available to the Department upon request.

§2 - Tracking, Transportation, Returns and Records Retention.

(1) General Tracking Requirements. In addition to any requirements specific to tracking within each license type, all licensees of cannabis establishments must meet minimum requirements.

(A) Cannabis establishment licensees must track, using the inventory tracking system specified by the Department, cannabis, cannabis concentrates and cannabis products from immature plant to point of sale.

(B) In addition to any tracking requirements specific to license type, a licensee must record the following data in the tracking system as applicable:

(1) A complete inventory of all seeds, seedlings (including clones and tissue cultures), immature cannabis plants, mother plants and mature cannabis plants, cannabis, cannabis concentrate and cannabis products in the possession, control or ownership of the licensee;

(2) Any changes to the cannabis establishment's inventory of any cannabis or cannabis products;

(3) When plants are partially or fully harvested or destroyed;

(4) When harvest batches of cannabis trim or kief are combined into a single production batch;

(5) When cannabis waste is destroyed;

(6) When an authorized transfer occurs;

(7) Any theft of cannabis;

(8) All sales records, including sales made by delivery or curbside pickup or at a specified event pursuant to a specified event permit;

(9) All returns of cannabis or cannabis products from a consumer or another licensee;

(10) All mandatory testing results; and

(11) Other information required by the tracking system or specified by the Department.

(C) Implementation and Administration of Tracking System.

(1) Unless excused by the Department, in writing, a cannabis 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 cannabis, cannabis concentrates and cannabis products during the period the licensee is not otherwise using the inventory tracking system.

(2) Licensees may not enter any inventory into the inventory tracking system until the licensee receives from the Department an active license to conduct authorized activities.

(3) Each licensee must designate one individual identification cardholder as an inventory tracking system administrator.

(4) In order to obtain an inventory tracking system administrator account, a licensee or its designee 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.

(5) The Department may also require additional ongoing, continuing education for the inventory tracking system administrator to retain his or her inventory tracking system administrator account.

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

(7) A cannabis establishment may designate additional employees or staff who are individual identification cardholders as inventory tracking system users. The establishment shall ensure that all individuals 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.

(D) General Inventory Tracking System Use.

(1) All inventory tracking activities at a cannabis establishment licensee must be tracked through use of the inventory tracking system. A licensee must reconcile all on-premises and in-transit cannabis, cannabis concentrates and cannabis product inventories, and sales records, including sales conducted by delivery, each day in the inventory tracking system by 11:59 P.M. that same day.

(2) A cannabis establishment must utilize a standard of weights and measures that is supported by the inventory tracking system to track all cannabis, concentrate and cannabis product. A scale used to weigh product prior to entry into the inventory tracking system shall be certified in accordance with 10 MRS, chapter 501.

(3) A licensee shall maintain the security of the inventory tracking system, as follows:

(a) A cannabis 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.

(b) A cannabis 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.

(c) A cannabis establishment licensee is accountable for all actions employees take while logged into the inventory tracking system or otherwise conducting cannabis, cannabis concentrates and cannabis product inventory tracking activities.

(d) Each individual user is also accountable for all of his or her actions while logged into the inventory tracking system or otherwise conducting cannabis, cannabis concentrates or cannabis product inventory tracking activities, and shall maintain compliance with all relevant laws.

(e) Each individual user shall only log activities in the inventory tracking system under the user's own unique inventory tracking system user account.

(4) A cannabis establishment may use separate software applications to collect information to be used by the business, including secondary inventory tracking or point of sale systems.

(a) 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.

(b) A cannabis 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.

(E) Conduct While Using Inventory Tracking System.

(1) A cannabis 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 cannabis 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 major license violation affecting public safety.

(2) Individuals entering data into the inventory tracking system shall only use that individual's inventory tracking system account.

(F) Procedures for Inventory Tracking System Temporary Outages. If at any point a cannabis establishment loses access to the inventory tracking system for any reason:

(1) The cannabis establishment shall immediately notify the Department and shall keep and maintain comprehensive records detailing all cannabis, cannabis concentrates and cannabis product tracking inventory activities that were conducted during the loss of access;

(2) Once access is restored, all cannabis, cannabis concentrates and cannabis 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 cannabis establishment must document when access to the system was lost, the cause of system loss and when it was restored; and

(4) Unless permitted in writing by the Department, a cannabis establishment shall not transport or receive any cannabis, or cannabis product to or from another cannabis establishment until such time as access is restored and all information is recorded into the inventory tracking system.

In the event of a statewide or regional outage of the Department's inventory tracking system that is expected to last more than 24 hours, the Department will promptly notify licensees of such outage and any interim recordkeeping procedures or requirements for the duration of the outage.

(G) System Notifications.

(1) A cannabis 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 cannabis establishment resolves the compliance issues detailed in the notification.

(2) A cannabis 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.

(H) 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.

(I) Inventory Tracking System Procedures Must Be Followed. A cannabis establishment must utilize the inventory tracking system in conformance with this rule and inventory tracking system procedures, including but not limited to:

(1) Properly indicating the creation of a harvest batch or production batch including the assigned harvest batch or production batch number;

(2) Accurately identifying the cultivation rooms where each plant or as applicable, group of plants, is located on the licensed premises;

(3) Accurately identifying when inventory is no longer on the licensed premises or is part of an authorized transfer;

(4) Properly indicating that a test batch is being used as part of achieving process validation;

(5) Accurately recording all remediation steps taken to remediate any batches of cannabis or cannabis products that fail mandatory testing;

(6) Properly indicate test results from a cannabis testing facility, as applicable;

(7) Accurately indicating the inventory tracking system item category for all cannabis and cannabis products;

(8) Accurately recording, as applicable, the actual wholesale or retail price of all cannabis and cannabis products sold or otherwise transferred; and

(9) Accurately including a note explaining the reason for any destruction of cannabis and/or cannabis products, and reason for any adjustment of weights to inventory tracking system packages.

(2) Transportation.

(A) Transport Manifest. A transport manifest, generated by the tracking system, is required for all authorized transfers of cannabis or cannabis products, including samples of cannabis, cannabis concentrate and cannabis products for mandatory testing, to another licensee. The transport manifest does not take the place of a chain-of-custody form that may be required of the licensee. Transport authorized by this rule shall be by motor vehicle only.

(1) The licensee transporting cannabis or cannabis products including samples for mandatory testing is responsible for entering all required information in the tracking system for the generation of a transport manifest, including without limitation, the following information:

- (a) The name, contact information, licensed premises address and license number of the licensee transporting the cannabis or cannabis products;
- (b) The name, contact information, licensed premises address and license number of the licensee receiving the transported cannabis;
- (c) Product name and quantities (by weight or unit) of all cannabis and/or cannabis product, including samples, contained in each transport;
- (d) The date of transport and approximate time of departure;
- (e) Arrival date and estimated time of arrival;
- (f) Delivery vehicle make and model and license plate number;
- (g) Name and signature of the licensee or individual identification card holder and their identification card number accompanying the transport;
- (h) Name and signature of the licensee or individual identification card holder and their identification card number receiving the authorized transfer; and
- (i) Damaged or refused cannabis or cannabis products being returned to the original seller, in the case of samples of cannabis, cannabis concentrate or cannabis products for mandatory testing collected by a sample collector, the sample collector will return any samples rejected by a cannabis testing facility to the licensee from which the samples were collected;

(2) A transport manifest must be prepared for each cannabis establishment that will receive cannabis or cannabis products. Each transport manifest must specify a single authorized destination.

(3) A licensee may not void or change a transport manifest after departing from the originating premises.

(4) A licensee must accept returns of any cannabis or cannabis products, including samples, that are refused by the intended recipient and appropriately track and dispose of the same.

(B) Transport Manifest Exception. When cannabis or cannabis products are transferred by way of authorized transfer between two licenses controlled by the same licensee, and which do not require the transport of the cannabis or cannabis products outside the boundaries of the premises, then a licensee need not create three copies of the transport manifest. In these cases, the licensee must still follow all requirements of the tracking system.

(C) Transportation of samples for research and development purposes. A licensee transporting samples of cannabis or cannabis products solely for the purpose of research and development must record such samples in the Department's inventory tracking system and complete a paper transport manifest on forms provided by the Department. The licensee must make at least 2 copies of the transport manifest; one to be retained by the licensee transporting the samples for research and development testing, and one for the cannabis testing facility receiving the samples for research and development testing.

(D) Sales Delivery Manifest. A sales delivery manifest, generated by the tracking system, is required for all deliveries of cannabis or cannabis products by a cannabis store, tier 1, tier 2 or nursery cultivation facility, or products manufacturing facility licensee to an adult use consumer.

(1) A licensee transporting sales orders of adult use cannabis and cannabis products to adult use consumers is responsible for entering all required information in the tracking system for the generation of a sales delivery manifest, including without limitation, the following information:

- (a) The name, contact information, premises address and license number of the licensee transporting the sales order of cannabis and/or cannabis products;
- (b) The name and delivery address of the adult use consumer that placed the request for delivery of the sales order;
- (c) Item name and quantities (by weight or count) of the cannabis and cannabis products ordered by the consumer;
- (d) The date and approximate time of departure;
- (e) The date and approximate time of arrival at the delivery address;
- (f) Delivery vehicle make, model and license plate number;
- (g) Name and individual identification card number of employee delivering the sales order;
- (h) Government-issued identification number presented by the consumer receiving the delivery; and
- (i) An indication of any cannabis or cannabis products from the sales order that were not delivered to the consumer that requested the order, and the reason the items were not delivered.

(2) A sales delivery manifest must be prepared for each sales order to be delivered to a consumer. A sales order shall only be transferred to the consumer who placed the request for the sales order with the cannabis store after the consumer's age and identity are verified by the employee making the delivery.

Each sales delivery manifest must specify only one delivery destination. An employee may complete delivery of multiple sales orders in one delivery trip.

(3) A licensee may not void or change a sales delivery manifest after departing from the originating licensed premises.

(4) A licensee must accept returns of any cannabis or cannabis products that are refused by the intended recipient and must appropriately track the same.

(5) A licensee shall ensure that the sales delivery record for each delivery is completed in the inventory tracking system by 11:59 P.M. that same day in accordance with the requirements of this rule.

(E) Transportation of Cannabis and Cannabis Products. Cannabis and cannabis products, including samples, must be transported subject to the following requirements:

(1) Cannabis or cannabis products may be transported only from one licensed cannabis establishment to another licensed cannabis establishment, or from a cannabis store, tier 1, tier 2 or nursery cultivation facility, or products manufacturing facility licensee to an adult use consumer pursuant to a request for delivery of a sales order; or to or from the licensed premises of a cannabis store to or from the permitted premises for a specified event in accordance with this rule and 28-B MRS § 504-A;

(2) Samples of cannabis, cannabis concentrate and cannabis products for mandatory testing must be transported by the licensee that collected the samples for mandatory testing from the site where the samples were collected to the cannabis testing facility(ies) performing the mandatory analyses, except that a cannabis testing facility may, at its discretion, offer a service to retrieve samples collected by self-samplers from the cannabis establishment where the samples were collected and transport those samples to the cannabis testing facility conducting the mandatory analyses;

(3) Except as provided in this section, all cannabis or cannabis products being transported must be included in, and accompanied by, a transport manifest or sales delivery manifest generated by the tracking system;

(4) All cannabis or cannabis products, including sales orders for delivery to adult use consumers, being transported must be contained within an enclosed, locked area in the transport vehicle;

(5) A cannabis products manufacturing facility, and as applicable to cannabis stores, tier 1, tier 2 or nursery cultivation facility, or products manufacturing facility licensees delivering sales orders, or a cannabis store transporting cannabis and cannabis products to or from the licensed premises of a cannabis store to or from the permitted premises for a specified event, must provide adequate refrigeration for perishable cannabis 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.

- (6)** The licensee transporting the cannabis or cannabis products must:
- (a)** Keep cannabis or cannabis products in transit shielded from public view;
 - (b)** Use a vehicle for transport that is:
 - (i)** Insured at or above the legal requirements in Maine; and
 - (ii)** Equipped with, at a minimum, a functional, manufacturer-installed alarm system.
 - (c)** Ensure that only IIC holders are in any vehicle, including trailers, used in transport.
- (7)** All cannabis or cannabis products must be contained within wholesale containers in the transport vehicle, except that cannabis and cannabis products to be delivered by a cannabis store, tier 1, tier 2 or nursery cultivation facility, or products manufacturing facility licensee to adult use consumers shall be prepackaged in retail units in accordance with § 5 of this rule.
- (8)** Samples of cannabis, cannabis concentrate and cannabis products for mandatory testing must be transported in appropriately labeled sample collection containers with tamper evident seals affixed.
- (9)** An IIC holder transporting cannabis or cannabis products to another adult use establishment licensee must carry two copies of each transport manifest during the transportation of cannabis or cannabis products and must:
- (a)** Give one copy to the receiving licensee following the verification of the transport manifest and transfer of the cannabis or cannabis products; and
 - (b)** Maintain a copy of the transport manifest that must be returned to the cannabis establishment for record-keeping purposes, except that a sample collector licensee will retain this copy of the transport manifest for the sample collector licensee's records and is not required to return this copy to the cannabis establishment from which the samples were collected;
- (10)** An employee transporting sales orders of cannabis or cannabis products to adult use consumers must carry one copy of the sales delivery manifest for each order transported in the delivery vehicle. If the receiving consumer is unable or unwilling to accept receipt of some or all of the delivery order, or the cannabis store employee declines to transfer the delivery order:
- (a)** The employee shall note that the sales order, or a portion thereof, was retained on the sales delivery manifest, as well as the reason for retaining the sales order; and
 - (b)** The employee shall return, that same day, the cannabis and/or cannabis products, along with the sales delivery manifest, to the licensed premises of the cannabis establishment.
- (11)** In the event of unforeseen exigent circumstances, a sample collector licensee that needs to store samples of cannabis, cannabis concentrate or cannabis products for mandatory testing overnight must store those samples:
- (a)** Securely in a locked container or locked compartment in the locked vehicle;
 - (b)** In a manner that maintains at all times the recommended temperature range; and

(c) The sample collector must provide contemporaneous written notice via e-mail to the Department's Compliance Division regarding the nature of the exigent circumstances, the amount of cannabis or cannabis products being stored, the location, the license and IIC number of the person in possession of the cannabis or cannabis products and the expected duration of the circumstances necessitating storage in a vehicle.

(12) Any vehicle transporting cannabis or cannabis products, including a licensee making deliveries to adult use consumers, must travel directly from the shipping licensee to the receiving licensee, including the licensee's own permitted premises at a specified event, or adult use consumers, for cannabis store licensees making deliveries, and the licensee or individual identification card holder transporting cannabis or cannabis products must not:

(a) Make any stops in between except:

(i) to the destination listed on a transport manifest; to accommodate meal and rest periods required by law, or refueling;

(ii) 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; or

(iii) in the case of a licensee making deliveries of sales orders to multiple adult use consumers, to the delivery location for each adult use consumer to whom the licensee is delivering sales orders;

(b) Remove the cannabis or cannabis products from the vehicle until arrival at the destination;

(c) Transfer cannabis or cannabis products to, nor store cannabis or cannabis products in any unlicensed premises; or

(d) Travel with any persons not listed on the transport manifest.

(13) A licensee or individual identification card holder must make a vehicle used for the transport of cannabis or cannabis products immediately available for inspection upon request of the Department.

(14) Upon law enforcement stop or other contact all persons in the vehicle shall identify themselves with their Department-issued individual identification card and all transport manifests.

(F) Receiving Party.

(1) The cannabis establishment receiving cannabis or cannabis products pursuant to an authorized transfer must:

(a) Verify the condition and quantity of cannabis or cannabis products included in the transport manifest;

(b) Record in the tracking system and any other relevant business records any damaged or refused cannabis or cannabis products, or other discrepancies found between the cannabis or cannabis products delivered and the cannabis or cannabis products stated on the transport manifest;

- (c) Enter the received cannabis or cannabis 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 cannabis or cannabis products, which must be kept by the transporting party for their records.

(2) An employee transporting sales orders of cannabis or cannabis products to adult use consumers must indicate on the sales delivery manifest whether the sales order, or a portion thereof, was retained by the cannabis store employee and the reason the order was rejected by, or otherwise not delivered to, the receiving consumer.

(3) Returns of Cannabis and Cannabis Products. As applicable, a cultivation facility, products manufacturing facility, or cannabis store may make and accept returns of cannabis and cannabis products cultivated, manufactured or sold by the licensee from a consumer or the licensee that received the cannabis or cannabis product from the cultivation facility, products manufacturing facility or cannabis store.

(A) A licensee that makes sales of cannabis or cannabis products to a consumer may accept returned cannabis or cannabis products from a consumer that bought the cannabis or cannabis products from the licensee. Cannabis or cannabis products returned by a consumer to a licensee shall be destroyed and may not be resold or combined with other cannabis or cannabis products for resale.

(B) A licensee that sells pre-packaged retail units of cannabis or cannabis products to another licensee may accept returns of some or all of the pre-packaged retail units of cannabis products from that licensee.

- (1) A licensee may resell any returned pre-packaged retail units of cannabis or cannabis products without additional mandatory testing so long as:
- (a) the cannabis or cannabis products are appropriately tracked in the inventory tracking system;
 - (b) the packaging and labeling on the pre-packaged retail units is fully intact, unopened, and still in compliance with the packaging and labeling requirements of this rule; and
 - (c) the cannabis and cannabis products are unadulterated and otherwise in the same condition that the units were in at the time of transfer to the returning licensee;

(2) A licensee may unpackage and repurpose pre-packaged retail units of cannabis or cannabis products returned by a licensee and combine the cannabis or cannabis products with other cannabis or cannabis products. Any unpackage and repurposed cannabis or cannabis products that were returned shall constitute the creation of a new production batch and the resulting batch will be subject to the inventory tracking and mandatory testing requirements of the rules governing the adult use cannabis program

(C) A cultivation or products manufacturing facility may accept returns of cannabis or, as applicable to products manufacturing facilities, cannabis products, that the licensee

transferred to another cultivation or products manufacturing facility in wholesale containers and may repurpose that cannabis or cannabis, subject to the inventory tracking and mandatory testing requirements of the adult use cannabis program.

(D) Under no circumstances may a licensee repurpose or otherwise combine cannabis or cannabis products that were returned by another licensee if the receiving licensee knows, or has reason to believe, that the returned cannabis or cannabis product is adulterated or otherwise contaminated with harmful chemicals, including heavy metals, or pesticides. A licensee shall destroy such cannabis or cannabis products.

(E) Nothing in this subsection shall be construed to require a licensee to accept returns of cannabis or cannabis products cultivated, manufactured, packaged, labeled, or otherwise transferred by that licensee.

(4) Retention of Business Records. Unless otherwise indicated, all business records created and maintained pursuant to the rules governing the adult use cannabis program and 28-B MRS shall be retained by a licensee at minimum for a period comprising the current tax year and the five (5) immediately preceding tax years. Unless otherwise specified, business records may be maintained and stored electronically, provided that such records can be reproduced on paper upon request.

§3 - Advertising.

(1) Prohibitions.

(A) In the course of promoting its brand or the brand of another licensee, cannabis or cannabis products, a cannabis establishment or licensee may not advertise in a manner:

- (1) That is appealing to individuals under 21 years of age;
- (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 cannabis establishment may not:

- (1) Contain statements that are deceptive, false or misleading;
- (2) Display consumption of cannabis or cannabis products;
- (3) Include claims related to potency (beyond listing of cannabinoid content);
- (4) Depict activities or conditions considered risky when under the influence of cannabis, such as operating a motorized vehicle, boat or machinery, being pregnant or breastfeeding;

- (5) Contain any content that is designed to be appealing to individuals under the age of 21, including but not limited to images or other depictions of persons under 21 years of age;
- (6) Contain any imitation of candy, sweets or snack food advertising, including any imitation of advertising used for branded candy, sweets or snack food;
- (7) Include the term “candy” or “candies”, or any imitation of the names of branded candy, sweets or snack food;
- (8) Encourage the transportation of cannabis or cannabis products across state lines or otherwise encourage illegal activity;
- (9) Assert that cannabis or cannabis products are safe because they are regulated by the Department or have been tested by a testing facility or otherwise make claims that any government agency endorses or supports cannabis;
- (10) Make claims that cannabis 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 high likelihood it will reach person under the age of 21. Licensees or an agent of a licensee must take reasonable steps to ensure that any mass marketing or advertising does not reach persons under the age of 21, including, for example, using marketing information from the vendor or employing age verification techniques commonly used in internet advertising to avoid reaching persons under the age of 21;
- (4) Advertise within a prohibited distance of the property line of an existing public or private school, which shall be:
 - (a) A distance of 500 feet or more as established by the municipality in which the advertising is located;
 - (b) A distance of 500 feet or more as established by the Maine Land Use Planning Commission for advertising located in unorganized or deorganized areas; or
 - (c) A distance of 1,000 feet if no other distance has been set by a municipality or the Maine Land Use Planning Commission.
- (5) 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

(6) 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.

(2) **Websites.** In addition to complying with the advertisement criteria and prohibitions outlined in this section, a cannabis establishment advertising on a website must utilize appropriate measures to ensure that individuals visiting the web page are over 21 years of age.

(3) **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 cannabis establishment.

(4) **Branding and Logos.** A licensee may utilize a brand name or brand names and a logo or logos for the marketing, advertising or other promotion of the licensee's business, cannabis or cannabis products, provided that the use of the brand name or logo in advertising, marketing, signage, non-cannabis items (such as clothing, lighters or stickers), packaging and labeling does not violate the requirements of the rules governing the adult use cannabis program.

(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 section, 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.

(6) **Marketing Between Licensees and Employee Samples.**

(A) **Trade Samples.**

(1) **Regulation of Trade Samples.** Licensees may not provide samples of seeds, seedlings, immature cannabis plants, mother plants or mature cannabis plants to other licensees. As authorized in this subsection, trade samples may be provided only by cultivation facilities, with the exception of nursery cultivation facilities, and product manufacturing facilities and:

(a) Must be provided solely for the purposes of business to business marketing;

(b) May not be sold or otherwise provided for payment or consideration, including swapping samples among licensees;

- (c) Must be conveyed by way of authorized transfer in accordance with all tracking requirements;
- (d) Must be packaged and labeled in accordance with section 5 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.

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

(3) Products Manufacturing Facilities. Products manufacturing facilities may provide trade samples of cannabis products to licensed cannabis stores in accordance with this subsection.

(4) Trade Sample Limits. No samples of cannabis or cannabis products shall be permitted to be sold or otherwise transferred or conveyed consumers. 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 cannabis products containing less than five grams of THC, which is easily divisible into servings of 10 mg of THC or less;
- (b) Cannabis concentrate containing 10 grams of THC; and
- (c) Two- and one-half ounces of cannabis.

(B) Employee Samples.

(1) Employee Sampling. A licensee may provide samples of cannabis and cannabis products to its employees for the purposes of research and development or employee education. As authorized in this paragraph, employees of a cultivation facility, products manufacturing facility or a cannabis store licensee may be provided with samples of cannabis or cannabis products and:

- (a) Under no circumstances may an employee be required to accept or consume samples from a licensee;
- (b) Such samples must have passed all mandatory testing and be provided solely for the purpose of research and development of cultivars of cannabis or cannabis products not currently sold by licensee to another licensee; or in the case of a cannabis store licensee, for the purpose of providing education to its employees for the purpose of providing information to consumers regarding cannabis or cannabis products sold by the licensee;
- (c) Such samples must be accounted for in the Department's inventory tracking system;
- (d) Must be packaged and labeled in accordance with Section 5 of this rule;
- (e) May not be consumed on the premises of the licensee by whom the employee is employed;

(f) May not be sold or conveyed to any licensee, consumer or employee other than the employee identified in the Department's inventory tracking system; and

(g) No samples of cannabis or cannabis products shall be permitted to be sold or otherwise transferred or conveyed to employees or to other licensees, except as outlined in this paragraph. A licensee is limited to providing each authorized individual recipient employee no more than two and one half ounces of a combination of cannabis and cannabis concentrate, that includes no more than 10 grams of cannabis concentrate, in a 90 day period. A licensee may not provide any authorized individual recipient employee with a package of edible cannabis product that contains more than 200 mg of THC, which must be easily divisible into servings of 10 mg of THC or less.

§4 - Waste Management. All wastes must be managed in accordance with federal, state and local requirements. Applicants should contact the Department of Environmental Protection for guidance on applicable regulations.

(1) Hazardous Waste.

(A) Discharges of hazardous waste or other matter in any quantity and under any circumstances must be reported to the Department and in accordance with this section.

(1) 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:

(a) Licensees must call 1-800-452-4664 or 207-624-7000 to notify the Department of Public Safety of a discharge.

(b) Licensees are not required to notify the Department of Environmental Protection.

(2) 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:

(a) The licensee must call the National Response Center at 1-800-424-8802; and

(b) If the spill goes beyond the boundary of the facility, the licensee must call the local fire department and the local community emergency coordinator.

(2) Cannabis Waste. In addition to any other provisions of 28-B MRS, the rules governing the adult use cannabis program or other applicable laws or rules, non-hazardous cannabis wastes shall be managed in accordance with the following:

(A) A cannabis plant, cannabis, trim and other plant material in itself is not considered hazardous waste unless it is toxic, flammable or a listed waste subject to regulation under Department of Environmental Protection rule Chapter 850.

(B) Non-hazardous cannabis waste that is to be disposed of must be rendered unusable prior to leaving a cannabis establishment by one of the following methods:

(1) Grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least fifty percent non-cannabis waste by volume, including:

- (a) Food waste;
- (b) Yard waste; or
- (c) Other wastes approved by the Department.

(2) Using another method approved by the Department and recorded in the licensee's facility plan of record before implementation.

(3) Sample collector licensees may not dispose of cannabis waste. A sample collector licensee who is in possession of samples of cannabis or cannabis products to be wasted must return such samples of cannabis, cannabis concentrate or cannabis products to the licensee from which the samples were collected.

(C) Composting of cannabis 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.

(3) Cannabis Waste Exceptions. The following materials shall not be considered to be cannabis waste requiring treatment to be rendered unusable, provided that they are completely free of all cannabis 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 cannabis plants; and

(C) Leaves and branches removed from cannabis clones, seedlings and cannabis plants.

(4) **Wastewater.** Wastewater generated during the cultivation or manufacturing of cannabis must be disposed of in compliance with all applicable state and local laws and regulations.

(5) **Reducing Packaging Waste.** A licensee may reuse containers. A licensee may charge a reasonable fee to a consumer for any reusable containers and a licensee may offer a refund of such fees to consumers who return containers that can be reused. A licensee must ensure that the reused packaging is clean and does not impart any deleterious substances to the cannabis or cannabis products contained therein.

Nothing in this section shall be construed to exempt a licensee from compliance with the packaging and labeling requirements of section 5 of this rule.

§5 - Packaging and Labeling.

All cannabis, cannabis concentrate and cannabis products received by a cannabis store from an authorized transfer, and offered for retail sale by a cannabis store, or as applicable for retail sales to an adult use consumer made by delivery by a nursery cultivation facility, tier 1 or tier 2 cultivation facility or products manufacturing facility, must be pre-packaged and labeled, including all required health and safety warnings, in accordance with this rule, in addition to any other provisions of the rules governing the adult use cannabis program, 28-B MRS and any other applicable laws and rules.

A licensee may not label or package for retail sale adult use cannabis or an adult use cannabis product under this rule unless the cannabis or cannabis product has passed all mandatory testing required by *Rules for the Mandatory Testing of Adult Use Cannabis*, 18-691 CMR, ch. 40 and the *Rules for the Certification of Cannabis Testing Facilities*, 18-691 CMR, ch. 5.

(1) General Packaging and Labeling Requirements for Retail Sale.

(A) General Packaging for Retail Sale Requirements. All cannabis or cannabis products must be packaged in containers that:

- (1) Are fully enclosable;
- (2) Are resealable;
- (3) Protect the packaged item from contamination; and
- (4) Do not impart any toxic or deleterious substance to the packaged item.

(B) General Labeling for Retail Sale Requirements. In addition to any other requirements pursuant to this rule and 28-B MRS, all cannabis or cannabis product labels must comply with the following:

- (1) All required information must be printed directly on, or on a label or sticker affixed directly to, the marketing layer.
- (2) Labeling text on any marketing layer must be no smaller than size 6 font or 1/12 inch.
- (3) 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 this rule.
- (4) 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 cannabis establishment licensee may affix multiple labels to the marketing layer, provided that none of the information required by this rule is obstructed. A licensee may also include a QR code or other means of accessing digitally-stored consumer information on the marketing layer, but such a digital code does not excuse the licensee from affixing all required label information to the marketing layer of the cannabis product.
- (5) The cannabis store, and as applicable for cultivation and products manufacturing facilities conducting retail sales by delivery to consumers, that conducted the retail sale of the cannabis, cannabis concentrate or cannabis product must ensure that its license number is affixed to the marketing layer of the cannabis, cannabis concentrate or cannabis product, either on the label or on a separate sticker affixed to the item before transferring the item to a consumer.

(6) The label must include the full inventory tracking system-generated identification number of the final batch from which the testing sample for the mandatory testing of the contents of the cannabis or cannabis product was taken.

(7) The label must include the following statement regarding mandatory test results: “Passed mandatory testing”.

(8) The label’s statement of net contents must identify the net weight of the cannabis, cannabis concentrate or cannabis product prior to its placement in the container, using a standard of measure compatible with the tracking system.

(9) 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 and must be:

(a) No smaller than $\frac{1}{2}$ inch by $\frac{1}{2}$ inch;

(b) Placed on a white background and the interior of the icon must remain white;

(c) Maintained in the form provided to the licensee and may not be modified, recreated, stylized, stretched or otherwise distorted;

(d) Reproduced using the black and red color scheme published by the Department; and

(e) Displayed on a white background.

(10) The label must include, as a production date:

(a) For cannabis and cannabis products consisting in whole or in part of cannabis flower or cannabis trim, the date of the harvest batch; or

(b) For cannabis concentrate or cannabis products that were manufactured, the date on which the production batch was created.

(11) 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 and the label is easy to open without the use of tools.

(12) The label shall state cannabinoid content, and, if applicable, gases, solvents and chemicals used in cannabis extraction. Statements regarding contaminants and use of solvents or absence thereof shall not conflict with results reported in an approved cannabis testing facility’s Certificate of Analysis.

(13) In addition to any other warning statements required for specific categories of cannabis products, all cannabis and cannabis products must carry the following warning statement in no smaller than 6-point font: “WARNING: Keep out of reach of children and pets. Do not drive or operate machinery while intoxicated. This product can be addictive. Use of this product may be harmful, especially if you are under 21, inexperienced with cannabis, pregnant, breastfeeding, or at risk for psychiatric problems.”

(C) General Labeling Prohibitions. The label for retail sale of cannabis, cannabis concentrate or cannabis products may not:

- (1) Depict a human, animal or fruit or the word “candy” or “candies” on the label of any marketing layer, container holding cannabis, cannabis concentrate or cannabis product or intermediate packaging;
- (2) Display any content on a container, marketing layer or intermediate packaging making any claims regarding health or physical benefits to the consumer;
- (3) Cause a reasonable consumer confusion as to whether the cannabis, cannabis concentrate or cannabis product is a trademarked product;
- (4) Violate any state or federal trademark law or regulation;
- (5) Include any false or misleading statements;
- (6) Obscure identifying information or warning statements;
- (7) Reasonably appear to target or appeal to individuals under the age of 21, including but not limited to, depictions of cartoon characters or similar images; or
- (8) Report information regarding the quality or potency of the enclosed product, except as reported by a testing facility, unless the label clearly indicates that testing regarding the claim is not required or conducted by a testing facility.

(D) Voluntary packaging and labeling approval. A licensee may submit to the Department a request for approval of any packaging or labeling it intends to use. Such a request for approval shall be submitted to the Director of Compliance and shall include the following information as applicable:

- (1) A digital or physical sample of label for which approval is requested, or a physical sample of any package for which approval is requested;
- (2) A description of any additional labels that will be affixed to the label or package and the information contained thereupon;
- (3) If applicable, any additional information required on the package or label approval request form provided by the Department and available on the Department’s website.

The Department may refuse to review any voluntary request for approval and may refuse to approve any package or label that is not in compliance with the requirements of this rule.

(2) Packaging and Labeling of Trade Samples. Along with all requirements of the rules governing the adult use cannabis program and 28-B MRS, cannabis cultivation and cannabis products manufacturing establishments shall comply with the following minimum packaging and labeling requirements prior to authorized transfer of any trade sample to a licensed cannabis 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 cannabis establishment, every container containing a trade sample shall be affixed with a label that is compliant with the labeling for retail sale requirements of this rule.

(C) Either the label affixed to the container or the marketing layer shall include the statement in a font that is bold: “Trade Sample. Not for Sale.”

(3) Packaging and Labeling for Retail Sale of Inhaled Cannabis Products.

(A) Retail Sale Packaging for Inhaled Cannabis Products. Prior to authorized transfer to a cannabis store or retail sale by another licensee authorized to conduct retail sales to consumers by delivery, all inhaled cannabis products shall be packaged in accordance with the following:

- (1) The container must be fully enclosed on all sides, as follows:
 - (a) If container is soft sided, it must be four mil or greater in thickness; or
 - (b) If container has rigid sides, it must have a lid or enclosure that can be placed tightly and securely on the container.
 - (c) The container must be child-resistant.
 - (d) The container must be opaque.
- (2) The container must be tamper-evident:
 - (a) 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
 - (b) 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.
- (3) The packaging must contain a marketing layer, on which required labeling information can be printed.

(B) Labeling for Retail Sale Requirements for Inhaled Cannabis Products. In addition to the general labeling requirements of this section and any other provisions of the rules governing the adult use cannabis program and 28-B MRS, all inhaled cannabis products must clearly display the following information on the marketing layer of the package for retail sale:

- (1) The potency of inhaled cannabis products, expressed as the actual potency results for total THC and total CBD reported by a testing facility on the certificate of analysis; except that if the testing facility reports that total CBD or total THC is “not detected” or “zero” (“0”), then the label may state “0” for those cannabinoids.

- (2) If applicable, a list of any solvent(s) used to produce any cannabis concentrate that was used in the manufacturing of the inhaled cannabis product;
- (3) If applicable, a list of all ingredients used to manufacture the inhaled cannabis product, including identification of the actual or potential presence of any major allergens contained in the cannabis 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
- (4) Net content, according to the following:
- (a) For inhaled cannabis products, net contents shall be stated in grams, except that inhaled cannabis products containing less than one gram of net content may state the net contents in milligrams.
 - (b) Variance is allowed as follows:
 - (i) For inhaled cannabis products composed primarily of cannabis 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;
 - (ii) For inhaled cannabis products that are pre-rolled cannabis cigarettes, the actual net contents by weight may be as much as 5% less than or 15% greater than the statement of net content;
 - (iii) For inhaled cannabis products composed primarily of cannabis extract, the actual net contents by weight may be as much as 5% less or 10% more than the statement of net content.
 - (c) Inhaled cannabis product labels may state the net contents in ounces in addition to stating the net contents in grams.
 - (d) In determining the weight of cannabis concentrate in a cannabis product, the weight of any other ingredients combined with cannabis or cannabis concentrate to prepare the cannabis products may not be included.

(4) Packaging and Labeling for Retail Sale of Edible Cannabis Products.

(A) Retail Sale Packaging Requirements for Edible Cannabis Products. Prior to authorized transfer to a cannabis store, all edible cannabis products shall be packaged in child-resistant containers in accordance with 16 C.F.R. Part 1700 (2018), with a tamper evident seal as follows:

- (1) For single-serving edible cannabis products:
 - (a) Single-serving edible cannabis products must be placed into a child-resistant container that may or may not be resealable.
 - (b) Single-serving edible cannabis products that are placed into a child-resistant, tamper evident container may be bundled into a larger marketing layer so long as the total amount of THC per marketing layer does not exceed 200 milligrams, except as permitted by §1, sub-§ 7 and 18-691 CMR, ch. 5.

- (2) For multiple-serving edible cannabis products:
- (a) Every multiple-serving edible cannabis product must be placed into a child-resistant container that is resealable.
 - (b) A multiple-serving edible cannabis product must not exceed 200 milligrams of total THC per multiple-serving container, except as permitted by §1, sub-§ 7 and 18-691 CMR, ch. 5..
 - (c) The packaging shall clearly indicate the size of a serving if the edible product is not in a form that indicates a serving and shall include a measuring device with the package to be used to measure a single serving of the edible product, as applicable for edible products that are, or are similar to, powders, looseleaf tea, coffee grounds, or grains.

(3) Single-serving cannabis drinks or tinctures that do not contain more than 10 milligrams of THC, except as permitted by §1, sub-§ 7 and 18-691 CMR, ch. 5, shall be packaged in a child-resistant container, such as:

- (a) An aluminum or metal can with a child-resistant cap or cover over any stay tab mechanism opening; or
- (b) A bottle with a metal crown cork style bottle cap.

(4) Multiple-serving cannabis drinks or tinctures that contain more than 10 milligrams of THC but no more than 200 milligrams of THC, except as permitted by §1, sub-§ 7 and 18-691 CMR, ch. 5, must:

- (a) Be packaged in a child-resistant container compliant with 16 C.F.R. Part 1700 (2018) that has a resealing cap or closure; and
- (b) Include a measuring device such as a measuring cap or dropper with the package containing the cannabis-infused liquid edible product; hash marks on the bottle or package do not qualify as a measuring device.

(5) Cannabis 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 200 milligrams, except as permitted by §1, sub-§ 7 and 18-691 CMR, ch. 5.

(6) The container must be tamper-evident.

(7) The container must be opaque..

(B) Labeling for Retail Sale Requirements for Edible Cannabis Products. In addition to the general labeling requirements of this section, any other provisions of the rules governing the adult use cannabis program and 28-B MRS, ch. 1, all edible cannabis products must clearly display the following information on the marketing layer of the package for retail sale:

(1) Total THC and total CBD, stated in milligrams and for edible cannabis products containing at least 5 milligrams of total THC, not more than 10% less or 10% greater than the actual total THC and total CBD content, and for edible cannabis products containing less than 5 milligrams of total THC, not

more than 20% less or 20% greater than the actual total THC and total CBD content, including:

- (a) The total THC and total CBD per serving unit; and
 - (b) 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;
- (2) The serving size, which must reflect the amount of a product customarily consumed by an adult, in compliance with the requirements and limitations of 21 C.F.R. Part 101 (2018), which may contain no more than 10 milligrams of total THC, except as permitted by §1, sub-§ 7 and 18-691 CMR, ch. 5;
 - (3) The number of servings per container or marketing layer;
 - (4) Total net weight of the edible cannabis product separate from the package and label;
 - (5) A statement in font no smaller than 6 point: “This product contains cannabis. Keep away from children.”;
 - (6) If applicable, a list of all ingredients used to manufacture the edible cannabis product, including identification of the actual or potential presence 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;
 - (7) A nutritional fact panel in accordance with 21 C.F.R. Part 101 (2018); and
 - (8) A statement in font no smaller than 6 point: “Effects of this product may not be felt for up to 4 hours.”

(5) Packaging and Labeling for Retail Sale of Topical Cannabis Products.

(A) Retail Sale Packaging for Topical Cannabis Products. Prior to authorized transfer to a cannabis store, or as applicable for tier 1, tier 2 and nursery cultivation facilities and products manufacturing facilities conducting sales by delivery to consumers, all topical cannabis products shall be packaged in a child-resistant in accordance with the following:

- (1) 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).
- (2) 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.
- (3) The packing must be tamper-evident.

(4) The container must be opaque.

(B) Labeling for Retail Sale of Topical Cannabis Products. In addition to the general labeling requirements of this section, any other provisions of the rules governing the adult use cannabis program and 28-B MRS, ch. 1, all topical cannabis products must clearly display the following information on the marketing layer of the package for retail sale:

(1) A potency statement for topical cannabis products stating the total THC and total CBD in milligrams in the container, and for transdermal products the total content of THC and CBD in milligrams contained in each transdermal product;

(2) A list of all ingredients in descending order of predominance by weight or volume as applicable;

(3) The amount recommended for use at any one time; and

(4) The following warning statement: “For Topical Application – Do Not Eat or Smoke.”

(6) Packaging and Labeling for Retail Sale of Cannabis Seeds.

(A) Retail Sale Packaging for Cannabis Seeds. Prior to authorized transfer to a cannabis store, or for nursery cultivation facilities, prior to authorized transfer to consumer, all cannabis seeds shall be packaged in accordance with this subsection. Packaging for cannabis seeds for sale to consumers shall:

(1) Keep all cannabis seeds dry;

(2) Prevent germination of the seeds in the packaging;

(3) Not impart any deleterious substances into the cannabis seeds; and

(4) Be exempt from the requirements that packaging be child-resistant, tamper-evident and opaque.

(B) Labeling for Retail Sale of Cannabis Seeds. There is no mandatory testing required for cannabis seeds, therefore labels affixed to individual retail packages of cannabis seeds shall not contain information regarding test results, including without limitation cannabinoid content, potency or the absence or presence of contaminants. All cannabis seeds must clearly display the following information on the marketing layer of the package for retail sale:

(1) The inventory tracking system package number for the package of cannabis seeds sold by the cannabis store or nursery cultivation facility licensee;

(2) The license number of the cultivation facility where the cannabis seeds were propagated;

- (3) The license number of the cannabis store or nursery cultivation facility (if different from the cultivation facility that produced the seeds) that is offering the individual retail package for sale to consumers;
- (4) The net weight or the number of individual seeds in the package, a licensee may include either or both values on the label; and
- (5) The following statement: “For cultivation only by consumers 21 years of age or older.”

A licensee may include additional information regarding the contents of the individual retail packages of cannabis seeds, provided that such information does not conflict with the rules governing the adult use cannabis program. A licensee may provide to consumers information on the limitations of home cultivation of cannabis for person use contained in 28-B MRS § 1502.

(7) Packaging and Labeling of Samples Collected by a Licensee.

(A) Self-Samplers and Sample Collectors Must Contact Cannabis Testing Facility.

Any licensee collecting samples for mandatory testing in accordance with 28-B MRS, subchapter 6, and 18-691 CMR, ch. 40, must contact the cannabis testing facility that will conduct the mandatory testing and comply with the cannabis testing facility’s specific recommendations regarding, without limitation:

- (1) Required sample collection tools and equipment based upon sample matrix type and mandatory tests required;
- (2) Required sample collection containers based upon sample matrix type and mandatory tests required;
- (3) Required sample transportation conditions based upon sample matrix and mandatory tests required;
- (4) A plan for sample receipt which includes any limitations on days or times when samples will be accepted by the cannabis testing facility; and
- (5) Any additional quality measures required by the cannabis testing facility to ensure sample integrity and prevent contamination of the licensee’s samples or the samples of other licensees.

All cannabis testing facility recommendations regarding sample collection will be recorded for every sampling event in the licensee’s sample collection records in accordance with the recordkeeping requirements of this rule. Cannabis testing facility recommendations must align with the Department’s Best Practice Guide as applicable.

(B) Self-Samplers and Sample Collectors Must Use Sample Collection Containers Required by Cannabis Testing Facility.

A licensee collecting samples for mandatory testing must collect samples in accordance with the Department’s sample collection SOP and deposit the required sample increments in the sample collection containers required by the cannabis testing facility analyzing the samples. When all required sample increments are collected, the person collecting the samples must:

- (1) Affix a tamper evident seal to each sample container and must initial the seal. The seal must be initialed by another individual identification cardholder witnessing the sealing of the sample containers;
- (2) Ensure that the universal symbol is on every sample collection container, no smaller than $\frac{1}{2}$ of an inch by $\frac{1}{2}$ of an inch;
- (3) Ensure that each sample collection container has the following notice: “FOR TESTING PURPOSES ONLY”; and
- (4) Ensure that each sample collection container is accompanied by the appropriate label generated by the inventory tracking system required by the Department.

(C) Self-Samplers, Sample Collectors and Cannabis Testing Facilities Must Comply with All Sample Collection Recordkeeping Requirements and Use the Department-required Sample Collection SOP and Best Practices Guide. A licensee must conduct all sample collection in accordance with the Department’s sample collection SOP and Best Practices Guide and must submit to the cannabis testing facility all information required by the cannabis testing facility’s quality system for each batch of cannabis or cannabis product sampled for mandatory testing. A licensee conducting sample collection for mandatory testing must comply with the sample collection recordkeeping requirements of this rule.

(8) Packaging and Labeling for Storage by a Cannabis Establishment.

(A) Storage Prior to Testing. Following samples being taken from a batch of cannabis, a licensee must:

- (1) Store the batch in one or more sealed containers enclosed on all sides, so as to prevent the cannabis or cannabis product from being tampered with or transferred or sold prior to test results being reported.
- (2) Affix to the container(s) in which the cannabis is stored a label including the following information:
 - (a) The batch number; and
 - (b) In bold, capital letters, no smaller than 12-point font, “PRODUCT NOT TESTED”; and
- (3) Report the transfer of the sample into the tracking system and the batch number being sampled.

(B) Storage of Cannabis Not Labeled for Retail Sale. All cannabis or cannabis products stored on the licensed premise must be secured in a limited access area and tracked consistent with the inventory tracking rules.

(C) Storage of Cannabis for Retail Sale through Delivery by an Applicable Cultivation or Products Manufacturing Facility. A nursery, tier 1 or tier 2 cultivation facility or a products manufacturing facility that conducts retail sales of cannabis or cannabis products to consumer through delivery from the licensed

premises of the cultivation or products manufacturing facility shall store all of its inventory intended for sale by delivery to consumers in a secure limited access area that is separate and distinct from any area of the licensed premises where the licensee stores cannabis or cannabis products intended for transfer to another licensee and shall track such inventory in accordance with the inventory tracking provisions of this rule.

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

§6 - Enforcement.

(1) Department Enforcement Authority.

(A) Inspection of Cannabis Establishments and Premises. A cannabis establishment licensee must provide the Department, or agent thereof, access to inspect a cannabis establishment and premises at any time during the business hours stated on the facility plan of record of the cannabis establishment or during apparent activity. Licensees shall not deny entrance for inspection, upon demand and without notice required, during any business hours and other times of apparent activity, or at any other time upon reasonable notice. In any case, the licensee shall ensure there is an individual identification card holder at the cannabis establishment to accompany the agent of the Department during the inspection. Licensees shall permit staff or agents of the Department and employees or agents of local or state agencies with regulatory authority access to inspect the cannabis establishment and premises in accordance with the statutes, regulations and operating procedures employed by those regulatory bodies. If a licensee denies the agent of the Department access to a licensed premise, the Department may put an administrative hold on the cannabis establishment license and may impose fines, suspensions or revocation of that license.

(B) Routine or Random Inspection or Audit of Sample Collection by Licensees. The Department may, with or without suspicion of infractions, conduct inspection or audit of any licensee's sample collection practices in accordance with the requirements of this rule.

(C) 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 the rules governing the adult use cannabis program. Infractions that may be investigated include, without limitation:

- (1) Failure to comply with facility plan of record;
- (2) Failure to properly report inventory in the inventory tracking system;
- (3) Unauthorized transfers of cannabis;
- (4) Failure to disclose or properly report changes to the record of principals or natural persons or business entities having a direct or indirect financial interest in the licensee or the nature of such direct or indirect financial interests;

- (5) Failure to comply with any conditions required by a municipality, town, plantation, township or county commission for approval of the license;
- (6) Use of prohibited pesticides in cultivation of cannabis;
- (7) Any violation of the rules and regulations as set forth by the Department; or
- (8) Any conduct by a cannabis establishment licensee not authorized by 28-B MRS or the rules governing the adult use cannabis program.

(D) Samples Taken Pursuant to an Investigation or Inspection. The Department may, as part as an investigation or inspection, take samples of cannabis plants, cannabis or cannabis products as evidence or for testing. When the Department takes samples pursuant to an inspection or investigation, it will give the licensee a receipt for all samples taken.

(E) Enforcement Actions.

- (1) The Department may take the following actions against licensees, alone or in combination, subject to the requirements of this section:
 - (a) Impose monetary penalties;
 - (b) Restrict a license;
 - (c) Suspend a license;
 - (d) Revoke a license;
 - (e) Accept the voluntary surrender of a license;
 - (f) Confiscate or seize cannabis plants, cannabis or cannabis products;
 - (g) Destroy cannabis plants, cannabis or cannabis products;
 - (h) Recall cannabis or cannabis products; or
 - (i) Accept the voluntary surrender of cannabis plants, cannabis or cannabis products.
- (2) The Department may revoke an individual identification card for any violation of 28-B MRS or this rule.

(F) Reciprocal Revocation of a Specified Event Permit.

- (1) A specified event permit issued by the Department shall be automatically revoked as a matter of reciprocity if either the municipality, or as applicable, the property owner revokes their written authorization for the licensee to conduct sales at the specified event.
- (2) If the Department revokes or suspends a specified event permit for any reason other than reciprocal revocation, the procedures for enforcement actions shall apply.

(G) Procedures for Enforcement Actions.

- (1) The Department may, on its own initiative or on complaint and after investigation, initiate enforcement actions, notwithstanding any other criminal, civil or administrative proceedings against the licensee.

(2) The Department will initiate an enforcement action with written notice to the licensee, which will include notice to the licensee regarding their right to a hearing pursuant to the Maine Administrative Procedures Act, Title 5, ch. 375, subch. 4.

(3) Enforcement actions shall be based upon the following:

- (a) Any false or misleading statements to the Department;
- (b) Other violations by the licensee or by an agent or employee of the licensee of 28-B MRS or the rules governing the adult use cannabis program;
- (c) Violations by the licensee or by an agent or employee of the licensee of the terms, conditions or provisions of the licensee's license, including all licensing criteria required to be granted a conditional or active license; or
- (d) Inactivity at the licensed premises for a period of 1 year or more without reasonable justification, including without limitation death or illness of a licensee, fire, natural disaster, or building conditions outside of the licensee's control.

(4) Any final agency enforcement action or order by the Department after administrative hearing 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 judicial review in the Maine Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

(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.

(3) 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 cannabis or cannabis 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 cannabis plants, cannabis or cannabis 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 cannabis establishment;
- (6) Knowingly diverting cannabis or cannabis products to the illicit market;
- (7) Three or more instances of a licensee failing to have on the premises, at all times during business hours, as applicable, 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 business hours, as applicable, or periods of apparent activity;
- (9) Failure to request and obtain from the Department approval for a change in ownership or principals prior to making the change in ownership or principals.
- (10) Intentionally tampering with or interfering with mandatory testing processes, including sample collection, or the auditing thereof; or
- (11) Other conduct that shows willful or reckless disregard for health and safety.

(4) 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 Commission, or any law enforcement officer for the purpose of evading responsibility for any requirements of Titles 28-B or 36 of the Maine Revised Statutes, the rules governing the adult use cannabis program, or the license;
- (2) Deliberately purchasing cannabis plants, cannabis or cannabis products from out of state or outside of the licensed and tracked adult use system;
- (3) Engaging in a pattern of reporting adult use cannabis plants, cannabis or cannabis products as medical cannabis for the purposes of avoiding taxation or regulation;

- (4) Selling cannabis plants, cannabis or cannabis 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 cannabis-related activity;
- (6) Engaging in a pattern of selling or transferring cannabis plants, cannabis or cannabis 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 cannabis plants, cannabis or cannabis products or is diverting cannabis or cannabis products them to persons under 21 years of age 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 business hours, as applicable, 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 business hours, as applicable, 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, the rules governing the adult use cannabis program or other laws or rules.

(5) 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 cannabis, cannabis plant or cannabis product that was illegally entered into the tracking system;
 - (2) Allowing anyone without a valid individual identification card to engage in any cannabis-related activity;
 - (3) Selling cannabis plants, cannabis or cannabis products to anyone under the age of 21, but over the age of 18, by failing to take all necessary steps to verify age;

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- (4)** Misrepresenting any cannabis 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 cannabis or cannabis product has curative or therapeutic effects;
- (6)** Treating or otherwise adulterating cannabis with any chemical (excluding a controlled substance or prohibited agricultural chemical but including nicotine) that has the effect or intent of altering the cannabis's color, appearance, weight or smell or that has the effect or intent of increasing potency, toxicity or addictiveness;
- (7)** Supplying adulterated cannabis or cannabis products;
- (8)** Failing to report suspicious purchasing patterns that suggest a customer is in possession of illegal amounts of cannabis plants, cannabis or cannabis products or is diverting cannabis or cannabis products to persons under 21 years of age 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 cannabis in exchange for a monetary sum less than the licensee has paid for the cannabis by way of authorized transfer or less than the value the licensee has invested, in labor and materials, in the cannabis;
- (12)** Allowing consumption of cannabis on a cannabis establishment premises, except as allowed by the rules governing the adult use cannabis program;
- (13)** Failure to have on the premises, at all times during business hours, as applicable, and periods of apparent activity, an individual identification card holder who is authorized to allow and cooperate with Department requests to inspect the premises;
- (14)** Deliveries to prohibited areas or structures including without limitation drug free safe zones designated by a municipality;
- (15)** Not operating in accordance with the current operations, cultivation or facility plan of record with the Department; or
- (16)** Any other violation of 28-B MRS or the rules governing the adult use cannabis program.

(6) 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.

(A) 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 the rules governing the adult use cannabis program.

(1) 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 375.

(2) A cannabis establishment with a restricted license may only exercise license privileges in compliance with the restrictions of the license.

(3) Failure to comply with restrictions is a violation of the rules governing the adult use cannabis program.

(4) A restriction remains in effect until the Department removes it.

(B) Suspension.

(1) Upon the finding of any license violation described in this section, in addition to any monetary penalties, the Department may suspend for a period of up to one year, any or all cannabis establishment licenses held by the licensee found in violation, including any other licenses with a common principal.

(2) The Department may suspend a license based upon the Department's determination that the licensee has failed at least two audits of a licensee's sample collection process.

(3) 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 cannabis establishment the licensee is licensed to operate.

(4) 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.

(C) Summary Suspension.

(1) The Department may order summary suspension of a cannabis establishment license for up to 30 days under the following circumstances:

(a) 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

(b) The Department has other objective and reasonable grounds to believe that public health, public safety or significant natural resources are in immediate jeopardy.

(2) The Department may order summary suspension of a cannabis establishment license if a court issues a ruling that indicates the licensee has committed a major license violation.

(D) Revocation.

(1) Upon the finding of any license violation described in this section, in addition to any monetary penalties, the Department may permanently revoke, any or all cannabis establishment licenses held by the licensee found in violation, including any other licenses with a common principal.

(2) The Department may permanently revoke a license based upon the Department's determination that the licensee has failed at least two audits of a licensee's sample collection process.

(3) The Department may also permanently revoke for inactivity, a cannabis establishment license, when it determines that the licensed premises have been inactive for a period of one year or more without reasonable justification.

(4) A licensee whose license has been revoked pursuant to this subchapter shall cease all activities relating to the operation of the cannabis establishment, following the procedure described in this section.

(5) A license that is revoked may not be transferred or renewed.

(E) Voluntary Surrender of License.

(1) 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:

(i) The amount of monetary penalties, if any are to be imposed;

(ii) The effect of the voluntary surrender on any other adult use cannabis licenses or medical cannabis registrations with which the licensee is associated;

(iii) The amount of time before which the licensee or any principal of the licensee may apply for an adult use cannabis license or medical cannabis registration; and

(iv) The waiver of appeal.

(2) A licensee who voluntarily surrenders its license must follow the procedure described in this section.

(F) Procedure for Termination of License. Licensees who permanently abandon the licensed premises or otherwise permanently cease all activities relating to the operation of

the cannabis establishment under its license, whether a result of revocation, voluntary surrender or other reasons, must follow the procedures for terminating a license prescribed by 28-B MRS §212. The licensee must:

(1) Provide written notice of abandoning the licensed premises or ceasing operations at least 48 hours in advance to the Department and the municipality in which the licensed premises are located, which shall mean notifying:

(a) The county commissioners of the county in which the township is located, for licensed premises located in townships;

(b) The Maine Land Use Planning Commission and the town or plantation, for licensed premises located in unorganized areas; or

(c) The city, town or plantation in which the licensed premises are located;

(2) Provide the Department and the municipality in which the licensed premises are located with a full accounting of all adult use cannabis and adult use cannabis products located within the licensed premises; and

(3) Forfeit the cannabis and cannabis products to the Department for destruction in accordance with 28-B MRS §803.

(7) Destruction and Voluntary Surrender of Cannabis Plants, Cannabis and Cannabis Products.

(A) Order by the Department.

(1) 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 cannabis or cannabis products in the possession of the licensee are not authorized under the rules governing the adult use cannabis program and are subject to destruction. A licensee subject to a final order directing the destruction of cannabis or cannabis products in its possession shall forfeit the cannabis or cannabis products to the Department or destroy the cannabis and cannabis products at the time and place and in the manner required by the Department in writing.

(2) 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 this subsection, as set forth in 28-B MRS § 803, the Department may not destroy any cannabis or cannabis products of that licensee until the destruction is approved by the criminal justice agency.

(B) Voluntary Surrender of Cannabis Plants, Cannabis or Cannabis Products.

(1) A licensee may elect, upon mutual agreement with the Department, to voluntarily surrender any cannabis plants, cannabis or cannabis products to the Department. Such voluntary surrender:

- (a) Must be made on a form supplied by the Department;
- (b) Must be signed by an individual who certifies that he or she has authority to represent and bind the licensee; and
- (c) May require destruction of any cannabis plants, cannabis or cannabis products in the presence of a Department employee or agent and at the licensee's expense; except that no cannabis plants, cannabis or cannabis products may be destroyed until the Department confirms with law enforcement that the cannabis plants, cannabis or cannabis products to be destroyed are not necessary to any ongoing investigation or prosecution.

(2) Such a voluntary surrender may be made:

- (a) Prior to a final order and upon mutual agreement with the Department;
- (b) In connection with a stipulated order through which the licensee waives the right to hearing and any associated rights;
- (c) 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
- (d) After a final order.

(3) 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.

(8) Audit, Compliance and Random Testing.

(A) Department May Require Audits and Random Testing. The Department may require a cannabis establishment licensee to submit samples identified by the Department to a testing facility 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 a testing facility of the Department's choosing.

(1) A testing facility doing audit testing must comply with applicable provisions of the rules governing the adult use cannabis program, and if conducting testing not required by this rule, may only use Department approved methods.

(2) 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.

(3) The Department may order the removal from retail sale of any cannabis or cannabis products for which a licensee has intentionally misrepresented testing results.

(4) The Department may exempt a product at its sole discretion.

(B) Routine or Random Audits of Sampling by Licensees. The Department may, with or without suspicion of infractions, conduct routine audits of any licensee's sample collection practices, including without limitation:

(1) Reviewing video footage;

- (2) Reviewing sample collection and chain-of-custody forms;
- (3) Inspecting any samples, including sample collection containers, for compliance with all packaging and labeling requirements of this rule;
- (4) Reviewing tracking system data and transportation manifests;
- (5) Requiring a demonstration of the licensee's sample collection practices; and
- (6) Requiring testing of batches, at the licensee's expense. Samples collected for testing pursuant to this paragraph must be collected by or in the presence of Department employees.

(C) Routine or Random Sampling and Testing of Cannabis and Cannabis Products by the Department. In accordance with 28-B MRS § 512, the Department may require a licensee to submit to sampling and testing of any cannabis or cannabis product within the licensee's possession during all business hours listed on the licensee's facility plan for the purpose of product quality control.

- (1) The Department may require the licensee to collect samples or may require that the licensee permit Department employees to collect samples in accordance with the Department-required sampling standard operating procedure.
- (2) The Department may require a licensee to pay for any testing required pursuant to this section at a cannabis testing facility that is licensed by the Department.

(9) Seizure or Confiscation of Cannabis, Cannabis Concentrate or Cannabis Products.

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

- (1) Any cannabis or cannabis products not properly logged in inventory records or the tracking system;
- (2) Any cannabis or cannabis products that are altered or not properly packaged and labeled in accordance with this rule ;
- (3) Any cannabis or cannabis products that has been cultivated, harvested, manufactured or transferred in a manner, or otherwise in a form, not compliant with 28-B MRS, the rules governing the adult use cannabis program or rules governing the Maine Medical Use of Cannabis Program; or
- (4) Improper use, handling, storage, transport, transfer or other possession of samples of cannabis, cannabis concentrate or cannabis products.

If the Department seizes cannabis, the Department shall not cultivate nor preserve any seized cannabis, cannabis plants or cannabis products. 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 cannabis, cannabis plants or cannabis products.

(B) Administrative Holds. The Department may order an administrative hold of cannabis or cannabis 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:

(1) If during an investigation or inspection of a licensee, an employee or agent of the Department develops reasonable grounds to believe certain cannabis plants, cannabis or cannabis products constitute evidence of acts in violation of 28-B MRS or the rules governing the adult use cannabis program or constitute a threat to the public health or safety, the employee or agent may issue a notice of administrative hold of any such cannabis plants, cannabis or cannabis products. The notice of administrative hold shall provide a documented description of the cannabis plants, cannabis or cannabis 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 Cannabis Policy or a designee regarding the reasons for issuing the administrative hold.

(2) Following the issuance of a notice of administrative hold, the Department will identify the cannabis plants, cannabis or cannabis products subject to the administrative hold in the tracking system. The licensee shall continue to comply with all tracking requirements.

(3) The licensee shall completely and physically segregate the cannabis plants, cannabis or cannabis 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.

(4) While the administrative hold is in effect, the licensee is prohibited from selling, giving away, transferring, transporting or destroying the cannabis plants, cannabis or cannabis products subject to the administrative hold, except as otherwise authorized by the rules governing the adult use cannabis program.

(5) While the administrative hold is in effect, the licensee must safeguard the cannabis plants, cannabis or cannabis 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 the rules governing the adult use cannabis program.

(6) Nothing herein shall prevent a licensee from voluntarily surrendering cannabis plants, cannabis or cannabis products that is subject to an administrative hold, except that the licensee must follow the procedures set forth in this section.

(7) Nothing herein shall prevent a licensee from the continued possession, cultivation or harvesting of the cannabis plants, cannabis or cannabis products subject to the administrative hold.

(8) At any time within 30 days after the initiation of the administrative hold, the Department may lift the administrative hold or seek other appropriate relief.

(10) Cannabis Recalls. The Department may require a licensee to recall any cannabis and cannabis 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) Cannabis or cannabis product contains an unauthorized pesticide(s);

(2) Cannabis or cannabis product failed a mandatory test and was not mitigated pursuant to testing protocols;

(3) Cannabis or cannabis product is contaminated or otherwise unfit for human use, consumption or application;

(4) Cannabis or cannabis product is not properly packaged or labeled; or

(5) Cannabis or cannabis product was not cultivated or manufactured by a cannabis 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 cannabis or cannabis products in the tracking system;

(3) May require a licensee to notify an individual to whom cannabis or a cannabis product was sold; and

(4) May require that the licensee destroy the recalled product.

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.