



CANNABIS CONTROL BOARD

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Date: February 16, 2022

To: Legislative Committee on Administrative Rules

From: Cannabis Control Board, prepared by David Scherr, General Counsel

Re: Two Proposed Edits to Cannabis Control Board Final Proposed Rule 1

The Cannabis Control Board presents to the Legislative Committee on Administrative Rules two proposed edits to the Final Proposed Rule 1 that the Board submitted on February 3, 2022. The first is a proposal from the Department of Taxes, to which the Board does not object. The second is a citation correction due to an editing error.

This memo explains both proposed edits. A clean copy of Final Proposed Rule 1 is attached with the proposed edits incorporated.

Section I was written by the Department of Taxes and submitted to the Cannabis Control Board by Andrew Stein, Chief Operating Officer of the Department of Taxes. As noted above, the Board has no objection to the Department's request, and submits it to LCAR for the committee's consideration.

Section II was prepared by the Board's General Counsel.

I. Tax Department Request for Revision of CCB Rule 1.4.5 (e)

The Department of Taxes (TAX) requests that the Cannabis Control Board (CCB) and the Legislative Committee on Administrative Rules revise CCB Rule 1.4.5 (e) to eliminate the requirement of a state tax identification number for CCB licensure. The revision would remove (strike out) the following five words from that provision:

(e) ~~state tax identification number and~~ school property account number at the physical site of operations;

This change effectively requires new cannabis businesses to first obtain CCB licensure before registering with TAX. The change is consistent with how all other tax types are administered on sales of regulated products – the license to sell a regulated product is required to register for remittance of a tax on the sale of that

product. This change does not impact the business's statutory requirement to obtain a tax license with the Tax Department prior to making sales of cannabis products. Making this change will ensure a smoother administrative process for these new businesses, the CCB, and TAX. Lastly, this change will help avoid unnecessary Department compliance exercises should a business not receive CCB licensure and that information not be communicated to TAX.

In summary, this revision helps with tax administration consistency, cross-governmental administration of a newly regulated market, and tax compliance of sales in that market.

II. Citation Correction

Section 1.18 of Rule 1 refers to subsections 1.4.4(h), (i), (j), and (k), but subsections 1.4.4(i), (j), and (k) do not exist. This is an editing error in which changes from a prior version of the rule were not fully integrated into the final proposed rule. The intention of these citations was to reference the last four subsections of section 1.4.4; previously, they did. The Board made several deletions to section 1.4.4 during its consideration of public comment, and now the last four subsections of Rule 1.4.4 are 1.4.4(e), (f), (g), and (h). Those are the subsections that section 1.18 should reference.

To correct this error, section 1.18 should be edited as follows:

1.18 Waiver Provisions for Tier 1 Cultivators

Tier 1 indoor cultivators, tier 1 outdoor cultivators, and tier 1 mixed cultivators are not required to comply with the requirements of the following subsections of this rule:

- (a) 1.4.2(g);
- (b) 1.4.2(h);
- (c) 1.4.4(a);
- (d) 1.4.4(b);
- (e) 1.4.4(c);
- (f) 1.4.4(~~eh~~);
- (g) 1.4.4(~~f~~);
- (h) 1.4.4(~~gj~~);
- (i) 1.4.4(~~hk~~);
- (j) 1.4.5(b);
- (k) 1.5.2(a), if the cultivation establishment will be a home occupancy business;
and
- (l) 1.5.2(b), if the cultivation establishment will be a home occupancy business.

The Board thanks the Legislative Committee on Administrative Rules for its consideration of these proposed edits.

**STATE OF VERMONT
CANNABIS CONTROL BOARD**

RULE 1: LICENSING OF CANNABIS ESTABLISHMENTS

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1. Rule 1: Licensing of Cannabis Establishments

Not every applicable prohibition, restriction, and requirement is contained in this rule. All Cannabis Establishments must abide by the prohibitions, restrictions, and requirements of Chapter 33, Title 7 of the Vermont Statutes. Cannabis Establishments must also abide by all other applicable laws, including but not limited to worker's compensation laws and tax laws.

1.1 General Provisions

1.1.1 Authority

The Cannabis Control Board adopts this rule pursuant to 7 V.S.A. §§ 881, 883, 884, 901, 902, 903, Section 8 of Act 164 (2020), and other applicable law.

1.1.2 Scope and Purpose

The Board is charged with implementing and regulating a legal market for Cannabis in Vermont. This rule regulates the licensing of Cannabis Establishments.

1.1.3 Definitions

All definitions in 7 V.S.A. § 861 shall apply to this rule. The following definitions shall also apply:

- (a) "Commercial bank" has the same meaning as defined in 8 V.S.A. § 11101(15).
- (b) "Employee" has the same meaning as defined in 21 V.S.A. § 481(5), provided that the applicable exceptions shall be 21 V.S.A. § 481(5)(B), (G), and (H).
- (c) "Entity" means any person, as defined in 7 V.S.A. § 861(23), that is not a natural person.
- (d) "Flammable Solvent" means a liquid that has a flash point below 100 degrees Fahrenheit.
- (e) "Greenhouse" means a structure or a thermally isolated area of a building that maintains a specialized sunlit environment exclusively for, and essential to, the cultivation or maintenance of Cannabis plants and that is in use for a period of 180 days or more each calendar year.
- (f) "Home occupancy business" means a business operated on the premises of an individual's home or property where the individual is domiciled.
- (g) "Indoor cultivation" means growing Cannabis using artificial lighting.
- (h) "Interest holder" has the same meaning as defined in 11A V.S.A. § 11.01(11).
- (i) "Inventory Tracking System" means a method implemented by the Board for tracing all Cannabis and Cannabis Products grown, manufactured, and sold in Vermont.
- (j) "Licensee" means a person who has been issued a license pursuant to this rule. A licensee does not include a person who has been issued a prequalification approval.
- (k) "Outdoor cultivation" means growing Cannabis in an expanse of open or cleared ground or in a structure that does not use artificial lighting and is not a greenhouse.
- (l) "Physical site of operations" means:

- i. A cultivator’s grow site,
 - ii. A wholesaler’s product storage facility,
 - iii. A manufacturer’s site of manufacture,
 - iv. A retailer’s store location, or
 - v. A testing laboratory’s testing facility.
- (m) “Prequalification approval” means a certification issued by the Board, in accordance with this rule, prior to a person’s approval as a licensee. A prequalification approval does not permit the recipient to operate a Cannabis Establishment.
- (n) “Social equity applicant” means either a “social equity individual applicant” or a “social equity business applicant” as those terms are defined in this rule.
- (o) “Social equity individual applicant” means an individual who is a resident of Vermont and who meets one or more of the following criteria:
- i they are a socially disadvantaged individual, as defined below,
 - ii they have been incarcerated for a cannabis-related offense, or
 - iii they have a family member who has been incarcerated for a cannabis-related offense.
 - 1 For the purposes of this definition, “family member” shall mean the following: a spouse, domestic partner (as defined in 17 V.S.A. §2414(e)(1)), child, step-child who resided with the family member when the child was a minor, minor in their guardianship, legal guardian, parent, sibling, grandparent, or grandchild.
- (p) “Social equity business applicant” means a corporation, partnership, or other business entity that meets the federal standards for Disadvantaged Business Enterprises (DBEs) as set forth in 49 C.F.R. §§ [26.69](#) and [26.71](#), except as provided in subdivision (i) of this subsection 1.1.3(p), even if the entity has not applied for any federal DBE programs. In determining whether a business applicant meets the federal standards for DBEs, the Board will consider only participants in the business who meet the definition of socially disadvantaged individual as defined by section 1.1.3(q)(i) of this rule and who are residents of Vermont.
- i The requirements of subparts 49 C.F.R. § 26.69(b)(1), (2), and (3) shall not apply to this subsection (p). The majority-interest requirement of 49 C.F.R. § 26.69(b) itself shall apply.
- (q) “Socially disadvantaged individual” is an individual who meets at least one of the following criteria:
- i They meet the criteria for social disadvantage as set forth in the following federal regulations regarding DBEs: [49 C.F.R. § 26.67\(a\)\(1\) and \(b\)\(2\)-\(3\)](#) to the extent permitted in subdivision 1.1.3(q)(i)(1) of this section, whether or not they have applied for any DBE programs, provided that no person shall be excluded from this definition because of their citizenship or immigration status.
 - 1 For the purposes of this rule, the rebuttable presumption in [49 C.F.R. § 26.67\(a\)\(1\)](#) shall be applied only to Black Americans and Hispanic Americans.
 - ii They are (1) from a community that has historically been disproportionately impacted by cannabis prohibition and (2) able to demonstrate to the Board that they were personally harmed by the disproportionate impact. In assessing this

personal harm, the Board may consider factors such as educational impacts, lost employment opportunities, or housing insecurity.

1.1.4 Applicability

This rule applies to persons who engage in the transfer or sale of Cannabis or Cannabis Products, including transfers or sales related to cultivating, manufacturing, wholesaling, or retailing Cannabis or Cannabis Products, except that this rule does not apply to activities regulated by Chapters 35 and 37 of Title 7 of the Vermont statutes and by Rule 3 of the Board's rules. This rule also applies to those who provide laboratory testing services to persons who engage in the transfer or sale of Cannabis or Cannabis Products.

1.1.5 Time

- (a) In computing any time period, measured in days, that is established or allowed by this rule or by order of the Board or Chair:
 - (1) the day of the act or event that triggers the period shall be excluded;
 - (2) every day, including intermediate Saturdays, Sundays, and legal holidays shall be counted;
 - (3) the last day of the period shall be counted, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- (b) A "legal holiday" means:
 - (1) any day declared a holiday by the President or Congress of the United States; and
 - (2) any day declared a holiday by the State of Vermont.

1.1.6 Severability

If any portion of this rule is found to be invalid, the remaining portion of the rule shall remain in force and effect.

1.2 License Application Format and Fees

1.2.1 Form

Applicants are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.

1.2.2 Fees

Applicants will be required to pay fees, or demonstrate that they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reductions for social equity applicants.

1.3 License Tiers

The Board establishes the following tiers for cultivation, retail, and manufacturing licenses.

1.3.1 Cultivation License Tiers

(a) Outdoor Cultivation:

i.

Tier	Max Sq Ft of Total Plant Canopy
1	1,000
2	2,500
3	5,000
4	10,000
5	20,000
6	37,500

ii. For tiers 1-6 of the outdoor cultivation tiers in this subsection (a), the Board will presume that each plant occupies no more than 8 square feet of space. For this reason, cultivators will be presumed to be compliant with the plant canopy limits if they comply with the following plant count limits:

1. Tier 1: 125
2. Tier 2: 312
3. Tier 3: 625
4. Tier 4: 1250
5. Tier 5: 2,500
6. Tier 6: 4,687

Growing more than the maximum plant count for the cultivator's tier will not be a violation of the plant canopy limit if the cultivator can show the plants occupy no more than the maximum square footage permitted for their tier.

iii. Applicants will be required to state on their application if they will measure their plant canopy by square footage or by plant count equivalent.

iv. Plants do not need to be contiguous, but they must be planted within the same school property account number (SPAN) or within two abutting SPANs. A SPAN will be considered abutting if it shares a boundary with a SPAN, or if it is adjacent to a SPAN and is separated only by a river, stream, or public highway.

(b) Indoor Cultivation:

Tier	Max Sq Ft of Total Plant Canopy
1	1,000
2	2,500
3	5,000

4	10,000
5	15,000
6	25,000

(c)

i. Mixed Cultivation:

Tier	Nature of Business
1	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 125 plants outdoors at the same premises
2	May cultivate up to 2,500 sq ft of plant canopy indoors and up to 312 plants outdoors at the same premises
3	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 625 plants outdoors at the same premises
4	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 1250 plants outdoors at the same premises
5	May cultivate up to 1,000 sq ft of plant canopy indoors and up to 2,500 plants outdoors at the same premises

ii. Plants in the outdoor portion of a mixed cultivator’s crop do not need to be contiguous, but they must be planted within the same school property account number (SPAN) or within two abutting SPANs. A SPAN will be considered abutting if it shares a boundary with a SPAN, or if it is adjacent to a SPAN and is separated only by a river, stream, or public highway.

1.3.2 Retail License Tiers

Retail – Storefront: This tier is a stand-alone retail location that sells Cannabis and Cannabis Products to consumers.

1.3.3 Manufacturing License Tiers

No manufacturer may violate a prohibition on manufacturing processes contained in 18 V.S.A. § 4230h.

(a) Tier 1 Manufacturer: A tier 1 manufacturer may, purchase, process, manufacture,

transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 1 manufacturer may produce Cannabis Products using all lawful methods of extraction.

- (b) Tier 2 Manufacturer: A tier 2 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 2 manufacturer may produce Cannabis Products using the following methods but may not utilize unapproved flammable solvent chemical extraction or flammable solvent chemical synthesis:
 - i. Water-Based Extraction: extraction using only water, ice, or other freezing substrate or process as approved by the Board.
 - ii. Food-Based Extraction: extraction using propylene glycol, glycerin, butter, coconut or olive oil, other typical cooking fats, or alcohol as approved by the Board.
 - iii. Heat/Pressure-Based Extraction: extraction using heat and/or pressure as approved by the Board.
- (c) Tier 3 Manufacturer: A tier 3 manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A tier 3 manufacturer may produce Cannabis Products using the same methods as a tier 2 manufacturer, but not a tier 1 manufacturer. A tier 3 manufacturer must be a home occupancy business with no more than one employee, and under \$10,000 in gross revenue each year.

1.3.4 Changing Tiers

A licensee may change to a different tier within their license type upon renewal of their license pursuant to section 1.15 of this rule, provided that they meet all other renewal requirements. Upon renewal the licensee must pay the fees associated with the tier they seek to enter.

1.4 License Application Requirements for All License Types

The requirements in this section apply to all license types authorized under 7 V.S.A. § 901.

1.4.1 Operating plans

Applicants must present an operating plan, which shall include all requirements of 7 V.S.A. § 881(a)(1)(B)(i) and, to the extent they are not required by that provision, the following elements:

- (a) The proposed Cannabis Establishment's legal name and any registered alternate name under which it may conduct business.
- (b) The name of the individual who will serve as primary point of contact with the Board and an email address where the individual can be contacted.
- (c) The type of license sought and, if relevant, the license tier.
- (d) Documentation that the applicant is an entity registered to do business in Vermont;
- (e) A federal tax identification number and social security numbers for each principal of the

proposed Cannabis Establishment and each natural person who controls the proposed Cannabis Establishment.

- (f) A list of the principals of the proposed Cannabis Establishment.
- (g) A list of all persons having control of the proposed Cannabis Establishment.
- (h) Whenever a person having control of a Cannabis Establishment is an entity, the applicant must provide:
 - i. a list of the principals of any entities having control of the Cannabis Establishment; and
 - ii. a list of natural persons who control any entities having control of the Cannabis Establishment.

Lists provided pursuant to this subsection 1.4.1(h) shall include without limitation natural persons who have control by way of beneficial ownership or record ownership. Intervening entities do not relieve an applicant of the obligation of disclosure under this provision.

- (i) Documentation and description, including the persons involved, of any contractual, management, or other agreement that explicitly or implicitly conveys control over the Cannabis Establishment.
- (j) For each person identified in (f) through (i) of this subsection, disclose whether that person would be required to be identified pursuant to (f) through (i) of any other license application.
- (k) Documentation disclosing whether any person named in sections (f) through (i) of this subsection is a controlling interest holder in a past or present Cannabis-related business in another jurisdiction.

1.4.2 Record Checks

An applicant, principal of an applicant, and person who controls an applicant, who is a natural person, shall be 21 years of age or older and shall consent to the release of his or her criminal and administrative records.

Each applicant, principal of an applicant, and person who controls an applicant, who is a natural person, shall submit the following:

- (a) the individual's full legal name and any aliases;
- (b) the individual's address;
- (c) the individual's date of birth;
- (d) a photocopy of the individual's driver's license or other government-issued identification card;
- (e) a full set of fingerprints in a form and manner as determined by the Board;
- (f) any other authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check;
- (g) a description of any criminal action against an applicant, principal, or person who controls an applicant in any jurisdiction that resulted in a conviction, guilty plea, plea of nolo contendere or admission to sufficient facts;
- (h) a description of any civil action that was commenced or resolved in the preceding 10 years in any jurisdiction in which the applicant, principal, or person who controls an

- applicant is or was a named party;
- (i) a description of any administrative action taken against the applicant, principal, or person who controls an applicant in any jurisdiction;
 - (j) a description of any disciplinary action against a license, registration, or certification held by the applicant, principal, or person having control of an applicant, such as a suspension or revocation, including, but not limited to, a license to prescribe or distribute controlled substances; and
 - (k) a description of any license denial, and the reasons for denial, in any jurisdiction.

The Board at its discretion may request any of the information described in subsections (g) through (k) of this section 1.4.2 for any natural person an applicant discloses pursuant to section 1.4.1(h) of this rule.

1.4.3 Financiers

- (a) Applicants must disclose documentation detailing the sources and amounts of capital resources available to the applicant from any person that will be contributing capital resources to the applicant for the purposes of establishing or operating the proposed Cannabis Establishment.
- (b) In addition to the disclosure requirements for applicants, principals, and persons who control an applicant in section 1.4.1 of this rule, financiers of applicants who do not fall into one of those categories must be 21 years of age and may be subject to the following requirements at the Board's discretion, provided that this subsection shall not apply to commercial banks:
 - i. A requirement to disclose information to the Board or the Department of Financial Regulation;
 - ii. a requirement to conduct a background check for natural persons who are financiers or who control financiers;
 - iii. a requirement to disclose principals and natural persons who control a financier to the same extent required by section 1.4.1(h) of this rule; and
 - iv. requirements to ensure that a financier complies with any applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers.

1.4.4 Compliance and Management Plans

All applicants must:

- (a) submit a contingency and continuity plan that addresses the dispersal or disposal of inventory in the event of an abrupt closure;
- (b) submit a timeline for beginning operations of the Cannabis Establishment;
- (c) attest that they will comply with applicable municipal ordinances; and
- (d) attest that they will comply with required inspections or permits from other state and local agencies (for example, certificates of occupancy).

Applicants who intend to hire, or who have hired, employees must provide:

- (e) an overview of positions and staffing levels;

- (f) an overview of general roles and responsibilities of staff;
- (g) an overview of the management structure; and
- (h) employee hiring and training plan, including safety training.

1.4.5 Insurance, Taxation, and Banking Requirements

Each applicant shall submit the following:

- (a) documentation of insurance coverage as required by Board Rule 2.2.2;
- (b) documentation of bond or escrow for cessation of operation of a Cannabis Establishment costs in an amount to be determined by Board guidance;
- (c) documentation of compliance with, or plan to comply with, worker's compensation requirements, if applicable;
- (d) confirmation of current Vermont tax compliance, or confirmation of a plan with the Department of Taxes to come into compliance, provided that this does not apply to tax liability from income related to Cannabis businesses;
- (e) school property account number at the physical site of operations;
- (f) authorization to release information to other state agencies, or to banking entities with whom the applicant seeks to bank; and
- (g) sufficient documentation, as determined by the Board, of one of the following:
 - i. a deposit account with a financial institution; or
 - ii. evidence of an attempt to open such an account along with a cash management plan.

1.4.6 Location Information

Applicants must provide both:

- (a) A business address as well as precise location information for the physical site of operations for the proposed Cannabis Establishment. A business address does not have to correspond with the physical site of operations. The location information for the physical site of operations must be in the form of GPS coordinates. GPS coordinates must be provided in Decimal Degrees (DD) format.
- (b) Proof that the applicant has a right to occupy the physical site of operations, through proof of ownership, a lease, or other document demonstrating a right to occupy and use the property, or proof that such a right will exist prior to the start of Cannabis Establishment operations.

1.4.7 Security

All applicants must submit a plan to comply with security requirements relevant to any license or licenses they seek to obtain, as required by Board Rule 2.

1.4.8 Information Sharing with State Agencies

By applying, an applicant consents to the Board sharing applicant information with other Vermont state agencies, including, but not limited to, the Department of Financial Regulation,

the Department of Labor, and the Department of Taxes. Information deemed confidential by 7 V.S.A. § 901(h) will remain confidential even if it is in the possession of another state agency.

1.4.9 Plans Related to Positive Impact Criteria

- (a) To the extent required in subsection (b), applicants must include plans related to the criteria listed in subsections (c) and (d). Failure to do so will not result in disqualification of their application but will pause their license approval process until they provide the relevant plan information. To the extent required by this section and section 1.15.3 of this rule, reports related to these criteria will be required for license renewal.
- (b) Applicants that are not testing laboratories must show plans for completion of the criteria in subsection (c) and (d) to the following extent:
 - i. Corporations, partnerships, or other business entities that are not sole proprietorships, and any applicants with plans to hire 2 to 10 employees must show plans to satisfy at least one criteria from subsection (c) and at least one criteria from subsection (d).
 - ii. All applicants that plan to hire more than 10 employees must show plans to satisfy at least 3 criteria from subsections (c) and at least three criteria from subsection (d).
- (c) To the extent required by subsection (b) of this section, applicants must propose plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who have historically been disproportionately impacted by cannabis prohibition using the following options:
 - i. Inclusive hiring and contracting plans.
 - ii. A plan for providing a livable wage.
 - iii. Adopting and supporting incubator or accelerator programs that seek to assist businesses that meet the definition of a social equity applicant or are minority or women-owned, including but not limited to providing:
 - 1. grants or access to capital;
 - 2. workforce re-entry training or programming;
 - 3. cultivation, manufacturing, or retail space;
 - 4. management training or other forms of industry-specific technical training;or
 - 5. mentorship from experts;
 - iv. A contribution or contributions to the Cannabis Business Development Fund established by 7 V.S.A. § 987.
- (d) To the extent required by subsection (b) of this section, applicants must propose plans to incorporate principles of environmental resiliency or sustainability, including energy efficiency, using the following options:
 - i. Sustainable agricultural practices.
 - ii. Sourcing energy from renewables.
 - iii. Exceeding minimum waste standards, as provided by Rule 2.2.8, or exceeding minimum efficiency standards as provided by Rule 2.5, if applicable.
 - iv. Contribute to anti-pollution efforts, which could include but is not limited to the use of carbon off-sets.

1.4.10 Statement of Truthfulness and Accuracy

All applicants shall attest to the truthfulness and accuracy of the information contained in their application.

1.5 License Application Requirements for Cultivators

The requirements in this section apply to applications for a cultivator license.

1.5.1 Location Information

In addition to the information required in subsection 1.4.5 of this rule, an applicant must provide:

- (a) A diagram or a site plan of the physical site of operation that is clearly legible and includes:
 - i. north arrow;
 - ii. standard scale;
 - iii. size of property in acres (for outdoor cultivator) or total square feet (for indoor cultivator);
 - iv. total plant canopy dimensions;
 - v. for outdoor cultivators, use of land and structures that share the property;
 - vi. for indoor cultivators, a diagram of how non-cultivation parts of the facility will be utilized.
- (b) A map showing the boundaries of the planned growing area, provided that this requirement applies only to outdoor cultivator Tiers 2-6.
- (c) The location for outdoor cultivators must comply with Rule 2.4.4 regarding visibility from a public road.

1.5.2 Water and Wastewater Requirements

General water supply and municipal wastewater requirements:

- (a) Cultivators on a municipal water supply must submit a letter from the water utility certifying the utility's capacity to provide a sufficient quantity of water to the applicant at the physical site of operation.
- (b) Cultivators using municipal wastewater, or other offsite wastewater system, must submit a letter certifying the wastewater system's capacity to accept the quantity and anticipated strength of wastewater from the physical site of operation.

Tier 5 and 6 Cultivator applicants must:

- (c) state the following if their water use and wastewater generation are covered by the Wastewater System and Potable Water Supply Rule, as promulgated by the Department of Environmental Conservation:
 - i. where they are planning on withdrawing water;
 - ii. by what means will they withdraw and, if necessary, store the water prior to use;
 - iii. when on-site water is also used for potable/sanitary purposes for workers;
 - iv. how many people may be on-site in a given day;

- (d) specify the volume and strength of the wastewater that the facility anticipates generating, using design flows from the Wastewater System and Water Supply Rule where appropriate and specify how it will be treated and disposed;
- (e) state whether the Cannabis Establishment needs to comply with the Indirect Discharge Rules and Underground Injection Control Rules as promulgated by the Department of Environmental Conservation; and
- (f) describe the anticipated means of collecting, storing, treating, and discharging wastewater.

1.5.3 Indoor Cultivators

Indoor cultivation Cannabis Establishments must identify whether their water supply and wastewater systems must comply with any applicable portion of the Department of Environmental Conservation's Drinking Water and Groundwater Protection Division rules.

1.6 License Application Requirements for Manufacturers

The requirements in this section apply to applications for a manufacturing license.

Manufacturers must indicate whether they are planning to utilize solvent-based extraction.

1.7 License Application Requirements for Retailers

The requirements in this section apply to applications for a retail license.

Retailers must indicate whether any intended sale items will contain CBD, hemp, or a hemp-derived compound, or is a consumable item that is not intoxicating.

1.8 License Application Requirements for Testing Laboratories

The requirements in this section apply to applications for a testing laboratory license.

Applications for testing laboratories may be reviewed for qualification by the Board or a Board designee.

At its discretion, the Board may waive or reduce licensing requirements, including fees, for a laboratory that has a current certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567.

A testing laboratory applicant must submit:

- (a) current laboratory accreditation certificates, or proof of certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567;
- (b) laboratory quality assurance manual or procedures which document the lab quality control system, and an outline of the quality management system;

- (c) the laboratory standard operating procedures for analysis of Cannabis and Cannabis Products;
- (d) a master list of all analytical and non-analytical (i.e., safety and training) standard operating procedures indicating the latest revision and review dates and current effective dates;
- (e) documentation of educational and technical credentials for all key technical and management personnel;
- (f) current organization chart, including reporting relationships;
- (g) example Certificates of Analysis (CoA) to be issued by the laboratory for each test area, containing all information required in a CoA;
- (h) the latest proficiency results for Cannabis testing or similar matrix (i.e., food, solids,) for all test areas in which it states it is certified, if available;
- (i) proof of analytical proficiency.

1.9 License Application Requirements for Integrated Licensees

The requirements in this section apply to applications for an integrated license.

An integrated license applicant must meet all requirements in sections 1.4-1.8 of this rule, and must also submit:

- (a) A plan to provide reduced cost or free Cannabis to patients with documented, verified financial hardship who are utilizing the dispensary operation;
- (b) a plan to ensure 25% of Cannabis flower sold is obtained from tier 1 cultivators,
- (c) a list of products purchased by registered patients in the preceding 12 months;
- (d) plan to ensure continuity of products for patients accessing the dispensary operation;
- (e) plan to contribute \$50,000 to the Cannabis business development fund by October 1, 2022; and
- (f) attestation of good standing with respect to their medical Cannabis dispensary license in accordance with 7 V.S.A. § 903(a)(1). For the purposes of this subsection (f), good standing shall mean the dispensary is in compliance with Chapter 86 of Title 18 of the Vermont Statutes, and with all associated rules.

1.10 License Application Acceptance Periods

- (a) The Board will accept license applications in accordance with legislatively mandated time periods.
- (b) Other than legislatively mandated time periods, the Board may open or close acceptance periods for applications at its discretion, provided that the Board will give public notice no less than 30 days prior to opening and 30 days prior to closing an application acceptance period.
- (c) The Board may set separate application acceptance periods for each of the license types and may set separate application acceptance periods for each tier within tiered license types.
- (d) Other than legislatively mandated application acceptance periods, the Board may open application periods at their discretion, subject to the following limitations:

- i. the Board shall accept applications for license types, other than cultivation license types, for no less than 30 days each calendar year; and
 - ii. the Board shall accept applications for Tiers 1 and 2 of both indoor and outdoor cultivation license types for no less than 30 days each calendar year. The 30-day window for this subdivision 1.10(d)(ii) must open no later than February 1 of each calendar year.
- (e) Nothing in this section 1.10 shall be interpreted to impact the license renewal process governed by section 1.15 of this rule.

1.11 Criminal Records and License Qualification Determinations

1.11.1 Effect of Criminal Records on Application

Except as provided in 1.11.2, no criminal offense committed by an applicant, the principal of an applicant, or a person who owns or controls an applicant, will have a negative effect on their application or disqualify them from obtaining a license.

1.11.2 Presumptive Disqualification

Convictions for offenses in the following categories presumptively disqualify an applicant, the principal of an applicant, or a person who controls an applicant from gaining a license to operate a Cannabis Establishment, provided that a person may overcome the presumption as specified in section 1.11.3:

- (a) A listed crime as defined in subsection 13 V.S.A. § 5301(7) or the equivalent in another jurisdiction;
- (b) A conviction for an offense in 13 V.S.A. chapter 64 or the equivalent in another jurisdiction;
- (c) a state or federal felony offense involving fraud, deceit, or embezzlement;
- (d) convictions that demonstrate an ongoing involvement with organized criminal enterprises, including violent gangs and drug cartels;
- (e) trafficking of a regulated substance other than Cannabis. For the purposes of this subsection (c), trafficking will mean a violation of 18 V.S.A. §§ 4231(c), 4233(c), 4233a(b), 4234a(c), or a non-violent drug distribution offense in another jurisdiction that carries a maximum penalty of 30 years of incarceration or greater;
- (f) dispensing cannabis to a person under 21 years of age in violation of 18 V.S.A. § 4230f, or the equivalent offense in another jurisdiction;
- (g) misdemeanor convictions that occurred within the 2 years preceding the application; except for non-violent offenses; or
- (h) felony convictions that occurred within the 5 years preceding the application, except for non-violent offenses.

1.11.3 Overcoming Presumptive Disqualification

The Board may deem an individual qualified to obtain a license even if they were convicted of an offense enumerated in section 1.11.2. In making this decision, the Board shall consider the following factors:

- (a) The nature and seriousness of the crime or offense;
- (b) The circumstances under which the crime or offense occurred;
- (c) The date of the crime or offense;
- (d) The age of the person when the crime or offense was committed;
- (e) Whether the individual committed subsequent offenses;
- (f) Any social conditions that may have contributed to the commission of the crime or offense;
- (g) The nature and responsibility of the position that the person with a conviction would hold, has held, or currently holds; and
- (h) Any evidence of rehabilitation.

License applications will allow applicants to provide additional information related to these factors, if relevant.

1.12 Issuance of Licenses

- (a) The Board shall issue licenses to applicants who meet all requirements for their licenses contained in this rule and all requirements for their licenses contained in Chapter 33 of Title 7 of the Vermont Statutes.
- (b) Notwithstanding subsection (a) of this section 1.12, the Board retains the right to deny a license to an applicant that the Board finds would threaten public health or safety if the applicant were to obtain a license. Such a decision shall be supported by written findings.
- (c) Applicants who falsely attest to the truthfulness and accuracy of the information in their application will be deemed unqualified for a license. If an applicant applies for a license again subsequent to such a denial, the Board may request additional information from the applicant, at the Board's discretion, to assess the truthfulness and accuracy of the subsequent application.
- (d) A licensee, the principal of a licensee, or person who controls a licensee, whose license has been revoked pursuant to Board Rule 4, may not obtain a license until at least 1 year has passed since the revocation took effect.
- (e) A grant or denial of a license under this section 1.12 shall constitute a final decision of the Board for the purposes of appeals pursuant to 7 V.S.A. § 847.

1.13 Prequalification Approval

1.13.1 Purpose of Prequalification Approval

The Board at its discretion may choose to issue prequalification approvals, in accordance with this section, for the purposes of smoothing the application process for applicants as well as assisting the Board in anticipating the structure of the market.

1.13.2 Limits of Prequalification Approval

A prequalification approval does not permit the recipient to operate a Cannabis Establishment. An applicant does not become a licensed Cannabis Establishment, and is not permitted to operate, until the Board issues the applicant a license subsequent to the submission of the

applicant's complete and successful application in accordance with this rule.

1.13.3 Forms and Fees for Prequalification Approval

- (a) Those applying for prequalification approval are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.
- (b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

1.13.4 Prequalification Approval Application Acceptance Periods

The Board may choose to accept prequalification approval applications at its discretion. It will provide public notice of its intention to accept prequalification approval applications no less than 30 days prior to opening the acceptance period. It will provide public notice of its intention to close a prequalification approval application acceptance period no less than 30 days prior to closure.

1.13.5 Prequalification Approval Application and Issuance

- (a) prequalification approval applications shall consist of the materials required by sections 1.4.1 and 1.4.2 of this rule.
- (b) The Board shall certify a prequalification approval for any prequalification approval application that meets the requirements of subsections 1.4.1 and 1.4.2 of this rule and is not in violation of 7 V.S.A. § 901(d)(3).

1.13.6 Converting a Prequalification Approval to a Full License Application

Prequalification approvals shall remain valid for 365 days from the date of issuance. They may be rescinded by the Board if the Board learns that information provided in the prequalification approval application was not truthful or accurate. Persons with a prequalification approval must do the following to convert their prequalification approval into a full license application:

- (a) update all information submitted in accordance with section 1.13.5 of this rule, and
- (b) provide all other applicant information required by this rule.

1.14 Priority of Board Considerations for License Applications

- (a) The Board shall consider applications under a priority system that is laid out in a policy readily available to the public.
- (b) The policy shall give top priority to social equity applicants when considering applications.
- (c) The policy shall also utilize the factors listed in 7 V.S.A. § 903(a).

1.15 License Renewal Procedures

1.15.1 License Renewal Timeframes

- (a) Licenses are valid for the time period provided in 7 V.S.A. § 901, except as provided in section 1.17 of this rule.
- (b) The Board will send notice for license renewals no less than 120 days prior to the expiration of a license.
- (c) Renewal applications may be submitted up to 90 days prior to their expiration.
- (d) A licensee must apply for renewal no less than 30 days prior to the license's expiration date, provided that:
 - i. if a licensee fails to meet this deadline, they may submit a renewal application accompanied by a written explanation for the untimely filing, and
 - ii. the Board may accept such a renewal application and, if necessary, continue the licensee's existing license until such time as the renewal process is completed.
- (e) If a licensee files a timely renewal application but does not receive a response from the Board prior to the expiration date for their license their license shall continue to be valid until such time as the Board provides a response, at which time their license will be renewed if the application is granted or terminated if it is not.
- (f) A licensee who does not submit a license renewal application prior to the expiration of their license is no longer a licensee upon the date their license expires. Such a person may no longer operate the Cannabis Establishment.

1.15.2 License Renewal Form and Fees

- (a) Licensees must apply for renewal in a format determined by the Board. The Board will make the application form readily accessible to the public.
- (b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

1.15.3 License Renewal Information Requirements

Licensees must submit the following information with their renewal applications, if applicable:

- (a) efficiency to the extent required by Board Rule 2.5.6;
- (b) a description of changes or adjustments to an outdoor cultivation site, if any, providing the same type of location information as required by sections 1.4.5 and 1.5.1 of this rule;
- (c) all other updates to the information submitted in a licensee's application or prior renewal application; and
- (d) information regarding progress on the licensee's required goals as required by section 1.4.9 of this rule.

Nothing in this section should be interpreted to supersede or alter a licensee's continuing duty to disclose as provided by Board Rule 2.11.

1.15.4 Conditions For Renewal

The Board shall renew the license of a licensee that meets the following requirements:

- (a) Remains in compliance with this rule, with all other relevant Board Rules, and with the provisions of Chapter 33 of Title 7 of the Vermont Statutes, provided that Notices of Violation will be dealt with in accordance with subsection (d) of this section 1.15.4;
- (b) has paid any fee required by 1.15.2;
- (c) has provided the information required by 1.15.3; and
- (d) is in good standing with the Board. For the purposes of this section, good standing is defined as having no unpaid or otherwise unsatisfied final Notice of Violation against the licensee issued pursuant to Board Rule 4, provided that:
 1. a Notice of Violation will not be considered final for the purposes of this section until all appeals have been exhausted or waived, and
 2. A licensee who is complying with a Board-approved plan to remediate harm stemming from a violation will be considered in good standing.

A licensee whose license has been suspended or revoked pursuant to Board Rule 4 will not be considered a licensee for the purposes of this section. License reinstatement in those circumstances, if available, is governed by Board Rule 4.

1.16 Cannabis Establishment Identification Cards

1.16.1 Identification Cards for Owners and Principals

- (a) For the purposes of this section, an "owner" means a natural person who controls, or shares control of, a Cannabis Establishment.
- (b) All owners and principals will be issued Cannabis Establishment identification cards upon the issuance of a license to operate a Cannabis Establishment.

1.16.2 Forms and Fees for Cannabis Establishment Identification Cards

- (a) Those applying for identification cards are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.
- (b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

1.16.3 Application Requirements for Cannabis Establishment Identification Cards

To apply for a Cannabis Establishment identification card the following information must be submitted:

- (a) the individual's full legal name and any aliases,
- (b) the individual's address,
- (c) the individual's date of birth,
- (d) a photocopy of the individual's driver's license or other government-issued identification card,
- (e) a full set of fingerprints in a form and manner as determined by the Board,

- (f) any other authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check,
- (g) a listing of criminal convictions, including any pending offenses,
- (h) information listed in section 1.11.3 of this rule, if applicable,
- (i) if the applicant holds or has held a similar card in another jurisdiction, the name of the issuing authority, and the approximate dates held, and
- (j) if a similar card is or has been held in another jurisdiction, whether that card was revoked and the reason for revocation.

1.16.4 Qualification for Cannabis Establishment Identification Cards

Individuals who submit a complete application for an identification card will be issued a card after a background check is complete, except that:

- (a) No individual under 21 years of age will be issued an identification card; and
- (b) the Board may deny an individual an identification card if an applicant has a record of any of the following:
 - i. a presumptively disqualifying criminal offense as defined in 1.11.2, provided that the Board will also consider mitigating factors as defined in 1.11.3;
 - ii. diversion of Cannabis from a past Cannabis Establishment employer in the regulated market in Vermont or another state;
 - iii. failure to disclose required information on their application;
 - iv. revocation of a similar identification card from Vermont or another jurisdiction in the last 2 years, or more than twice;
 - v. fraudulent use of the identification card in Vermont or other jurisdictions including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate the card;
 - vi. failure to notify the Board of a lost, stolen, or destroyed card; and
 - vii. failure to notify the Board of convictions pending at the time of application or convictions that occur after the card is issued.
- (c) The Board will retain discretion to issue identification cards to individuals who have a record of behavior as outlined in subsection (b) if they demonstrate evidence of rehabilitation or show mitigating social factors surrounding the behavior. Identification card applications will allow for individuals to provide such evidence or explanation, if relevant.

1.16.5 Temporary Work Permit

- (a) Upon receipt of an application for an identification card and prior to the completion of a background check the Board will issue a temporary work permit allowing the individual to work at a Cannabis Establishment if the applicant is over 21 years old and discloses no record of behavior related to 1.16.4(b) of this rule, except that the Board retains discretion to deny a temporary license to any applicant if the Board has knowledge of such a record.
- (b) The Board may withdraw a temporary permit if they gain knowledge of behavior related to 1.16.4(b) after issuing a permit.

- (c) If an application for an identification card discloses behavior related to 1.16.4(b) of this rule, the Board retains discretion to issue a temporary work permit if the Board determines it can do so consistent with public health and safety.
- (d) A temporary permit will expire after 4 months, or upon the issuance or denial of an identification card, whichever comes first. If a temporary permit expires before the Board decides whether to issue or deny an identification card, the Board shall issue a new temporary permit card.

1.16.6 Ongoing Duty to Disclose

The holder of an identification card has an ongoing duty to fully and transparently disclose any information relevant to the criteria in section 1.16.4 of this rule.

1.16.7 Identification Card Renewal

- (a) All holders of identification cards will undergo a background check by the Board prior to renewal.
- (b) Requests to renew identification cards will be considered pursuant to the standard in section 1.16.4 of this rule.
- (c) Identification cards will expire in accordance with the timeline provided by 7 V.S.A. § 884. Identification cards will have an expiration date printed on them.
- (d) Requests to renew identification cards will adhere to the following timeline:
 - i. A card holder must apply for renewal no less than 30 days prior to the card's expiration date, provided that:
 - 1. if a card holder fails to meet this deadline, they may submit a renewal application accompanied by a written explanation for the untimely filing, and
 - 2. the Board may accept such a renewal application and, if necessary, continue the card holder's existing card until such time as the renewal process is completed.
 - ii. If a card holder files a timely renewal application but does not receive a response from the Board prior to the expiration date for their card the card shall continue to be valid until such time as the Board provides a response, at which time their card will be renewed if the application is granted or terminated if it is not.
 - iii. A card holder who does not submit a license renewal application prior to the expiration of their card is no longer a card holder upon the date their card expires. Such a person may no longer work at a Cannabis Establishment.
- (e) Upon the final expiration of an identification card the holder of the card must return it to the Board or must destroy it.

1.17 Change of License Control or Change of License Location Requires a License Renewal Application

- (a) Either of the following changes to a license requires a licensee to submit a license renewal application in accordance with the terms of this section and section 1.15 of this rule:
 - i. When an interest holder who has control of a licensee will be changed, including by adding a person who will be an interest holder and will have control, removing a person who is an interest holder and has control, or transferring control from one person who is an interest holder to another person who is an interest holder. This provision does not apply in the event of the death of an interest holder who has control of a licensee. In such instances the licensee shall notify the Board of the death at the time the license is to be renewed pursuant to 7 V.S.A. § 901 section 1.15.1 of this rule.
 - ii. When a licensee wishes to change the physical site of operations for their license.
- (b) A licensee may not consummate a change of control before the Board approves their license renewal application.
- (c) A licensee may not move to a new physical site of operations before the Board approves their license renewal application.
- (d) A license renewal application submitted pursuant to this section 1.17 may be submitted at any time, including during the time a licensee's regular renewal application would be submitted pursuant to section 1.15.1 of this rule. For renewal application submitted during the regular renewal timeframe, licensees may submit one renewal application that satisfies section 1.15 and this section 1.17.
- (e) The renewal must have all application information updated to reflect the proposed changes of control or change of location. These updates must include, but are not limited to, updates of the information required in sections 1.4.1, 1.4.2, and 1.4.6 of this rule.
- (f) A licensee who fails to renew their license prior to consummating a change of control or moving to a new location will be considered a licensee who failed to renew their license before it expired, as provided in section 1.15.1(f) of this rule.
- (g) The fees required by section 1.15.2 of this rule will apply to renewal applications submitted pursuant to this section, provided that the Board will retain discretion to waive or reduce fees for such renewals.
- (h) A change of control that results in a social equity licensee no longer meeting the qualifications to be a social equity applicant could trigger a requirement that the new licensee repay fee waivers from prior years, in accordance with the fee waiver or reduction policy that the Board will make readily accessible to the public.
- (i) Upon Board approval of a license renewal application submitted pursuant to this section the time period for which a license remains valid, as provided by 7 V.S.A. § 901, will start again.
- (j) If the Board does not approve a license renewal application submitted pursuant to this section, the licensee may not proceed with the proposed change in control or the proposed move. The licensee's existing license will remain in effect until such time as renewal would otherwise have been required by 7 V.S.A. § 901.
- (k) A licensee who has been granted a license to change location pursuant to this section shall not be considered to be in violation of the license location restrictions of 7 V.S.A. § 901 during the move from one location to another, provided that:
 - i. the move may not last longer than 60 days from the grant of the new license, and

- ii. the Board retains discretion to find the licensee in violation of Board rules if, in the Board's judgment, the licensee is utilizing this provision to effectively subvert the location limitations of 7 V.S.A. § 901 by operating their Cannabis Establishment out of both locations.

1.18 Waiver Provisions for Tier 1 Cultivators

Tier 1 indoor cultivators, tier 1 outdoor cultivators, and tier 1 mixed cultivators are not required to comply with the requirements of the following subsections of this rule:

- (a) 1.4.2(g);
- (b) 1.4.2(h);
- (c) 1.4.4(a);
- (d) 1.4.4(b);
- (e) 1.4.4(c);
- (f) 1.4.4(e);
- (g) 1.4.4(f);
- (h) 1.4.4(g);
- (i) 1.4.4(h);
- (j) 1.4.5(b);
- (k) 1.5.2(a), if the cultivation establishment will be a home occupancy business; and
- (l) 1.5.2(b), if the cultivation establishment will be a home occupancy business.

1.19 Applicant's Ongoing Duty to Disclose

An applicant has an ongoing duty to fully and transparently update their application while it is pending if there are changes to any information submitted in their application.

1.20 Confidentiality

Application materials will be kept confidential by the Board to the extent required by 7 V.S.A. § 901(h).