

## **7.0 Tracking, transportation, and record keeping**

### **7.1 General tracking requirements**

7.1.1 Marijuana Establishments must track all marijuana plants, marijuana, and marijuana products from seed to the point of sale, using the tracking system specified by the Commissioner.

7.1.2 Marijuana Establishments must record the following data in the tracking system

7.1.2.1 A complete inventory of all seeds, marijuana plants, immature marijuana plants, mother plants and flowering marijuana plants, marijuana, and marijuana products in the possession, control or ownership of the marijuana establishment:

7.1.2.2 Any changes to inventory of any marijuana plants, marijuana, and marijuana products

7.1.2.3 When marijuana plants are partially or fully harvested or destroyed

7.1.2.4 When marijuana waste is destroyed

7.1.2.5 When an authorized transfer occurs

7.1.2.6 Any theft of marijuana plants, marijuana, or marijuana products

7.1.2.7 All sales records

7.1.2.8 All testing samples, including samples for research and development, and mandatory compliance test results

7.1.2.9 Any other information required by the tracking system or specified by the Commissioner.

7.1.3 Any misstatements or omissions shall be a violation of these regulations.

7.1.4 Proper use of the inventory tracking system does not relieve a marijuana establishment of its responsibility to maintain compliance with all laws, rules, regulations, and other requirements at all times.

### **7.2 Implementation of the tracking system**

7.2.1 Marijuana Establishments must have a tracking system account activated and functional prior to operating or exercising any privileges of a license, unless excused by the Commissioner in writing.

7.2.2 Marijuana Establishments may not enter any inventory into the tracking system until the marijuana establishment receives an active license from the Commissioner.

7.2.3 Marijuana Establishments must designate one employee as the tracking system administrator.

7.2.4 Marijuana Establishments are responsible for all costs associated with the use of the tracking system.

### **7.3 Requirements for use of the tracking system**

7.3.1 Marijuana Establishments must reconcile all on-premises and in-transit marijuana plants, marijuana, and marijuana product inventories, and sales records, each day in the tracking system by 11:59 p.m. that same day.

7.3.2 Marijuana Establishments must utilize a standard of weights and measures that is supported by the tracking system. Any scale used to weigh product prior to entry into the inventory tracking system shall be certified in accordance with **XX**.

7.3.3 Marijuana Establishments must maintain the security of the tracking system by adhering to the following:

7.3.3.1 Only employees of the marijuana establishment are authorized to access the tracking system

7.3.3.2 Employees shall be trained before being given access to the tracking system

7.3.3.3 The marijuana establishment is accountable for all actions employees take while logged into the tracking system

7.3.3.4 Each individual user is accountable for their actions while logged into the tracking system

7.3.3.5 Each individual user shall only log activities in the tracking system under the user's own unique tracking system account.

7.3.4 The Marijuana Establishment using the tracking system is responsible for the accuracy of all information entered into the tracking system.

## **7.4 Requirements for use of third-party software**

7.4.1 Marijuana Establishments may use separate software applications to collect information to be used by the business, including secondary tracking or point of sale systems.

7.4.2 Marijuana Establishments must ensure all relevant tracking system data is accurately transferred to and from the tracking system for the purposes of reconciliations with any third-party software platforms.

7.4.3 The tracking system data is the primary source of inventory data and any third-party software application must be compatible with the tracking system.

## **7.5 Tracking system procedures**

7.5.1 A Marijuana Establishment's tracking system must accurately do the following:

7.5.1.1 Indicate the creation of a harvest batch or production batch including the assigned harvest batch or production batch number;

7.5.1.2 Identify when inventory is no longer on the premises or is part of a transfer to another marijuana establishment, including samples for mandatory compliance testing;

7.5.1.3 Indicate test results from a licensed testing facility, as applicable;

7.5.1.4 Record all remediation steps taken to remediate any batches of marijuana or marijuana products that fail testing;

7.5.1.5 Indicate the tracking system item categories for all marijuana and marijuana products;

7.5.1.6 Record the actual wholesale price of all marijuana and marijuana products sold or transferred to another Marijuana Establishment; and

7.5.1.7 Record the actual retail price of all marijuana and marijuana products sold to a consumer.

7.5.2 If at any time a Marijuana Establishment loses access to the tracking system, the Marijuana Establishment must f:

7.5.2.1 Immediately notify the Commissioner and shall keep and maintain comprehensive records detailing all marijuana plants, marijuana, and marijuana product tracking activities that were conducted during the loss of access.

7.5.2.2 Once access is restored, enter into the tracking system all marijuana plants, marijuana, and marijuana product tracking activities that occurred during the loss of access and notify the Commissioner when notified access has been restored.7.5.3. In the event of a statewide outage of the tracking system that is expected to last more than 24 hours, the Commissioner will notify Marijuana Establishments of any interim tracking procedures or other requirements during the outage.

## **7.6 General record keeping requirements**

7.6.1 In accordance with **XX** and **XX**, all Marijuana Establishments must keep and retain the following records for the period of time provided below:

7.6.1.1 Detailed financial reports of proceeds and expenses for three years;

7.6.1.2 All inventory, sales, and financial records in accordance with generally accepted accounting principles (“GAAP”) for three years;

7.6.1.3 All records and plans required by the application in **XXX** for three years;

7.6.1.4 Personnel records for each employee or agent for a period of at least six months after the employee or agent are no longer affiliated with the Marijuana Establishment. The record must include:

7.6.1.4.1 The application for employment or volunteer;

7.6.1.4.2 A record of any disciplinary action taken; and

7.6.1.4.3 Documentation of all required training in accordance with **XX** and **XX**. Documentation shall include a signed statement from the employee, volunteer, or agent indicating the date, time, and topic(s) of the training.

7.6.1.5 All tracking records, in the event of an outage of the tracking system, for a period of at least six months after the outage;

7.6.1.6 Any formal or informal agreements with agents that will perform authorized activities for the marijuana establishment for at least three years following expiration of the agreement;

7.6.1.7 Transport manifests, in accordance with subsection **XX** of these regulations, for a period of 2 years; and

7.6.1.8 Any other records as required by the Commissioner.

7.6.2 Retail marijuana stores shall maintain and keep, for a period of three years, records of marijuana products sold including invoices and bills of lading.

## **7.7 General transportation requirements**

7.7.1 All marijuana plants, marijuana, and marijuana products, including samples for mandatory compliance testing and research and development, must be transported as follows:

7.7.1.1 Transportation must be conducted between licensed premises;

7.7.1.2 Transportation must be conducted with a transport manifest generated by the tracking system;

7.7.1.3 Transportation must be conducted with the marijuana plants, marijuana, or marijuana products are contained within an enclosed, locked area in the transport vehicle;

7.7.1.4 Perishable marijuana products must be transported with adequate refrigeration; and

7.7.1.5 All marijuana plants, marijuana, and marijuana products must be shielded from public view.

7.7.2 All marijuana plants, marijuana, and marijuana products, including samples for compliance testing, being transported must not:

7.7.2.1 Be removed from the vehicle until arrival at the destination; or

7.7.2.2 be transferred or stored at any unlicensed premises.

7.7.3 Marijuana Establishments transporting marijuana plants, marijuana, or marijuana products may not conduct any stops between registered facilities except:

7.7.3.1 To accommodate meals and rest periods required by law;

7.7.3.2 To refuel the transport vehicle;

7.7.3.3 In the case of an emergency, in which case the Marijuana Establishment transporting the marijuana plants, marijuana, or marijuana products must promptly notify the Commissioner of the reasons for the stop; or

7.7.3.4 The Marijuana Establishment is making multiple deliveries to other licensed premises.

7.7.4 Vehicles used for transporting marijuana plants, marijuana, and marijuana products must:

7.7.4.1 Be insured at or above the legal requirements in Delaware;

7.7.4.2 Be equipped with a functional, manufacturer-installed alarm system;

7.7.4.3 Allow only employees, volunteers, and agents of the marijuana establishment in transport vehicles while transporting marijuana plants, marijuana, or marijuana products; and

7.7.4.4 If requested by the Commissioner, pass an inspection by the Commissioner or DATE before transporting marijuana plants, marijuana, and marijuana products.

7.7.5 Marijuana Establishments receiving marijuana plants, marijuana, or marijuana products must:

7.7.5.1 Verify the condition and quantity of marijuana plants, marijuana, or marijuana products included in the transport manifest;

7.7.5.2 Record in the tracking system and any other relevant business records any refused marijuana plants, marijuana, or marijuana products, or other discrepancies found between the

marijuana plants, marijuana, or marijuana products delivered and the marijuana plants, marijuana or marijuana products on the transport manifest;

7.7.5.3 Enter the received marijuana plants, marijuana, or marijuana products in the tracking system in accordance with subsection 7.3 of these regulations; and

7.7.5.4 Provide an authorized signature of the employee, volunteer, or agent receiving the marijuana plants, marijuana, or marijuana products on the transport manifest belonging to the party transporting the marijuana plants, marijuana, or marijuana products.

7.7.6 Marijuana Establishments transporting the marijuana plants, marijuana, or marijuana products must retain a copy of the transport manifest for their records.

## **8.0 Marijuana and marijuana product health standards**

### **8.1 Allowable and prohibited products**

8.1.1 Allowable marijuana and marijuana products include:

8.1.1.1 Smokable marijuana, including shake, trim, pre-rolled marijuana, and infused pre-rolled marijuana;

8.1.1.2 Marijuana concentrates, including any type of hash (water hash, pressed hash), dry sieve (kief), and hash oils (CO2 oil, shatter, wax, resin, and rosin);

8.1.1.3 Non-smokable marijuana products intended for oral consumption, including edible marijuana products, multi-serving marijuana beverages, single-serving marijuana beverages, and tinctures;

8.1.1.4 Topical marijuana products, including balms, lotions, ointments, and rubbing alcohol solutions; and

8.1.1.5 Transdermal marijuana products, including patches.

8.1.2 Marijuana products not listed under subsection 8.1.1 of these regulations are subject to approval by the Commissioner.

8.1.3 Marijuana and marijuana products may not:

8.1.3.1 Contain nicotine;

8.1.3.2 Contain alcohol if the sale of such alcohol would require a license under XX;

8.1.3.3 Contain any non-cannabinoid additive that would increase potency, toxicity, or addictive potential;

8.1.3.4 Require refrigeration to prevent spoilage;

8.1.3.5 Contain compounds such as fruit filling, cream filling, or meat;

8.1.3.6 Resemble candy or cartoon characters; or

8.1.3.7 Be attractive to minors.

8.1.4 Equipment or accessories used for vaporizing marijuana concentrates must be coilless ceramic atomizers or similar products where the oil or concentrate does not touch metal coils.

8.1.4.1 Products developed for inhalation or vaping may not contain:

8.1.4.1.1 Medium-chain triglycerides (MCT),

8.1.4.1.2 Polyethylene glycol (PEG),

8.1.4.1.3 Propylene glycol (PG),

8.1.4.1.4 Vegetable glycerin (VG),

8.1.4.1.5 Vitamin E acetate,

8.1.4.1.6 Diacetyl,

8.1.4.1.7 Squalene,

8.1.4.1.8 Any diluent must be 100% naturally occurring plant-derived terpene oil.

## **8.2 Marijuana product serving size**

8.2.1 A standardized single serving of a marijuana product must:

8.2.1.1 For edible marijuana products, contain no greater than ten milligrams of THC;

8.2.1.2 For multi-serving marijuana beverages, contain no greater than ten milligrams of THC;

8.2.1.3 For marijuana tinctures using a calibrated dropper or similar measuring device, contain no greater than ten milligrams of THC per individual serving, as indicated on the calibrated dropper or similar measuring device.

8.2.2 A marijuana product manufacturer must:

8.2.2.1 Determine the total number of standardized servings for each marijuana product that it manufactures, not to exceed ten milligrams of THC per serving;

8.2.2.2 Ensure that each standardized serving of an edible marijuana product be physically demarcated or packaged in a manner that a person could reasonably and clearly determine how much of the product constitutes a single serving;

8.2.2.3 Ensure that each standardized serving is easily separable with minimal effort;

8.2.2.4 Comply with the requirements in section 9.0 for multi-serving liquid edible marijuana products, not to exceed ten milligrams of THC per serving; and

8.2.2.5 For products containing multiple servings, ensure that product is homogenized so that each serving contains the same amount of THC.

## **8.3 Marijuana product package size**

8.3.1 A standardized package of a marijuana product must:

8.3.1.1 For edible marijuana products, contain no greater than five standardized servings per package;

8.3.1.2 For multi-serving marijuana beverages, contain no greater than 50 milligrams of THC per package; and

8.3.1.3 For marijuana tinctures, contain no greater than 300 milligrams of THC per package.

8.3.2 Edible marijuana products formulated with less than five standardized servings may package multiple products together to reach the five serving maximum per package. Small individual products must comply with appearance standards in accordance with section 9.0 of these regulations.

8.3.3 In accordance with section 9.0 of these regulations, if a marijuana product package contains multiple servings, the package must be resealable.

## **9.0 Packaging and labeling requirements for marijuana and marijuana products**

### **9.1 General packaging requirements**

9.1.1 All marijuana and marijuana products for retail sale must be packaged as follows:

9.1.1.1 The packaging must be plain, opaque, and tamper-evident.

9.1.1.1.1 If the packaging is soft sided, the opening must be sealed in a manner which would indicate if the container has been tampered with or opened. The tamper-evident feature shall not be resealable and shall remain clear that the package has been previously opened; or

9.1.1.1.2 If the packaging is rigid, the opening shall contain a tamper-evident seal that, once opened, shall remain clear that the package has been previously opened.

9.1.1.2 The packaging must be child-resistant in accordance with 16 CFR 1700.15.

9.1.1.3 If the packaging is soft-sided, it must be four millimeters or greater in thickness.

9.1.1.6 If the packaging is rigid, it must have a lid or closure that can be placed tightly and securely.

9.1.1.7 If the marijuana product contains multiple servings, the packaging must be resealable.

9.1.1.8 The marijuana product must be food-grade in quality and meet the food safety requirements in 16 Del.C. Ch. 33.

### **9.2 General labeling requirements**

9.2.1 All marijuana and marijuana products for retail sale must be labeled in accordance with these regulations. All information on the label may not mislead consumers. All marijuana and marijuana product labels must:

9.2.1.1 Be printed directly on, or on a label or sticker affixed directly to, the marketing layer;

9.2.1.2 Include text no smaller than size six font or one-half inch;

9.2.1.3 Be legible, unobstructed, conspicuous, and contrast sufficiently with the background;

9.2.1.4 Be printed in the English language, but may also include translations in additional languages; and

9.2.1.5 Contain required information in accordance with subsections 9.2.2 and 9.2.3 of these regulations that may be included on a peel-back accordion-style, expandable, extendable, or layered label.

9.2.2 All marijuana and marijuana product labels must include the following product information:

9.2.2.1 The net weight of the marijuana or marijuana product in accordance with subsections 9.3, 9.4, and 9.5 of these regulations;

9.2.2.2 The finished product batch number;

9.2.2.3 If marijuana flower, the name of the Marijuana Establishment that cultivated, harvested, and packaged the marijuana flower;

9.2.2.4 If a marijuana product, the name of the Marijuana Establishment that manufactured and packaged the marijuana product;

9.2.2.5 The name of the Marijuana Establishment that sold the product;

9.2.2.6 An itemization, including weight, of all cannabinoids and terpenes contained in the marijuana or marijuana product. Cannabinoids existing in concentrations of less than 1% shall be printed with a leading zero before the decimal point;

9.2.2.7 If a marijuana product, a list of all major allergens contained in and used in the manufacturing process in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. §343, specifically including milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, and soybeans;

9.2.2.8 A list of any solvents used in the manufacturing process;

9.2.2.9 The production date, which for flowers will be the date the marijuana was harvested and for product will be the date the produce was produced; and

9.2.2.10 The Delaware Poison Control Center telephone number.

9.2.3 All marijuana and marijuana product labels must include the following warning statements:

9.2.3.1 “For use by adults 21+. KEEP AWAY FROM CHILDREN!”

9.2.3.2 “There may be health risks associated with the use of this product, and additional risks for women who are pregnant or breastfeeding or individuals 25 years of age and younger. Do not operate a motor vehicle or heavy machinery while using this product. The use of this product may result in adverse reactions with prescription medication, consult with your doctor or pharmacist.”

9.2.4 All marijuana and marijuana product labels must include a universal symbol made available by the Commissioner. The universal symbol must :

9.2.4.1 Appear on the front of or the most prominently displayed area of the marketing layer;



9.2.4.2 Be printed in an area no smaller than ½ inch by ½ inch;

9.2.4.3 Contrast sufficiently with the background to be easily identified; and

9.2.4.4 Remain in the form provided by the Commissioner and shall not be modified, recreated, stylized, distorted, or otherwise altered in a manner that changes the appearance or size of the universal symbol.

9.2.5 Retail marijuana stores must retain copies of marijuana and marijuana product Certificate of Analyses and provide a copy to customers upon request.

### **9.3 Edible marijuana product and marijuana beverage packaging and labeling requirements**

9.3.1 Edible marijuana product packaging must:

9.3.1.1 Contain no greater than 10 milligrams of THC per serving;

9.3.1.2 Contain no greater than 50 milligrams of THC per package; and

9.3.1.3 Clearly indicate the size of a serving.

9.3.2 Marijuana beverage packaging must:

9.3.2.1 Contain no greater than 10 milligrams of THC per serving;

9.3.1.2 Contain no greater than 50 milligrams of THC per package; and

9.3.2.3 Clearly indicate the size of a serving.

9.3.2 In addition to requirements in subsection **9.2** of these regulations, edible marijuana product and marijuana beverage labels must include:

9.3.2.1 Total contents of THC and CBD, and any other advertised or marketed cannabinoid, stated in milligrams, as provided by the Certificate of Analysis. The total contents of THC and CBD shall be provided for both individual servings and total servings within a package;

9.3.2.1.1 For edible marijuana products and marijuana beverages containing at least 5 milligrams of THC or CBD, there may not be a variance of more than 10%

from the actual THC and CBD content.

9.3.2.1.2 For edible marijuana products and marijuana beverages containing less than five milligrams of THC or CBD, there may not be a variance of more than 20% from the actual THC and CBD content.

9.3.2.2 The number of servings per package;

9.3.2.3 If applicable, the recommended size of a serving;

9.3.2.4 A nutritional fact panel;

9.3.2.5 A list of all the active and inactive ingredients in descending order of predominance by weight in the edible marijuana product or marijuana beverage;

9.3.2.6 The net weight of the edible marijuana product or marijuana beverage in grams; and

9.3.2.7 The following warning statements:

9.3.2.7.1 A statement to read “Caution: When eaten or swallowed, the intoxicating effects of this product may be delayed by 2 or more hours.”

9.3.2.7.2 For any product intended for topical application, a statement identifying that the product is “not intended for human consumption, ingestion, or inhalation.”

## **9.4 Inhalable marijuana product packaging and labeling requirements**

9.4.1 In addition to requirements in subsection 9.2 of these regulations, inhalable marijuana product labels must include:

9.4.1.1 The product potency, which must be described by one of the following;

9.4.1.1.1 The actual potency results for total THC and total CBD reported by a testing facility on the Certificate of Analysis;

9.4.1.1.2 The percentage of total THC and total CBD based on the results of the analysis reported by a testing facility, and as the average percentage of total THC and total CBD found in the inhalable marijuana product, so long as the actual percentage totals of the THC and CBD content do not have a variance greater than 15% from the potency statement on the product label; or

9.4.1.1.3 If the Certificate of Analysis reports that the total THC or total CBD is “not detected” or “zero”, the label may state “0” for these cannabinoids.

9.4.1.2 The net weight, which must be stated in grams, except that inhalable marijuana products containing less than 1 gram of net content may state the net contents in milligrams.

9.4.1.2.1 Variance in net weight is allowed as follows:

9.4.1.2.1.1 For marijuana flower or trim, the actual net contents by weight may be as much as 0.1 grams less, or 0.5 grams greater than the net content on the label

9.4.1.2.1.2 For pre-rolled marijuana, the actual net contents by weight may be as much as 5% less than or 10% greater than the net content on the label

9.4.1.2.1.3 For marijuana products composed primarily of marijuana concentrates or extract, the actual net contents by weight may be as much as 5% less or 10% more than the statement of net content.

9.4.1.2.2 In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredients may not be included.

9.4.1.3 Equipment or accessories used for vaporizing marijuana concentrates must be coilless ceramic atomizers or similar products where the oil or concentrate does not touch metal coils.

9.4.1.3.1 Products developed for inhalation or vaping may not contain:

9.4.1.3.1.1 Medium-chain triglycerides (MCT);

9.4.1.3.1.2 Polyethylene glycol (PEG);

9.4.1.3.1.3 Propylene glycol (PG);

9.4.1.3.1.4 Vegetable glycerin (VG);

9.4.1.3.1.5 Vitamin E acetate;

9.4.1.3.1.6 Diacetyl;

9.4.1.3.1.7 Squalene; or

9.4.1.3.1.8 Any diluent must be 100% naturally occurring plant-derived terpene oil.

## **9.5 Topical marijuana product and transdermal marijuana product packaging and labeling requirements**

9.5.1 In addition to requirements in subsection 9.1 of these regulations, topical marijuana product and transdermal marijuana product packaging must:

9.5.1.1 Be packaged in a child-resistant container that has a resealable cap or closure compliant with 16 CFR 1700.15;

9.5.1.2 Transdermal marijuana products shall be packaged in a plastic container 4 millimeters or greater in thickness.

9.5.2 In addition to requirements in subsection 9.2 of these regulations, topical marijuana product and transdermal marijuana product labels must include:

9.5.2.1 A potency statement stating the total content of THC and CBD in milligrams in the container, and for transdermal marijuana products, the total content of THC and CBD in milligrams contained in each transdermal marijuana product;

9.5.2.2 The amount of the topical marijuana product or transdermal marijuana product recommended for use at any one time; and

9.5.2.3 A warning statement to read “For Topical Application Only—Do Not Eat or Smoke.”

## **9.6 Mandatory compliance testing sample packaging and labeling requirements**

9.6.1 Marijuana Establishments collecting samples for purposes of mandatory compliance testing must follow the following procedures:

9.6.1.1 Deposit the sample into containers required by the marijuana testing facility analyzing the samples;

9.6.1.2 Affix a tamper evident seal to each sample container. The seal must be initialed by the Marijuana Establishment staff which took the sample;

9.6.1.3 Ensure that the universal symbol is present every sample collection container, in accordance with the requirements in subsection 9.2.4 of these regulations;

9.6.1.4 Label each sample collection container with the following notice: “FOR TESTING PURPOSES ONLY”; and

9.6.1.5 Each sample collection container must be accompanied by a label generated by the tracking system.

## **9.7 Packaging and labeling prohibitions**

9.7.1 All marijuana and marijuana product packaging and labels are prohibited from containing the following:

9.7.1.1 Neon colors;

9.7.1.2 Imitation or resemblance of any existing branded consumer products;

9.7.1.3 Cartoons, cartoon-like fonts, caricatures, fruit, human or animal shapes;

9.7.1.4 Depictions of a celebrity or celebrity likeness; or

9.7.1.5 Images of minors or words that refer to products that are commonly associated with minors or marketed to minors.

## **10.0 Advertising**

### **10.1 General advertising and marketing requirements**

10.1.1 All advertisements and marketing materials must accurately and legibly identify all organizations or marijuana establishments responsible for the creation and proliferation of such advertisements or marketing materials.

10.1.2 All advertisements and marketing materials for marijuana or marijuana products that are viewable by the public must include all of the following health and safety statements:

10.1.2.1 “There may be health risks associated with the use of this product, and additional risks for women who are pregnant or breastfeeding or individuals 25 years of age and younger. Do not operate a motor vehicle or heavy machinery while using this product. The use of this product may result in adverse reactions with prescription medication, consult with your doctor or pharmacist.”

10.1.2.2 “For use by adults 21+, KEEP AWAY FROM CHILDREN!”

10.1.2.3 A statement that the product is not approved by the Federal Drug Administration (FDA) to treat, cure, or prevent any disease, and that the FDA has not evaluated the product for safety, effectiveness, or quality.

10.1.3 All advertisements and marketing materials must only be placed in areas where the audience can be reasonably expected to be 21 years of age or older.

10.1.3.1 Placement of advertisements must be supported by current and accurate data regarding the age and location demographics of the audience that is able to access an advertisement or marketing material.

10.1.3.2 A marijuana establishment must provide audience composition data to the Commissioner if requested.

10.1.3.3 If the audience composition data provided to the Commissioner does not meet the requirements in these regulations, or if the marijuana establishment fails to immediately provide the requested audience composition data, the marijuana establishment must remove the advertisement or marketing material in question.

10.1.3.4 Violations of the requirements in this subsection may be subject to fines and penalties as defined in section 15.0 of these regulations.

## **10.2 Advertising and marketing prohibitions**

10.2.1 Advertising and marketing of marijuana and marijuana products may not:

10.2.1.1 Be deceptive, misleading, false, fraudulent, or otherwise be conducted in a manner that typically deceives or misleads, whether directly or through ambiguity or omission;

10.2.1.2 Contain symbols or methods that are commonly used to market products to minors, including:

10.2.1.2.1 Neon colors;

10.2.1.2.2 Imitation or resemblance of any existing branded consumer product;

10.2.1.2.3 Cartoons, cartoon-like fonts, caricatures, fruit, human or animal shapes;

10.2.1.2.4 Depictions of a celebrity or celebrity likeness; or

10.2.1.2.5 Images of minors or words that refer to products that are commonly associated with minors or marketed to minors.

10.2.1.3 Use predatory advertising or marketing practices that target minors;

10.2.1.4 Be on billboards;

10.2.1.5 Be on posters, handbills, signage, or any other visual media that are located or can be viewed within 500 feet of a school, daycare center, church, or other facility that is a frequent gathering place for minors;

10.2.1.6 Be displayed on the exterior of a marijuana establishment in a size larger than 75 square feet or as limited by local ordinance, whichever is smaller;

10.2.1.7 Occur on radio, television, other broadcast media, mass transit vehicles, or internet or app-based pop-ups, unless:

10.2.1.7.1 Subscribers of a subscription-based radio, television, or other broadcast media are 21 years of age or older; or

10.2.1.7.2 Individuals 21 years of age or older have solicited the advertising or marketing activities.

10.2.1.8 Occur through any paid or unpaid in-person solicitation of customers;

10.2.1.9 Imitate or resemble any existing branded consumer products;

10.2.1.10 Promote the overconsumption or irresponsible use of marijuana or marijuana products;

10.2.1.11 Depict the actual consumption of marijuana or marijuana products; or

10.2.1.12 Contain any health or physical benefit claims.

10.2.2 Signage on a Marijuana Establishment must not contain a realistic depiction of a marijuana leaf.

### **10.3 Branding**

10.3.1 As defined in subsection 2.0 of these regulations, branding is not considered an advertising or marketing activity, and is not subject to the regulations set forth in subsections 10.1 and 10.2 of these regulations, except:

10.3.1.1 Branding may not appeal to minors, and may not include:

10.3.1.1.1 Neon colors;

10.3.1.1.2 Imitation or resemblance of any existing branded consumer product;

10.3.1.1.3 Cartoons, cartoon-like fonts, caricatures, fruit, human or animal shapes;

10.3.1.1.4 Depictions of a celebrity or celebrity likeness; or

10.3.1.1.5 Images of minors or words that refer to products that are commonly associated with minors or marketed to minors.

### **10.4 Promotions and deals**

10.4.1 Retail Marijuana Stores may not offer marijuana or marijuana products free of charge under any circumstance.

10.4.2 Marijuana or marijuana products may not be discounted or offered for free if the retail sale of such marijuana or marijuana product is made in conjunction with the retail sale of any other item.

10.4.2.1 This subsection does not prohibit discounts on marijuana or marijuana product sales that are not made in conjunction with the retail sale of any other item.

10.4.3 Any promotion, deal, or discount on marijuana or marijuana products may not violate other advertising and marketing requirements of these regulations.

10.4.4 This subsection of regulations is not applicable to promotions and deals offered to registered medical marijuana patients.