



**Emergency Rule Adoption  
Colorado Marijuana Rules  
1 CCR 212-3**

- Rule 2-205 - Fees
- Rule 2-225 – Renewal Application Requirements for All Licensees

*February 7, 2020*

***Questions:***

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## COLORADO DEPARTMENT OF REVENUE MARIJUANA ENFORCEMENT DIVISION

### Emergency Rule Adoption

#### **Amended Rules, 1 CCR 212-3**

Rule 2-205 – Fees

Rule 2-225 – Renewal Application Requirements for All Licensees

### Statement of Emergency Justification and Adoption

Pursuant to sections 24-4-103 and 44-10-203, C.R.S., I, Heidi Humphreys, Deputy Executive Director of the Department of Revenue and State Licensing Authority, hereby adopt the aforementioned revised Colorado Marijuana Rules, which are attached hereto.

Section 24-4-103(6), C.R.S., authorizes the State Licensing Authority to issue an emergency rule if the State Licensing Authority finds that the immediate adoption of the rule is imperatively necessary to comply with state law, or for the preservation of public health, safety, or welfare, and compliance with the requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

I find: (1) the immediate adoption of these revised rules is necessary to comply with the constitutional and statutory mandates of the Colorado Marijuana Code, sections 44-10-101 *et seq.*, C.R.S.; (2) the immediate adoption of these revised rules is necessary to preserve the public health, safety, and welfare; and (3) compliance with the notice and public hearing requirements of section 24-4-103, C.R.S., would be contrary to the public interest.

#### **Statutory Authority**

The statutory authority for the attached revised rules 2-205 and 2-225 is identified in the statement of basis and purpose preceding each rule. Statutory authority for these rules includes but is not limited to section 44-10-203(2)(w), C.R.S.

#### **Purpose**

The purpose of the revisions to these rules on an emergency basis is as follows:

The State Licensing Authority adopted Emergency Rules 2-205 and 2-225, 1 CCR 212-3 on **February 7, 2020**. The purpose of the Emergency Rules is to implement Senate Bill 19-224 Concerning the Continuation of the Regulated Marijuana Programs, and, In Connection Therewith, Implementing the Recommendations Contained in the 2018 Sunset Report by the Department of Regulatory, which amended section 44-10-314, C.R.S., regarding renewal of all licenses issued pursuant to the Colorado Marijuana Code.

Under previous law, the statute<sup>1</sup> provided licensees a 90-day period following the expiration of a license, within which to submit a renewal application; however, SB 19-224 amended this provision to eliminate the 90-day period following expiration during which a licensee could submit a renewal application. Therefore, the statute now provides any license which is not renewed **prior** to the expiration date, is immediately invalid and can no longer operate.

During and following the 2019 permanent rulemaking to implement SB 19-224, the Marijuana Enforcement Division took steps to alert licensees of this upcoming change and restriction on licensees' ability to operate following the expiration of a license. However, neither the Marijuana Enforcement Division nor the regulated marijuana industry identified how the change in law would impact retail marijuana business licenses in a disparate manner compared to medical marijuana business licenses, and how such change in law could lead to public health, safety, and welfare concerns.

### Retail Marijuana Business License Application Restriction

Pursuant to Colorado Constitution art. XVIII, sec. 16(5)(g)(III) and section 44-10-104(2)(b), C.R.S., "the state licensing authority shall act upon a retail marijuana business license application...no sooner than forty-five days and no later than ninety days after the date of the retail marijuana business license application." The timeframe within which the state licensing authority may either approve or deny an application for a retail marijuana business license derives from the constitutional amendment authorizing retail marijuana sales. The same timeframe restriction does not apply to medical marijuana businesses.

This distinction in timing is important in light of the change in law regarding renewal applications because this means that a retail marijuana business license that expires must apply for a new license and wait at least forty-five days before final action, whereas a medical marijuana business license that expires can apply for a new license and begin operation upon approval (assuming local jurisdiction approval and/or licensure is maintained during the period of expiration). The Emergency Rules address this disparity by providing a path for an expired retail marijuana business to request reinstatement of an expired license which, if granted, would permit the business to operate pending final agency action on the new business license application. This provides more equal treatment to expired medical and retail marijuana businesses.

Further, despite regulator and industry efforts to ensure that licenses would not expire due to failure to renew prior to expiration, neither identified the public health, safety, and welfare issues that could arise in the event a license does expire. All marijuana in the regulated system is tracked by licensees through 24/7 access to the state-mandated inventory tracking system while the license is valid. However, when the license expires, the licensee can no longer use the inventory tracking system, thus resulting in loss of seed-to-sale tracking of the marijuana on that licensed premises. Seed-to-sale tracking is a regulatory tool used by the Marijuana Enforcement Division and State Licensing Authority to ensure knowledge of both the location and quantity of regulated marijuana. Without such seed-to-sale tracking capabilities, a licensee and the state are at an increased risk of diversion of marijuana, ultimately threatening the public health, safety, and welfare.

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<sup>1</sup> SB 19-224 repealed the previous Medical Marijuana Code, sections 44-11-101 *et seq.*, C.R.S., and Retail Marijuana Code, sections 44-12-101 *et seq.*, C.R.S., and replaced those statutes with the Colorado Marijuana Code. The license renewal statutory provisions in both the Medical Marijuana Code and the Retail Marijuana Code was substantively the same, each allowing for the 90-day grace period within which to submit a renewal application.

## Effective Date of Emergency Rules and Permanent Rulemaking

The attached emergency rules are effective immediately upon adoption.

The prior versions of Rules 2-205 and 2-225, 1 CCR 212-3, are hereby amended.

The attached emergency rules remain in effect until their expiration date, 120 days from the date of adoption or until replaced rules promulgated pursuant to the emergency or permanent rulemaking process.

The State Licensing Authority intends to initiate a permanent rulemaking to implement other provisions of SB 19-224, with an effective date of July 1, 2020. To ensure there is no lapse in these Emergency Rules, the State Licensing Authority may either readopt the Emergency Rules and/or initiate a separate permanent rulemaking proceeding.

Heidi  
Humphreys

Digitally signed by Heidi Humphreys  
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Heidi Humphreys  
Deputy Executive Director/Chief Operating Officer  
Colorado Department of Revenue  
State Licensing Authority

2-7-2020  
Date

**DEPARTMENT OF REVENUE  
MARIJUANA ENFORCEMENT DIVISION  
COLORADO MARIJUANA RULES  
1 CCR 212-3**

**Part 2 – Applications and Licenses**

**2-200 Series – Applications and Licenses Rules**

**Basis and Purpose – 2-205**

The statutory basis for this rule includes but is not limited to sections 44-10-103, 44-10-202(1)(b), 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(j), 44-10-203(1)(i), 44-10-203(2)(b), 44-10-203(2)(h), 44-10-203(2)(q), 44-10-203(2)(w), 44-10-203(2)(dd)(XII), 44-10-303(2)(b), 44-10-310(7), 44-10-313, 44-10-401, 44-10-801, 44-10-802, 44-10-803, 44-10-1201, 44-10-1202, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(II). The purpose of this rule is to establish fees required for applications, renewals, licenses fees, permits, and other fees required to accompany applications and submissions to the Division. The Division anticipates evaluating all fees in connection with a fee analysis. Any recommendations from the fee analysis will be considered during subsequent rulemaking proceedings. This Rule 2-205 was previously Rules M 207, 208, 209, 210, 235, and 236, 1 CCR 212-1, and Rules R 207, 208, 209, 210, 234, and 235, 1 CCR 212-2.

**2-205 – Fees**

A. Regulated Marijuana Business Initial Application and License Fees.

1. Medical Marijuana Businesses.

<u>License Type</u>	<u>Application Fee</u>	<u>License Fee</u>	<u>Total Due at Application</u>
<u>Medical Marijuana Store</u>	\$5,000.00	\$2,000.00	\$7,000.00
<u>Medical Marijuana Products Manufacturer</u>	\$1,000.00	\$1,500.00	\$2,500.00
<u>Medical Marijuana Cultivation Facility</u> Class 1 (1-500 plants)	\$1,000.00	\$1,500.00	\$2,500.00
<u>Medical Marijuana Testing Facility</u>	\$1,000.00	\$1,500.00	\$2,500.00
<u>Medical Marijuana Transporter</u>	\$1,000.00	\$4,400.00	\$5,400.00
<u>Medical Marijuana Business Operator</u>	\$1,000.00	\$2,200.00	\$3,200.00
<u>Marijuana Research and Development Facility</u>	\$1,000.00	\$1,500.00	\$2,500.00

2. Retail Marijuana Businesses.

<u>License Type</u>	<u>Application Fee</u>	<u>License Fee</u>	<u>Total Due at Application</u>
<u>Retail Marijuana Store</u>	\$5,000.00	\$2,000.00	<b>Separate Checks</b> \$4,500.00 State \$2,500.00 Local
<u>Retail Marijuana Products Manufacturer</u>	\$5,000.00	\$1,500.00	<b>Separate Checks</b> \$4,000.00 State \$2,500.00 Local
<u>Retail Marijuana Cultivation Facility</u> Tier 1 (1-1,800 plants)	\$5,000.00	\$1,500.00	<b>Separate Checks</b> \$4,000.00 State \$2,500.00 Local
<u>Retail Marijuana Testing Facility</u>	\$1,000.00	\$1,500.00	<b>Separate Checks</b> \$2,000.00 State \$500.00 Local
<u>Retail Marijuana Transporter</u>	\$1,000.00	\$4,400.00	<b>Separate Checks</b> \$4,900.00 State \$500.00 Local
<u>Retail Marijuana Business Operator</u>	\$1,000.00	\$2,200.00	<b>Separate Checks</b> \$2,700.00 State \$500.00 Local
<u>Marijuana Hospitality Business (Eff. Jan. 1, 2020)</u>	\$1,000.00	\$1,000.00	<b>Separate Checks</b> \$1,500.00 State \$500.00 Local
<u>Retail Marijuana Hospitality and Sales Business (Eff. Jan. 1, 2020)</u>	\$5,000.00	\$2,000.00	<b>Separate Checks</b> \$4,500.00 State \$2,500.00 Local

B. Regulated Marijuana Business Renewal Application and License Renewal Fees.

1. Medical Marijuana Businesses.

<u>License Type</u>	<u>Application Fee</u>	<u>License Fee</u>	<u>Total Due at Application</u>
<u>Medical Marijuana Store</u>	\$300.00	\$1,500.00	\$1,800.00
<u>Medical Marijuana Products Manufacturer</u>	\$300.00	\$1,500.00	\$1,800.00
<u>Medical Marijuana Cultivation Facility</u>	\$300.00		
Class 1 (1-500 plants)		\$1,500.00	\$1,800.00
Class 2 (501-1,500 plants)		\$2,300.00	\$2,600.00
Class 3 (1,501-3,000 plants)		\$3,500.00	\$3,800.00
Expanded Production Management (for each class of 3,000 plants over Class 3)		\$3,500.00 [Plus \$800 for each additional class of 3,000 plants over Class 3]	\$3,800.00 [Plus \$800 for each additional class of 3,000 plants over Class 3]
<u>Medical Marijuana Testing Facility</u>	\$300.00	\$1,500.00	\$1,800.00
<u>Medical Marijuana Transporter</u>	\$300.00	\$4,400.00	\$4,700.00
<u>Medical Marijuana Business Operator</u>	\$300.00	\$2,200.00	\$2,500.00
<u>Marijuana Research and Development Facility</u>	\$300.00	\$1,500.00	\$1,800.00

2. Retail Marijuana Businesses.

<u>License Type</u>	<u>Application Fee</u>	<u>License Fee</u>	<u>Total Due at Application</u>
<u>Retail Marijuana Store</u>	\$300.00	\$1,500.00	\$1,800.00
<u>Retail Marijuana Products Manufacturer</u>	\$300.00	\$1,500.00	\$1,800.00
<u>Retail Marijuana Cultivation Facility</u>	\$300.00	\$1,500.00	\$1,800.00

Tier 1 (1-1,800 plants)		\$2,300.00	\$2,600.00
Tier 2 (1,801-3,600 plants)		\$3,000.00	\$3,300.00
Tier 3 (3,601-6,000 plants)		\$4,500.00	\$4,800.00
Tier 4 (6,001-10,200 plants)		\$6,500.00	\$6,800.00
Tier 5 (10,201-13,800 plants)		\$6,500.00 [Plus \$800.00 for each additional tier of 3,600 plants over Tier 5]	\$6,800.00 [Plus \$800.00 for each additional tier of 3,600 plants over Tier 5]
Expanded Production Management (for each additional tier of 3,600 plants over Tier 5)			
<u>Retail Marijuana Testing Facility</u>	\$300.00	\$1,500.00	\$1,800.00
<u>Retail Marijuana Transporter</u>	\$300.00	\$4,400.00	\$4,700.00
<u>Retail Marijuana Business Operator</u>	\$300.00	\$2,200.00	\$2,500.00
<u>Marijuana Hospitality Business (Eff. Jan. 1, 2020)</u>	\$300.00	\$750.00	\$1,050.00
<u>Retail Marijuana Hospitality and Sales Business (Eff. Jan. 1, 2020)</u>	\$300.00	\$1,500.00	\$1,800.00

C. Owner Request for a Finding of Suitability, Owner License, and Owner Identification Badge – Initial Application and Renewal Fees.

1. Controlling Beneficial Owner Request for a Finding of Suitability Fee.
  - a. \$800.00 per Natural Person
  - b. \$800.00 for an Entity that is not a Publicly Traded Corporation, plus the fee in paragraph (C)(1)(a) and (C)(1)(b), for each associated natural person subject to suitability
  - c. \$5,000.00 for a Publicly Traded Corporation, plus the fee in paragraph (C)(1)(a) and (C)(1)(b), for each associated natural person or Entity subject to suitability.
2. Passive Beneficial Owner Request for Finding of Suitability Fee. A Passive Beneficial Owner may, but is not required to, apply for an Owner License and Identification Badge, and if the Passive Beneficial Owner chooses to do so, must submit the fees required by subparagraph (C)(1).
3. Renewal Fee for an Owner License. All Controlling Beneficial Owners and licensed Passive Beneficial Owners - \$500.00.

D. Employee License – Initial Fees and Renewal Fees.

1. Employee License Initial Application and License Fee – \$100.00
    - a. Of the total Employee License application and license fee, \$75.00 is the application fee and \$25.00 is the license fee. An individual submitting an application for an Employee License may submit the total fee of \$100.00 in one form of payment.
  2. Employee License Renewal Fee – \$75.00
    - a. Of the total Employee License Renewal fee, \$50.00 is the application fee and \$25.00 is the license fee. An individual submitting an application for an Employee License renewal may submit the total fee of \$75.00 in one form of payment.
  3. All Key Licenses and Support Licenses issued before January 1, 2020 will be converted to an Employee License upon the first license renewal following January 1, 2020.
- E. Temporary Appointee Registration – Request for Finding of Suitability Fees.
1. Natural Person – \$225.00
  2. Entity – \$800.00
- F. Other Fees. The following other fees apply:
1. Permits.
    - a. Off Premises Storage Permit – \$1,500.00
    - b. Transporter Off Premises Storage Permit – \$2,200.00
    - c. Centralized Distribution Permit Initial and Renewal Fee – \$20.00
    - d. R&D Co-Location Permit Initial and Renewal Fee – \$50.00
    - e. Delivery Permit:
      - i. Initial Fee Business License that will expire in 6 months or less - \$2,000.00.
      - ii. Initial Fee Business License that will expire in more than 6 months - \$4,000.00.
      - iii. All Renewals - \$2,000.00
    - f. Transition Permit – \$250.00
  2. Regulated Marijuana Business Changes. The following fees apply per license:
    - a. Change of Controlling Beneficial Owner – \$1,600.00
    - b. Changes Exempt from Change of Owner Application Requirement – \$800.00
    - c. Change of Trade Name – \$50.00

- d. Change of Location – \$500.00
  - e. Modification of Licensed Premises – \$100.00
  - 3. Marijuana Research and Development Facility Research Project Proposal – \$500.00
  - 4. Responsible Vendor Provider Applications.
    - a. Responsible Vendor Program Provider Initial Application – \$850.00
    - b. Responsible Vendor Program Provider Renewal Application – \$350.00
  - 5. Duplicate License, Identification Badge, ~~or~~ Certificate, Regulated Marijuana Business License Reinstatement.
    - a. Duplicate Business License – \$20.00
    - b. Duplicate Owner or Employee Identification Badge – \$20.00
    - c. Responsible Vendor Program Provider Duplicate Certificate – \$50.00
    - d. Reinstatement of Regulated Marijuana Business License - \$250.00
- G. When Fees are Due. All fees in this Rule are due at the time the application or request is submitted.

**Basis and Purpose – 2-225**

The statutory basis for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-202(1)(e), 44-10-203(1)(c), 44-10-203(2)(a), 44-10-203(2)(c), 44-10-203(2)(w), 44-10-203(2)(ee), 44-10-203(7), 44-10-307, 44-10-308, 44-10-309, 44-10-313, 44-10-314, and 44-10-316 C.R.S. The purpose of this rule is to establish the requirements and procedures for the license renewal process, including the circumstances under which an expired license may be reinstated.

**2-225 – Renewal Application Requirements for All Licensees**

- A. License Periods.
  - 1. Regulated Marijuana Business and Owner Licenses are valid for one year from the date of issuance.
  - 2. Medical Marijuana Transporters, Retail Marijuana Transporters, and Employee Licenses are valid for two years from the date of issuance.
- B. Division Notification Prior to Expiration.
  - 1. The Division will send a notice of license renewal 90 days prior to the expiration of an existing license by first class mail to the Licensee’s physical address of record.
  - 2. Failure to receive the Division notification does not relieve the Licensee of the obligation to timely renew the license.
- C. Renewal Deadline.

1. A Licensee must apply for the renewal of an existing license prior to the License's expiration date.
  2. A renewal application submitted to the Division prior to the license's expiration date shall be deemed timely pursuant to subsection 24-4-104(7), C.R.S., and the Licensee may continue to operate until Final Agency Order on the renewal application.
- D. If License Not Renewed Before Expiration. A license is immediately invalid upon expiration if the Licensee has not filed a renewal application and remitted all of the required application and license fees prior to the license expiration date. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date must not operate unless it first obtains a new state license and any required local license.
1. Reinstatement of Expired Regulated Marijuana Business License. A Regulated Marijuana Business that fails to file a renewal application and remit all required application and license fees prior to the license expiration date may request that the Division reinstate an expired license only in accordance to the following:
    - a. The Regulated Marijuana Business License expired within the previous 30 days;
    - b. The Regulated Marijuana Business has submitted an initial application pursuant to Rule 2-220. The initial application must be submitted prior to, or currently with, the request for reinstatement;
    - c. The Regulated Marijuana Business has paid the reinstatement fee in Rule 2-205; and
    - d. Any license or approval from the Local Licensing Authority or Local Jurisdiction is still valid or has been obtained.
  2. Reinstatement Not Available for Surrendered or Revoked Licenses. A request for reinstatement cannot be submitted and will not be approved for a Regulated Marijuana Business license that was surrendered or revoked.
  3. Reinstatement Not Available for Owner Licenses or Employee Licenses. A request for reinstatement cannot be submitted and will not be approved for expired, surrendered, or revoked Owner Licenses or Employee Licenses.
  4. Denial of Request for Reinstatement or Administrative Action. If the Licensee requesting reinstatement of a Regulated Marijuana Business License operated during a period that the license was expired, the request may be subject to denial or subject to any administrative action authorized by the Marijuana Code or these Rules.
  5. Approval of Request for Reinstatement. Upon approval of any request for reinstatement of an expired Regulated Marijuana Business License, the Licensee may resume operations until final agency action on the Licensee's initial application for a Regulated Marijuana Business license.
    - a. Approval of a request for reinstatement of an expired Regulated Marijuana Business License does not guarantee approval of the Regulated Marijuana Business license initial application.
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b. Approval of a request for reinstatement of an expired license does not waive the State Licensing Authority's authority to pursue administrative action on the expired license or initial application for Regulated Marijuana Business license.

6. Final Agency Order on Initial Application for Regulated Marijuana Business.

a. If the initial application for Regulated Marijuana Business license submitted pursuant to this rule is approved, the Regulated Marijuana Business Licensee will replace the reinstated License.

b. If the initial application for Regulated Marijuana Business submitted pursuant to this rule is denied, the Licensee must immediately cease all operations including, but not limited to, Transfer of Regulated Marijuana. See Rule 2-270 – Application Denial and Voluntary Withdrawal; 8-115 – Disposition of Unauthorized Regulated Marijuana; 8-130 – Administrative Warrants.

E. Voluntarily Surrendered or Revoked Licenses Not Eligible for Renewal. Any license that was voluntarily surrendered or that was revoked by a Final Agency Order is not eligible for renewal. Any Licensee who voluntarily surrendered its license or has had its license revoked by a Final Agency Order may only submit an initial application. The State Licensing Authority will consider the voluntary surrender or the Final Agency Order and all related facts and circumstances in determining approval of any subsequent initial application.

F. Licenses Subject to Ongoing Administrative Action. Licenses subject to an administrative action are subject to the requirements of this Rule. Licenses that are not timely renewed expire and cannot be renewed.

G. Documents Required at Renewal. A Regulated Marijuana Business must provide the following documents with every renewal application:

1. Any document required by Rule 2-220(A)(1) through (10) that has changed since the document was last submitted to the Division. It is a license violation affecting public safety to fail to submit any document that changed since the last submission for the purpose of circumventing the requirements of the Marijuana Code, or these Rules;
2. A copy of the Local Licensing Authority or Local Jurisdiction approval, licensure, and/or documentation demonstrating timely submission of pending local license renewal application;
3. A list of any sanctions, penalties, assessments, or cease and desist orders imposed by any securities regulatory agency, including but not limited to the United States Securities and Exchange Commission or the Canadian Securities Administrators;
4. A Regulated Marijuana Business operating under a single Entity name with more than one license may submit the following documents only once each calendar year on the first license renewal in lieu of submission with every license renewal in the same calendar year:
  - a. Tax documents and financial statements required by Rule 2-220(A)(11) and (12);
  - b. If the Regulated Marijuana Business is a Publicly Traded Corporation, the most recent list of Non-Objecting Beneficial Owners possessed by the Regulated Marijuana Business;

- c. A copy of all management agreement(s) the Regulated Marijuana Business has entered into regardless of whether the Person is licensed or unlicensed.; and
- d. Contracts, agreements, royalty agreements, equipment leases, financing agreement, or security contract for any Indirect Financial Interest Holder that is required to be disclosed by Rule 2-230(A)(3).

H. Controlling Beneficial Owner Signature. At least one Controlling Beneficial Owner shall sign the renewal application. However, other Controlling Beneficial Owners may be required to sign authorizations and/or requests to release information.